

**REGULATING RECRUITMENT:
MIGRATION, CRIMINALIZATION, AND COMPOUNDED
INFORMALITY**

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ABSTRACT

Across the globe, migrant workers are increasingly concentrated in temporary employment, including contract, short-term, and contingent work. These short-term employment stints require them to find new work on a regular and ongoing basis. How can legal frameworks encourage recruitment practices that protect the interests of both workers and employers in informal markets? My answer to this question is rooted in empirical investigation of how migrant women in India move between temporary jobs in garment and domestic work. It is based on 254 interviews and sixty-three focus group discussions with migrant women and recruitment intermediaries across five states. This case selection facilitates analysis of recruitment pathways in context of extremely high levels of informality and draws together insights from deregulated industrial and unregulated domestic work. By focusing on the experiences of migrant women from Scheduled Castes and Tribes, I direct attention to how gender and social identity articulate with labor market conditions and labor supply chains.

Grounded in this empirical study, I argue that regulatory approaches that selectively regulate labor recruitment by criminalizing traffickers misunderstand the critical functions many recruitment intermediaries play in matching workers to employers in high-turnover labor contexts. Laws and policies that criminalize trafficking without protecting the legitimate functions of recruitment intermediaries provide incentives for recruitment actors to side-step regulation. At the nexus of informal workplaces and informal recruitment practices, migrant women workers are outside

the boundaries of legal protection during migration and employment. In short, criminalization compounds informality, exposing workers to further labor exploitation and violence. Accordingly, this article calls for legal approaches that regulate the full spectrum of recruitment intermediaries, incentivize registration, and promote transparent, accountable, and predictable recruitment practices.

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I. INTRODUCTION

For more than two decades, social science research on the global economy has recognized the growth of non-standard employment, including part-time, temporary, contract, short-term, contingent,¹ and independent contracting work.² These trends in the nature of work unfold as globalization restructures economies, precipitates internal and international migration, and drives the expansion of informal sector work in global cities.³ The shifting terrain of the global economy calls for laws that promote decent work, including for migrant workers, women workers, and other segments of the global labor force at heightened risk of workplace exploitation and violence.⁴ How can legal frameworks encourage recruitment practices that protect the interests of workers and employers in informal markets? To answer this question, I consider how existing laws structure recruitment pathways and how workers in the

¹ The term contingent work has been used to describe management practices of employing workers in response to immediate and direct demand for their services. This practice, routine in supply chain production contexts, is of particular significance in this study. Arnie L. Kalleberg, *Nonstandard Employment Relations: Part-time, Temporary and Contract Work*, 26 ANN. REV. SOC. 341, 354–55 (2000).

² See, e.g., *id.* at 356–57 (2000) (stating that changes in tax laws have generated growth of independent contractors); Vicki Smith, *New Forms of Work Organization*, 23 ANN. REV. SOC. 315, 355–57 (1997) (noting the likely increase in the past several decades of this category of nonstandard work); Kathy M. Beard & Jeffrey R. Edwards, *Employees at Risk: Contingent Work and the Psychological Experience of Contingent Workers*, in TRENDS IN ORGANIZATIONAL BEHAVIOR 109, 109 (C.L. Cooper & D.M. Rousseau eds., 1995) (observing that economic and competitive pressures have pushed organizations to reduced costs while maintain or improving productivity and quality through alternative employment arrangements).

³ See Abel Valenzuela, Jr., *Day Labor Work*, 29 ANN. REV. SOC. 307, 315 (2003) (describing and analyzing “day labor” practices); Saskia Sassen, *The Informal Economy: Between New Developments and Old Regulations*, 103 YALE L.J. 2289, 2299–301 (1994) (discussing developments in the “informal economy” in highly developed economies and their impacts on workers); Saskia Sassen, *Immigration and Local Labor Markets*, in THE ECONOMIC SOCIOLOGY OF MIGRATION 87, 90–95 (Alejandro Portes ed., 1995) (describing the growth of informal labor).

⁴ The potential for national law to facilitate operation of recruitment intermediaries while protecting workers using these services is set out in the Convention Concerning Private Employment Agencies, June 20, 1997, 2115 U.N.T.S. 249 [hereinafter ILO No. 181], and the Int’l Lab. Org. [ILO], *Private Employment Agencies Recommendation*, ILO Doc. R188 (June 19, 1997) [hereinafter ILO No. 188]. These standards are discussed in detail in the Part 5 of this article.

informal sector seek employment and transition between jobs on a regular and ongoing basis.

Drawing together and elaborating upon interdisciplinary legal and social science scholarship on gendered labor migration, recruitment, and informal markets,⁵ this article presents an empirical account of recruitment and placement practices among women labor migrants who seek employment in the Ready-Made Garment (“RMG”) production industry and the domestic work sector in Delhi and Mumbai in India. Grounded in qualitative field research, this paper presents findings from 254 structured interviews with women garment and domestic workers and sixty-three focus group discussions with migrant women and recruitment intermediaries conducted across five states in India. This case selection provides a unique analytic vantage. First, it facilitates analysis of recruitment in the context of extremely high levels of informality—an area that is comparatively understudied in legal scholarship. By 2010, without accounting for informal sector workers within the public sector, ninety-two percent of all workers in India were effectively in informal sector employment—characterized by low wages, little job security, and no entitlement to state protection of their rights at work.⁶ Second, by considering

⁵ Literature on informal markets encompasses both studies of women who work in free trade zones and other industrial hubs where tax, social security, and labor law protections have been suspended to attract global finance capital to industrial production centers. *See generally* ALTHA J. CRAVEY, *WOMEN AND WORK IN MEXICO’S MAQUILADORAS* (1998) (discussing the gendered nature of social reproduction and export production in the foreign-owned assembly plants of northern Mexico); HELEN I. SAFA, *THE MYTH OF THE MALE BREAD-WINNER: WOMEN AND INDUSTRIALIZATION IN THE CARIBBEAN* (1995) (noting that the increased importance of women’s contribution to the household economy in Puerto Rico, the Dominican Republic, and Cuba has led to changes in the gender composition of the labor force in these countries); DIANE L. WOLF, *FACTORY DAUGHTERS: GENDER, HOUSEHOLD DYNAMICS, AND RURAL INDUSTRIALIZATION IN JAVA* (1992) (analyzing the complex interrelationships among subsistence production, industrial capitalist development, factories, young women workers, and their families in rural Java). The literature also encompasses studies of work and work contexts outside the bounds of regulation. *See, e.g.*, LOURDES BENERÍA & MARTHA ROLDÁN, *THE CROSSROADS OF CLASS AND GENDER: INDUSTRIAL HOMEWORK, SUBCONTRACTING, AND HOUSEHOLD DYNAMICS IN MEXICO CITY 1* (1987); GRACIA CLARK, *ONIONS ARE MY HUSBAND: SURVIVAL AND ACCUMULATION BY WEST AFRICAN MARKET WOMEN* 271–74 (1994) (noting that market leaders only play a limited role in regulating daily commerce).

⁶ *See* Coen Kompier, *Labour Markets: Exclusion from ‘Decent Work,’ in INDIA EXCLUSION REPORT 2013-2014*, at 110, 114 (Harsh Mander & Gitanjali Prasad eds., 2014) (graphing the distribution of workers by type of employment).

recruitment and placement practices in both the RMG production and domestic work sectors, it draws together insights from deregulated industrial and unregulated contexts.⁷ Accordingly, this article provides insight into recruitment governance that is broadly applicable across the global economy, including in industrial, service, and domestic work contexts. Third, while international migration has been given significant attention in the scholarship on immigrant labor market incorporation and gendered migration, recruitment and placement among internal labor migrants remains comparatively unexplored.⁸

Women's labor migration within India is precipitated by both increased opportunities for employment in urban industrial centers and disruption of livelihoods and food security in high migration-origin areas.⁹ In key source areas for rural-urban migration—including in Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand, and the Northeastern States—factors precipitating migration may include conflict and development driven displacement, agricultural decline, natural resource erosion, natural disasters, and household-level economic distress.¹⁰ Women who migrate to industrial and service hubs in search of employment include a large proportion of Scheduled Caste (*Dalit*), Scheduled Tribe (*Adivasi*),¹¹ and Muslim women. For the most part, they have

⁷ While the garment sector includes both formal and informal employment, the domestic work sector, by contrast, is largely informal.

⁸ Studies of transnational labor migration among women workers include BRIDGET ANDERSON, *DOING THE DIRTY WORK?: THE GLOBAL POLITICS OF DOMESTIC LABOUR* (2006); NICOLE CONSTABLE, *MAID TO ORDER IN HONG KONG: STORIES OF MIGRANT WORKERS* (2010); MICHELE RUTH GAMBURD, *THE KITCHEN SPOON'S HANDLE: TRANSNATIONALISM AND SRI LANKA'S MIGRANT HOUSEMAIDS* (2000); PIERRETTE HONDAGNEU-SOTELO, *GENDERED TRANSITIONS: MEXICAN EXPERIENCES OF IMMIGRATION* (1994); PIERRETTE HONDAGNEU-SOTELO, *DOMESTICA: IMMIGRANT WORKERS CLEANING AND CARING IN THE SHADOWS OF AFFLUENCE* (2001); RHACEL SALAZAR PARREÑAS, *SERVANTS OF GLOBALIZATION: MIGRATION AND DOMESTIC WORK* (2d ed. 2001).

⁹ See JAGORI, *MIGRATION, TRAFFICKING AND SITES OF WORK: RIGHTS AND VULNERABILITIES—A PILOT STUDY: REPORT OF INITIAL FINDINGS IN RAJASTHAN AND GUJARAT* 1, 5 (2016) (discussing the reasons for labor migration and associated factors).

¹⁰ See Priya Deshingkar & Shaheen Akter, *Migration and Human Development in India* (U.N. Dev. Programme, Hum. Dev. Rsch. Paper No. 2009/13, 2009), <https://hdr.undp.org/system/files/documents/hdrp200913pdf.pdf> [<https://perma.cc/NW3G-SDTL>] (stating the factors behind migration).

¹¹ Scheduled Caste and Scheduled Tribe groups, also known as *Dalits* and *Adivasis* respectively, are eligible for quotas in education and government jobs and

not attained literacy, and have no access to income-generating opportunities at home or land and other assets.¹² With fewer options for employment and less information to guide them in their migration processes, they may be willing to take more risks to meet their personal and familial needs. By focusing on the experiences of migrant women from Scheduled Castes and Tribes, this research directs attention to how gender and social identity structures labor supply chains, conditioning mobility across geographies, employers, and roles.

This study has two key findings. First, on segmented and fluid labor supply chains, no individual stakeholder – whether a personal contact, labor recruiter or employer – can independently guarantee a fair outcome to workers who migrate for employment.¹³ As such,

protected under the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989. Shikha Silliman Bhattacharjee, *Cleaning Human Waste: Manual Scavenging, Caste and Discrimination in India*, HUM. RTS. WATCH (Aug. 25, 2014), <https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india> [https://perma.cc/ZVG6-TY9Q]; see also *Adivasi vs Vanvasi: Constitution Uses ‘Schedules Tribes’ for Tribals; Debate Futile, Says NCST Chairperson*, ECON. TIMES (Nov. 26, 2022, 12:37 PM), <https://economictimes.indiatimes.com/news/india/adivasi-vs-vanvasi-constitution-uses-scheduled-tribes-for-tribals-debates-futile-says-ncst-chairperson/articleshow/95782175.cms> [https://perma.cc/NX63-XGVZ] (describing “Adivasi” as an alternate term used to define constitutionally designated Scheduled Tribes).

¹² See Coen Kompier et al., *Labour Markets: Exclusion from ‘Decent Work,’* in INDIA EXCLUSION REPORT 2013-2014, at 109, 115–17 (2014) (describing the status of *Dalit* (Scheduled Caste) and *Adivasi* (Scheduled Tribe) communities as landless or marginal land holders who are concentrated in casual labor and the intersecting vulnerabilities of women workers); see also ASHWINI DESHPANDE, *THE GRAMMAR OF CASTE: ECONOMIC DISCRIMINATION IN CONTEMPORARY INDIA* 19–56 (2011) (noting that stigmatized groups such as Dalits experience discrimination in virtually all aspects of life and the process starts much before individuals enter the labor market); David Mosse, *Caste and Development: Contemporary Perspectives on a Structure of Discrimination and Advantage*, 110 *WORLD DEV.* 422, 422–36 (2018) (noting that Dalits and Adivasis are among the poorest in India, with Dalits suffering restrictions to occupational mobility and have the least land, get the worse jobs, and have poorest education).

¹³ See Igor Bosc, *Operational Parameters to Assess Fair Recruitment Practices* (Int’l. Lab. Org., Draft Working Paper, 2016), http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/publication/wcms_521713.pdf [https://perma.cc/3HV6-6YGA] (stating that due to the fluidity and segmentation of labor supply chains and regimes that no key stakeholders such as labor recruiters, regulators, and even employers can guarantee on their own a fair migration outcome for any worker).

labor rights violations are not a function of individual bad actors alone but are rather embedded in market shifts toward deregulation and flexible employment that strip workers of labor rights protections. Second, I found that labor recruiters operating in the garment and domestic work sectors use a wide range of practices that yield varied outcomes. Some facilitate employment that benefits workers and employers, and others place workers in jobs that fall short of decent work standards. At the far end of this spectrum, exploitative recruitment practices coincide with indicators of forced labor.¹⁴

The complex segmentation of labor supply chains, the broad range of practices, and the varied outcomes for women workers that I identified in this study provide an empirical antidote to media coverage of trafficking cases that focus on crime and associated policies.¹⁵ Such cases promote a selective understanding of the economic and social role recruitment intermediaries play in highly informal contexts. These extreme cases of violence and exploitation are wielded by “modern-day slavery abolitionists” and “anti-trafficking” advocates to call for laws that criminalize recruitment intermediaries without recognizing the crucial role that legitimate intermediaries play in helping workers to find jobs with reliable employers.¹⁶

¹⁴ See generally INT’L LAB. OFF., ILO INDICATORS OF FORCED LABOUR 2012 (2012), https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf [<https://perma.cc/5EPZ-YAJE>] (noting that the ILO Indicators of Forced Labour include: abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions and excessive overtime).

¹⁵ See Meghan R. Sobel, *Chronicling a Crisis: Media Framing of Human Trafficking in India, Thailand, and the USA*, 24 ASIAN J. COMM’N. 315, 315–32 (2014) (showing that coverage of human trafficking has increased but with a focus on crime and policy rather than the voice of the victims).

¹⁶ See, e.g., KEVIN BALES, *DISPOSABLE PEOPLE: NEW SLAVERY IN THE GLOBAL ECONOMY* xviii, 11, 29 (4th ed. 2012). *Contra* Janie A. Chuang, *Giving as Governance? Philanthrocapitalism and Modern-Day Slavery Abolitionism*, 62 UCLA L. REV. 1516, 1518 (2015) (providing a critical assessment of how modern-day slavery abolitionists and “philanthrocapitalists” collapse a broad range of forced labor and trafficking practices under the umbrella of “modern-day slavery” and how philanthrocapitalists are reshaping policymaking arenas with national and global consequences); Filipe Calão, *Unfree Labor*, 45 ANN. REV. ANTHROPOLOGY 451, 453 (2016) (arguing that the use of concepts of slavery or forced labor to describe control over an individual presupposes rigid categorizations and the exclusion of other forms of oppression); RHACEL SALAZAR PARREÑAS, *ILLCIT FLIRTATIONS:*

I argue that regulatory approaches that selectively govern labor recruitment by criminalizing traffickers misunderstand the critical functions many recruitment intermediaries play in matching workers to employers as they shift between temporary roles in highly informal labor contexts.¹⁷ Instead, laws and policies that criminalize trafficking without protecting the legitimate functions of recruitment intermediaries provide incentives for recruitment actors to side-step regulation. At the nexus of informal workplaces and recruitment practices, migrant women are outside the boundaries of legal protection from recruitment to subsequent employment. In short, criminalization compounds informality and leaves workers further exposed to labor exploitation and violence. Accordingly, this Article calls for regulatory approaches that promote transparent and accountable recruitment practices.

I develop this argument in five parts. Part II, compounded informality in India's labor markets, sets out the broader market and social context of the recruitment practices at the core of this study. Part III lays out my research methods, and Part IV, recruitment and placement of migrant women workers, presents the findings of my empirical research on the garment and domestic work sectors. Part IV, conclusions—transparency, accountability, and responsive regulation, calls for regulatory approaches that seek to regularize rather than criminalize recruitment intermediaries and pathways.

LABOR, MIGRATION, AND SEX TRAFFICKING IN TOKYO 271 (2011) (noting that the middleman brokers' stronghold is actually not why migrant Filipina hostesses were identified as trafficked persons but rather because of forced sexual exploitation by club owners); JO DOECZEMA, *SEX SLAVES AND DISCOURSE MASTERS: THE CONSTRUCTION OF TRAFFICKING* (2010) (discussing how trafficking is resistant to definition and quantification); LAURA MARÍA AGUSTÍN, *SEX AT THE MARGINS: MIGRATION, LABOUR MARKETS AND THE RESCUE INDUSTRY* (2007) (providing examples of how for more than a decade multidisciplinary literature and ethnographic social science research has destabilized simplified images of vulnerability and victimization grounded in ready-made media and policy representations of sexual slavery and trafficking and warned that conceptual reliance on modern-day slavery may conceal important local and historical differences or overlook subtle dimensions of coercion that undermine decent work in the global economy).

¹⁷ For instance, regulatory focus on private actors and violent states locates the cause of "modern-day slavery" and other forms of coercive labor in the individual deviant behavior of "criminal slaveholders" and recruiters who preys on the "weakness, gullibility, and deprivation" of the "enslaved" as a result of the "lawlessness in much of the developing world." BALES, *supra* note 16, at xviii, 11, 29. See Chuang, *supra* note 16, at 1519 (stating that the solutions prescribed by this unidimensional narrative include criminalizing traffickers and "slaveholders" and rescuing victims).

These recommendations have significant implications for laws governing recruitment in India where high levels of internal migration into temporary employment require workers to move between jobs on a regular and ongoing basis. They also lend insight into challenges in recruitment governance in other highly informal contexts. Finally, they stand to inform the implementation of emerging international legal and quasi-legal standards, including at the International Labour Organization (ILO),¹⁸ the United Nations Global Compact on Migration,¹⁹ and the 2017 New Urban Agenda.²⁰

II. COMPOUNDED INFORMALITY IN INDIA'S LABOR MARKETS

Across the globe, more than 2 billion workers find employment in the informal economy.²¹ Labor supply chains and recruitment practices *articulate* in relationship to these labor market conditions.

¹⁸ The findings of this study, detailing recruitment practices for women garment workers in India bear relevance for ILO deliberations on decent work in global supply chains, initiated in June 2016 at the 105th Session of the International Labour Conference. See *Committee on Decent Work in Global Supply Chains*, INT'L LAB. ORG.: INT'L LAB. CONF., <http://www.ilo.org/ilc/ILCSessions/105/committees/supply-chains/lang-en/index.htm> [<https://perma.cc/LQX2-9WYD>] (last visited Apr. 15, 2018) (providing reports from the Committee on Decent work in global supply chains). See *Agenda of the 107th Session of the International Labour Conference*, INT'L LAB. ORG.: INT'L LAB. CONF. http://www.ilo.org/ilc/ILCSessions/107/reports/reports-to-the-conference/WCMS_541403/lang-en/index.htm [<https://perma.cc/L2UB-4D29>] (last visited Apr. 15, 2018) (providing an agenda on the deliberations on Violence against Women and Men in the World of Work scheduled for deliberation at the 107th Session of the International Labour Conference).

¹⁹ See *Compact for Migration*, UNITED NATIONS, <https://refugeemigrants.un.org/migration-compact> [<https://perma.cc/4HER-QH2W>] (last visited Apr. 15, 2018) (providing information on the global compact for migration, an international agreement under negotiation in 2018 under the auspices of the United Nations).

²⁰ From October 17-20, the UN Habitat III global summit on housing and sustainable urban development convened in Quito, Ecuador, to launch the New Urban Agenda—a global strategy around urbanization that will guide global strategy around urbanization for the next two decades. *New Urban Agenda*, U.N. CONF. ON HOUS. & SUSTAINABLE URB. DEV. <http://habitat3.org/the-new-urban-agenda/> [<https://perma.cc/98ZC-WLDA>] (last visited Apr. 2, 2023).

²¹ See *The Future of Work: Forging an Inclusive Economy*, GUARDIAN (Nov. 16, 2021), <https://www.theguardian.com/the-future-of-work--forging-an-inclusive-economy/ng-interactive/2021/nov/16/more-than-2-billion-workers-make-up-the-informal-economy> [<https://perma.cc/L9UJ-92VS>] (stating informal employment statistics).

Here, I draw from Stuart Hall's (1985) conception of *articulation* as a connection that is positively sustained by particular processes, renewed, or alternately dissolved to make way for new connections or *re-articulations*²²—in other words, the ways in which temporary workers in the global economy find work, interact and evolve with labor market and social conditions.²³ Accordingly, Part II situates my research findings in relation to the broader labor market and social context in India.

An estimated 15 million people in India enter the labor market each year.²⁴ These workers navigate markets where formal employment models are in rapid decline due to the systematic erosion of labor standards and the promotion of trade liberalization, international competition, and privatization.²⁵ Although India has seen relatively high economic growth in the past decade, employment opportunities in public enterprises, the formal private sector, and agriculture have declined, and very few jobs have been added—the majority of which fail to meet decent work standards.²⁶

Amidst these economic transformations, India's megacities are manifestations of imbalanced economic growth within the country, driving migration from rural to urban areas.²⁷ The labor migration trajectories for internal migrant women are impacted by a trifecta of

²² See generally Stuart Hall, *Signification, Representation, Ideology: Althusser and the Post-Structuralist Debates*, 2 CRITICAL STUD. MASS COMM'N. 91, 93–96 (1985) (reflecting on the evolution of ideology).

²³ See Shikha Silliman Bhattacharjee, *Migrant Labor Supply Chains: Architectures of Mobile Assemblages*, 31 SOC. & LEGAL STUD. 807, 814–19 (2022) (discussing the evolution in migrant relationships and trends).

²⁴ See *India Needs to Create 15 million Jobs Annually: Pitroda*, TIMES INDIA (Mar. 23, 2013), <http://archive.indianexpress.com/news/india-needs-to-create-15-million-jobs-annually-pitroda/1092411> [<https://perma.cc/2KA8-DZWA>] (discussing the labor market in India).

²⁵ See generally SHIKHA SILLIMAN BHATTACHARJEE, *INDIA'S LABOUR LAW CHANGES: TOWARDS ADVANCING PRINCIPLES OF RIGHTS, INCLUSION AND EMPLOYMENT SECURITY* (2016), https://www.actionaidindia.org/wp-content/uploads/2018/06/India%E2%80%99s-Labour-Law_-FINAL-PRINT-WEBSITE-min.pdf [<https://perma.cc/K9LZ-L3PF>] (exploring the impact of the emergence of megacities and increasing migration upon the structure of India's contemporary labour market).

²⁶ Govindraj Ethiraj, *Absence of Enough Jobs Means India is Losing Its Demographic Dividend*, INDIA SPEND (July 14, 2022), <https://www.indiaspend.com/indiaspend-interviews/absence-of-enough-jobs-means-india-is-losing-its-demographic-dividend-826020> [<https://perma.cc/Q3ZH-K5Q5>].

²⁷ See Amitabh Kundu, *Urbanisation and Urban Governance: Search for a Perspective beyond Neo-Liberalism*, 38 ECON. & POL. WKLY. 3079, 3086–87 (2003) (describing the rapid growth of Indian urban areas).

forces: unregulated and deregulated work, deregulation by criminalization, and deregulation by stigmatization. These forces, described in turn in the sections that follow, conspire to create governance conditions that I refer to as *compounded informality*.

A. *Unregulated and Deregulated Work*

Absence of state regulation results in various forms of informality,²⁸ including unregulated contexts that are not controlled by laws or regulations; and deregulated contexts, once regulated spheres going through processes that withdraw state regulations or the reach of enforcement. Deregulation can be enacted through the absence or suspension of state regulations, as well as by indirect employment processes that create obstacles to governance. For instance, as described in this section, this study of women's labor migration in India includes analysis of recruitment pathways into unregulated domestic work—a regulatory context that can be characterized by the absence of state regulations; and deregulated garment work at the base of garment global supply chains—a deregulated context where labor rights protections have been progressively rolled back and even entirely suspended for particular categories of workers.

1. *Unregulated Domestic Work*

Across the globe, the privatization of social services has, on one hand, heightened demand for paid care work; and, on the other, increased the burden of paid and unpaid care work that falls on lower income women.²⁹ Those who can afford to pay for care—whether for children, the elderly, or other dependents—hire workers who are most often women.³⁰ Those who cannot afford to

²⁸ See generally Keith Hart, *Informal Income Opportunities and Urban Employment in Ghana*, 11 J. MOD. AFR. STUD. 61, 86–89 (1973) (analyzing the informal structure of Ghana's urban economy).

²⁹ See INT'L LAB. ORG., WOMEN AT WORK: TRENDS 2016, xi–xx (2016), http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_457317.pdf [https://perma.cc/4LYW-ZR9R] (detailing the disproportionate burden on women working in the service industry).

³⁰ *Id.*

pay for care do their best to look after their dependent family members at home, tasks that typically fall to women under gendered distributions of work embedded in patriarchal social norms.³¹ As a result, care workers stretch to meet the needs of their own families as well as others, while their rights to health care, social protection, and decent work are unprotected in most of the world.

Paid domestic work forms a subset of the continuum of care work. A “domestic worker” is defined in ILO Convention No. 189 as “any person engaged in domestic work within an employment relationship.”³² This includes domestic workers who are engaged full-time or part-time and those who work for multiple employers. The employer may be a member of the household in which the work is performed or an agency or enterprise that employs domestic workers and makes their services available to households.³³ Tasks assigned to domestic workers frequently include child and elderly care, cooking, cleaning, washing clothes, grocery shopping, and running errands.³⁴

Domestic work plays a dual role in women’s economic empowerment: it provides employment for women hired as domestic workers and facilitates employment outside the home for women who can afford to hire domestic workers.³⁵ Recognizing the significant social contributions and unique vulnerabilities of domestic workers, the ILO Domestic Workers Convention, 2011 (No. 189) establishes the status of domestic workers as ‘workers’ entitled to the full spectrum of labor rights.³⁶ Despite these advances in international law, domestic work in India remains largely unregulated. With few exceptions, domestic workers are not included in India’s labor rights protection frameworks.³⁷ This is

³¹ *Id.*

³² Domestic Workers Convention art. 1(b), June 16, 2011, 53 I.L.M. 254 [hereinafter Domestic Workers Convention].

³³ INT’L LAB. ORG., DECENT WORK FOR DOMESTIC WORKERS: CONVENTION 189 & RECOMMENDATION 201 AT A GLANCE (2011) http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_170438.pdf [<https://perma.cc/LQX2-9WYD>].

³⁴ See Domestic Workers Convention, *supra* note 32, at art. 1(a) (defining “domestic work” as “work performed in or for a household or households”).

³⁵ See INT’L LAB. ORG., *supra* note 29, at xix (describing the burden of women regarding filling care gaps).

³⁶ Domestic Workers Convention, *supra* note 32, at pmb1.

³⁷ See INT’L LAB. ORG., INDISPENSABLE YET UNPROTECTED: WORKING CONDITIONS OF INDIAN DOMESTIC WORKERS AT HOME AND ABROAD 52–55, (2015) https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---

due, in part, to national definitions of “workman,” “employer,” and “establishment” that place the household as a site of employment outside the ambit of regulation.³⁸

While there is no conclusive data on the exact number of domestic workers in India,³⁹ India’s National Domestic Workers Movement (“NDWM”) estimates that nearly ninety percent of domestic workers in India are women or girls—with twenty-five percent below age fourteen.⁴⁰ High unemployment rates in rural areas drive migration for domestic work, especially among *Dalit* (Scheduled Caste) and *Adivasi* (Scheduled Tribe) women.⁴¹ Engaged in the homes of their employers, off the public radar, and without clear terms of employment, domestic workers are among the most vulnerable groups of workers in India. They face low wages and excessively long hours with no guaranteed weekly rest, and are also exposed to physical, mental, and sexual abuse as well as restrictions on freedom of movement.⁴² These patterns of exploitation can be attributed in part to gaps in legal protections for domestic workers, and to discrimination on the basis of gender, caste, and other social identity-based exclusions.⁴³

declaration/documents/publication/wcms_378058.pdf [https://perma.cc/B3FU-9KH4] (reviewing the limitations of Indian’s current regulation of domestic work).

³⁸ *Id.* at 54–55 (explaining how definitions of workman, employer, and establishment undermine protections for internal migrant domestic workers in India).

³⁹ See INT’L LAB. OFF., DOMESTIC WORKERS ACROSS THE WORLD: GLOBAL AND REGIONAL STATISTICS AND THE EXTEND OF LEGAL PROTECTION 14 (2013) http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_173363.pdf [https://perma.cc/9FXU-3226] (stating the discrepancy in calculating the domestic workers in India).

⁴⁰ U.N. DEV. PROGRAMME, SYNTHESIS OF IMPORTANT DISCUSSIONS ON LIVELIHOOD AND MICROFINANCE ISSUES OF DOMESTIC WORKERS 21 (2012), <http://www.in.undp.org/content/dam/india/docs/poverty/synthesis-of-important-discussions-on-livelihood-and-mf-issues-r.pdf> [https://perma.cc/GE9S-MWDB].

⁴¹ See SELF-EMPLOYED WOMEN’S ASS’N, DOMESTIC WORKERS’ LAWS AND LEGAL ISSUES IN INDIA 2 (2014) <https://www.wiego.org/sites/default/files/resources/files/Domestic-Workers-Laws-and-Legal-Issues-India.pdf> [https://perma.cc/YV53-8APB] (linking the lack of jobs in rural and tribal areas to the increase of women workers in cities); see also BHATTACHARJEE, *supra* note 11, at 11–24 (presenting impediments to scheduled caste women seeking rural employment).

⁴² See INT’L LAB. ORG., *supra* note 37, at viii (describing the abusive environment facing domestic workers).

⁴³ *Id.* at iii (explaining that “[o]ne of the most vulnerable sections of the population is women and girls who have no option but to undertake distress migration in

2. Deregulated Garment Work

The Indian export garment industry has “emerged as one of the leading industrial segments in the Indian economy” since “the adoption of liberalized economic policies beginning with the economic reforms of 1991.”⁴⁴ By 2013, textiles and clothing constituted four percent of India’s gross domestic product, with the export earnings of the apparel industry valued at \$15.7 billion, and combined textile and apparel export earnings valued at \$40 billion.⁴⁵ Although the Indian textile and garment industry employed 45 million workers by 2014, “national level data on the economic and social profile of the garment workforce remain[s] . . . thin.”⁴⁶

Unlike domestic work, which has been consistently unregulated, industrial production in India has been systematically deregulated by successive rounds of labor law changes at the national and state level since 1992.⁴⁷ In 2009, India’s National Commission for Enterprises in the Unorganized Sector (“NCEUS”) recognized garment workers as “informal workers in the formal sector.”⁴⁸ This designation appropriately accounts for the range of temporary roles garment workers fill—including as home-based workers, and as daily wage and contract workers in factories. Measures to achieve labor flexibility by industrial employers in India have included an increased use of contract labor, outsourcing, and subcontracting.⁴⁹ In 2014, “more than 80% of workers in the manufacturing sector in

search of work away from their home areas. Their lack of skills and income generating opportunities, land and assets at home, illiteracy and lack of awareness, coupled with existing social inequalities based on caste and ethnicity, push the poorest women and girls to migrate elsewhere to try to meet their subsistence need, often as domestic workers”).

⁴⁴ See SHIKHA S. BHATTACHARJEE, *PRECARIOUS WORK IN THE H&M GLOBAL VALUE CHAIN* 38 (2016) <https://www.globallaborjustice.org/wp-content/uploads/2018/05/Asia-Floor-Wage-Alliance-H-M.pdf> [<https://perma.cc/3D96-2KY6>] (detailing the growth of the Indian export garment industry).

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ See BHATTACHARJEE, *supra* note 25, at 16–23 (discussing the liberalization and deregulation of India’s industrial sector).

⁴⁸ 1 NAT’L COMM’N FOR ENTERS. IN THE UNORGANISED SECTOR, *THE CHALLENGE OF EMPLOYMENT IN INDIA: AN INFORMAL ECONOMY PERSPECTIVE* 346 (2009).

⁴⁹ See Anamitra Roychowdhury, *Recent Changes in Labour Laws and their Implications for the Working Class*, SANHATI (Jan. 13, 2015), <http://sanhati.com/excerpted/12592/> [<https://perma.cc/2WSQ-FZ96>] (noting the increase in contract workers).

India held no written contracts or contracts valid for less than a year".⁵⁰

3. Central Market Deregulation

Deregulation of India's garment industry takes place amidst the systematic deregulation of Indian markets more broadly. Beginning in the 1980s and peaking in 1991, India pursued legal and market reforms that diminished state and federal labor regulations in order to increase workforce flexibility, decrease the bargaining authority of trade unions, and diminish the reach of India's state labor regulations.⁵¹ More recent labor law overhauls continue trends of the previous thirty years—promoting deregulation, employer flexibility, and reduced protection for workers' and trade unions in order to promote business interests and attract foreign investment.⁵² As a result, workers are channeled into delivering flexible, labor intensive production activities at low cost and without wage, employment, or social security.⁵³

4. State Deregulation

In India, state governments have concurrent authority to enact state-level labor laws and amend central labor laws.⁵⁴ With the liberalization of the Indian economy, states have introduced

⁵⁰ V. Sridhar, *The Curse of Cheap Labour*, FRONTLINE (Oct. 29, 2014), <https://frontline.thehindu.com/cover-story/the-curse-of-cheap-labour/article6540760.ece> [<https://perma.cc/5S9W-UWUJ>].

⁵¹ See T. Papola & J. Pais, *Debate on Labour Market Reforms in India: A Case of Misplaced Focus*, 50 INDIAN J. LAB. ECON. 183, 184–93 (2007) (discussing the timeline and purpose of Indian labor market reforms).

⁵² See J.S. Sodhi, *Labour Law Reform in India*, 50 INDIAN J. INDUS. RELS. 100, 101–12 (2014) (detailing the evolution of legal relations between industrial workers and management); see also BHATTACHARJEE, *supra* note 25, at 7–23 (providing a historical review of labor deregulation).

⁵³ See Surendra Pratap, *The Political Economy of Labour Law Reforms in India, Part I*, SANHATI (Dec. 2, 2014) <http://sanhati.com/excerpted/12159/> [<https://perma.cc/8XTH-FWDB>] (detailing the outcome of diminished workers' rights).

⁵⁴ See Louis Tillin, *Building a National Economy: Origins of Centralized Federalism in India*, 51 PUBLIUS: J. FEDERALISM 2, 161, 168 (2021) (establishing that Indian state governments have overlapping powers with the federal government).

significant changes in their labor policies and administration to deregulate industry and attract capital into their regions.⁵⁵ In order to provide incentives for private investment, over the last decade, state governments have modified labor laws in favor of employers operating in Special Economic Zones (SEZs)—duty-free enclaves deemed foreign territory for the purpose of trade operations, duties, and tariffs under the Special Economic Zones Act, 2005. For instance, SEZs have been declared “public utility services” in order to make strikes more difficult. As of October 2011, 583 SEZs had been formally approved within India but only 143 were operational.

Within the last decade in Rajasthan, Gujarat, and Madhya Pradesh, state amendments have increased the threshold number of workers that have to be employed in an establishment in order for it to be subject to labor law regulation—including under the Factories (Rajasthan Amendment) Act, 2014;⁵⁶ the Contract Labour (Regulation and Abolition) Act, 1970;⁵⁷ chapters V(a) and V(b) of the Industrial Disputes Act, 1947 related to lay off, retrenchment, and closure,⁵⁸ and the Industrial Disputes (Andhra Pradesh Amendment) Act, 2011.⁵⁹ States have also diminished criminal sanctions against employers; promoted engagement of apprentices through economic incentives (Rajasthan); and initiated self-certification schemes exempting employers who self-report compliance from inspection under numerous central acts (Andhra Pradesh, Gujarat, Jharkhand, Madhya Pradesh, Rajasthan).⁶⁰

5. Deregulation through the Courts

Growth in India’s unorganized and informal sectors has been backed by judicial precedents stripping contract workers of labor protections. For instance, in 2001, in *Steel Authority of India Ltd. v. National Union Waterfront Workers*, the Supreme Court ruled that the *Contract Labour Act, 1970* did not require mandatory absorption of

⁵⁵ See Bhattacharjee, *supra* note 25, at 7–23.

⁵⁶ The Factories (Rajasthan Amendment) Act, 2014, §§ 2–4 (Nov. 11, 2014).

⁵⁷ The Contract Labour (Regulation and Abolition) Act, 1970, ch. 1(4)(a)–(b) (Sept. 5, 1970).

⁵⁸ The Industrial Disputes (Rajasthan Amendment) Act, 1947, ch. V(a)–(b) (Mar. 11, 1947).

⁵⁹ The Industrial Disputes (Andhra Pradesh Amendment) Act, 2011, §§ 1–2 (Feb. 4, 2011).

⁶⁰ See Bhattacharjee, *supra* note 25.

contract workers as “permanent workers,” even if they were employed for long periods of time at the same workplace but under different contractors.⁶¹ This judgment abolished entitlements protecting secure employment for contract workers, facilitating increased workplace flexibility. In *Secretary, State of Karnataka v. Umadevi*, the Supreme Court further rolled back protection for casual and temporary workers by ruling that they could not seek to have their employment relationship regularized, even after employment of more than ten years.⁶² In 2005, in *Haryana State Co-Op Land Development Bank v. Neelam*, a worker who was illegally terminated was not entitled to reinstatement.⁶³ Such precedents stripped contract workers of labor protections and fueled unorganized employment within the industrial and other previously organized sectors.

Spurred forward by India’s central and state governments, with sign off from the judiciary, casualization of the Indian labor force is well underway in the manufacturing sector. By 2009, data from the Annual Survey of Industries reported that in factories employing more than 5,000 workers, almost half were employed through contractors and not directly by the establishments where they worked.⁶⁴ More than eighty percent of all workers in the organized manufacturing sector had no written contracts or contracts that were valid for less than one year.⁶⁵ This trend toward casualization has put a large section of the labor force outside the purview of India’s labor protections. These processes of deregulation have significant consequences for the lives of workers and their families, including greater economic inequality, insecurity, and instability among workers—including through routine dislocation as workers travel to follow transient employment opportunities.

B. Deregulation by Criminalization

In India’s flexible, rapidly evolving employment markets, recruitment intermediaries are assuming a crucial role by facilitating

⁶¹ AIR 2001 SC 3527 (India).

⁶² AIR 2006 SC 1806 (India).

⁶³ AIR 2005 SC 1843 (India).

⁶⁴ Atul Sood et al., *Deregulating Capital, Regulating Labour: The Dynamics in the Manufacturing Sector in India*, 49 *ECON. & POL. WKLY.* 58, 60 fig.3b (2014) (demonstrating employment trends).

⁶⁵ Sridhar, *supra* note 50.

migration for employment.⁶⁶ A 2009 study examining the economic contribution of internal circular migrants revealed that they contribute ten percent to the national GDP.⁶⁷ By 2011, India's census reported that urban population growth exceeded rural population growth for the first time since independence.⁶⁸ Due to shortcomings in accounting for internal migrants in the official data for destination areas, however, these figures are likely to be gross underestimates.⁶⁹

Although an exceedingly broad range of recruitment intermediaries work in India, catering to distinct segments of the labor market, India lacks well-defined laws governing recruitment—and laws that are in place to protect migrant workers falter at the brink of enforcement. The Inter-State Migrant Workmen's Act, 1979, for instance, applies to every establishment and contractor that employs five or more interstate workers.⁷⁰ Under the Act, establishments and contractors hiring migrant workers are required to register with the Deputy Labour Commissioner, and maintain registers and records of the migrant workers they employ, the nature of work performed by these workers, and their wage rate.⁷¹ Further, per the Act, no recruitment can take place for the purpose of employing workers in another state without a proper license.⁷² Significant limitations of the Act in regulating the activities of labor recruiters include the exclusion of domestic workers from protection under the Act—first, since employer homes do not fall under the definition of establishment;⁷³

⁶⁶ See *supra* text accompanying note 23.

⁶⁷ DESHINGKAR & AKTER, Abstract, *supra* note 10.

⁶⁸ See HIGH POWERED EXPERT COMM. FOR ESTIMATING THE INV. REQUIREMENTS FOR URB. INFRASTRUCTURE SERVS., REPORT ON INDIAN URBAN INFRASTRUCTURE AND SERVICES 10 (2011) <http://icrier.org/pdf/FinalReport-hpec.pdf> [<https://perma.cc/74P2-H3H7>] (reviewing population growth and offering projections and policy prescriptions); see also S. IRUDAYA RAJAN, INTERNAL MIGRATION AND YOUTH IN INDIA: MAIN FEATURES, TRENDS AND EMERGING CHALLENGES 3–30 (2013) (providing demographic data on migrant workers).

⁶⁹ See U.N. EDUC., SCI. & CULTURAL ORG., SOCIAL INCLUSION OF INTERNAL MIGRANTS IN INDIA 4 (Marina Faetanini & Rukmini Tankha eds., 2013) <https://unesdoc.unesco.org/ark:/48223/pf0000223702> [<https://perma.cc/W547-F17R>] (asserting that internal migration estimates are grossly underestimated).

⁷⁰ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (June 11, 1979).

⁷¹ *Id.* § 12.

⁷² *Id.* § 8(1)(a).

⁷³ *Id.* § 2(d) (providing the following definition of “establishment”: “(i) any office or department of the Government or a local authority; or (ii) any place where any industry, trade, business, manufacture or occupation is carried on[.]”).

and second, because it is rare for five or more migrant domestic workers to work in a single home.⁷⁴

Addressing this significant gap in labor market regulation, in *Bachpan Bachao v. Union of India* (2009), the Delhi High Court asked private placement agencies (PrEAs) to register under the Shops and Establishments Act.⁷⁵ By 2014, the Delhi Labour Department issued a notification requiring registration and licensing, written employment engagements, passbooks for domestic workers, and oversight and adjudication of placement related disputes by the Delhi Commission for Woman and Child Welfare.⁷⁶ These calls to registration by the Delhi High Court and Labour Department, however, went largely unheeded. As a result, there is currently no reliable government data on the prevalence of labor recruiters focused on internal migration in India or the services they provide. Notably, among 100 labor recruiters in the Delhi-NCR surveyed by the National Labor Institute, 67% claimed to be registered but only 3% held registration numbers. The remaining 33% reported being unregistered.⁷⁷

Within this lacuna of registration enforcement, recruitment intermediaries that match internal migrants to employers do fall within the ambit of laws criminalizing trafficking that have been adopted at the central and state government levels.⁷⁸ In 2013, Chhattisgarh enacted the Private Placement Agencies (Regulation) Act, 2013 (“Chhattisgarh Act”).⁷⁹ The Chhattisgarh Act calls for licensing of all private placement agencies,⁸⁰ requires registration of all domestic workers placed in employment, prohibits fees to

⁷⁴ *Id.* §1(4)(a) (specifying that the act applies “to every establishment in which five or more inter-State migrant workmen . . .”).

⁷⁵ *Bachpan Bachao v. Union of India*, 2009 SCC Online Del, *aff’d.*, (2011) 5 SCC 1.

⁷⁶ Delhi Lab. Dep’t., Order, No. F Add. LC/Misc(2)/12/Lab/Part File/1938 (Issued on Sept. 25, 2014).

⁷⁷ Ellina Samantroy, *ILO Convention 181: Issues and Challenges in the Context of Private Placement Agencies in India* 31–32 (NLI Rsch. Stud. Series No. 109/2013, 2013).

⁷⁸ See, e.g., The Immoral Traffic (Prevention) Act, 1956, (December, 30 1956) (establishing scope, punishment, and procedure for the crime of sex trafficking); Criminal Law (Amendment) Act, 2013, § 370 (April 2, 2013) (including recruitment in definition of trafficking); Chhattisgarh Private Placement Agencies (Regulation) Act, 2013 [hereinafter Chhattisgarh Act] (providing licensing requirements for private placement agencies); Jharkhand Private Placement Agencies and Domestic Workers (Regulation) Act, 2016 (Nov. 26, 2016) [hereinafter Jharkhand Act] (dealing a blow to human traffickers and their agents through regulation of private placement agencies).

⁷⁹ Chhattisgarh Act.

⁸⁰ *Id.* at ch. II.

workers, and outlaws placing any workers who are under 18 years old.⁸¹ Violation of the act is cognizable and non-bailable,⁸² and carries a prison term of up to seven years, a fine of one lakh rupees (\$1,540), or both.⁸³ The Jharkhand Private Placement Agencies and Domestic Workers (Regulation) Act, 2016 (“Jharkhand Act”) was passed by the Jharkhand Assembly in December 2016.⁸⁴ Like the Chhattisgarh Act, the Jharkhand Act calls for the registration of all private placement agencies, requires registration of all domestic workers placed in employment, prohibits fees to workers, outlaws placing any workers who are under 18 years old, and punishes violation of the Act with a prison term of one year or a fine of up to rupees 20,000 (\$308 USD).⁸⁵ These laws prescribe criminal sanctions for recruitment intermediaries, but do not provide incentives for registration. Laws and policies that criminalize trafficking without protecting the legitimate functions of recruitment intermediaries further entrench informality by providing incentives for recruitment actors to side-step regulation.

C. Deregulation by Stigmatization

In 1963, Erving Goffman introduced the idea of stigmatization in the social sciences with a focus on micro-sociological and psychological processes.⁸⁶ Contemporary literature has since sought to understand the social consequences of stigma, focusing on how stigmatization fastens collective representations on particular people to produce injurious results.⁸⁷ In this second sense, stigmatization has significant implications for studies of social stratification within labor markets. Stigmatization of women’s work, more specifically, refers to social and other processes that

⁸¹ *Id.* at ch. IV.

⁸² *Id.* at ch. VI.

⁸³ *Id.* at ch. V.

⁸⁴ Jharkhand Act.

⁸⁵ *Id.* at § 4. For a discussion of the law, see *Jharkhand Assembly Passes Bill to Regulate Domestic Workers*, AVENUE MAIL (Nov. 26, 2016),

<https://avenuemail.in/jharkhand-assembly-passes-bill-regulate-domestic-workers/> [<https://perma.cc/C2GP-UKDC>] (outlining the provisions of the law).

⁸⁶ ERVING GOFFMAN, *STIGMA: NOTES ON THE MANAGEMENT OF SPOILED IDENTIFY* 5–37 (1963).

⁸⁷ See, e.g., Immogene Tyler & Tom Slater, *Rethinking the Sociology of Stigma*, 66 SOC. REV. MONOGRAPHS 721, 721–43 (2018) (arguing in favor of additional research in pursuit of a more robust understanding of stigma).

systematically devalue jobs done by women. In India, stigmatized work includes the labor-intensive roles women workers fill in brick kiln, construction, domestic, and sex work.⁸⁸ These occupations employ large numbers of migrant Dalit and *Adivasi* (tribal) women who may be further stigmatized based on caste and tribal status respectively.⁸⁹ Stigma stratifies markets, authorizes industrial discipline and other abusive labor rights practices, and manifests in patterns of social exclusion that compound women's vulnerability to rights abuses.⁹⁰

Gendered constructions of stigmatized work are informed by legal, political, cultural, and ideological discourses that are anchored in patriarchal social systems.⁹¹ For instance, my research found that due to equation of migration with sexual activity among women with significant mobility outside the home, in India, young women and girls who return from destination areas—regardless of the sector in which they are employed—are routinely tagged as 'Delhi-returned.' This negative connotation makes it difficult for them to marry boys from 'respectable' families, collapsing distinctions between women's labor migration and stigma associated with sex work and trafficking for commercial exploitation.

Stigma compounds informality by discouraging migrant women from pursuing relief for rights violations. For instance, in my study of gender-based violence and harassment ("GBVH") on garment production lines, women workers described reluctance to report

⁸⁸ See Shikha Silliman Bhattacharjee, *Gendered Technologies of Power: Experiencing and Unmaking Borderscapes in South Asia*, 29 BERKELEY PLAN. J. 45, 65–69 (2017) (reviewing labor practices of migrant women in South Asia).

⁸⁹ See Kompier et. al., *supra* note 12, at 115–17 (detailing the relationship between historically excluded groups and migrant workers).

⁹⁰ The relationship between stigmatization and the most extreme forms of rights abuses can be further explained through engagement with historical and anthropological literature on slavery. As explained by Orlando Patterson in *Slavery and Social Death*, slavery is not only coercive labor backed by violent domination, but also "a highly symbolized domain of human experience" in which slaves experience "social death" and dishonor in the society in which they are enslaved. ORLANDO PATTERSON, *SLAVERY AND SOCIAL DEATH* 35–38 (1982). The relationship between slavery, social death, and dishonor lends insight into how stigma functions as a pivotal process of social control. Stigma against particular types of work can be mobilized to restrict women's mobility and livelihood choices and undermine their rights at work. These restrictions, in turn, increase women's vulnerability to transit based violence and unregulated, unsafe and unprotected work.

⁹¹ See Bhattacharjee, *supra* note 88, at 45–46 (describing the impact of patriarchal laws and policies on the physical and social mobility of migrant women workers in South Asia).

GBVH due to stigma that manifests as restrictions on their mobility or victim blaming.⁹² For women who seek relief through legal channels, social authority wielded by male employers, supervisors, and co-workers may be reinforced through gendered policing practices.⁹³ Even where sexual harassment and violence is an actionable offense, women report barriers to accountability, beginning with stigmatization by police officers and resulting in refusal to file cases.⁹⁴

Further undermining accountability, women employed in the garment sector report fear of reporting sexual harassment, advances, and violence due to social stigma associated with GBVH that are likely to trigger either victim blaming or restrictions on their mobility. In a study I conducted on GBVH in the garment sector in India, a woman worker explained her decision not to report the sexual harassment she faced in the factory:

I did not report at work because it is the woman who is blamed. No one sees the man as at fault. I thought, if my husband comes to know about this, he will not let me work anymore. So, I decided to resign quietly without telling anyone anything.⁹⁵

As she described, due to social stigma rooted in patriarchal family and community norms, reporting GBVH at home may result in the family imposing barriers to future wage employment. Unable to report violence at work, to the police, at home, or in the community, women face significant challenges in seeking justice in cases of abuse.⁹⁶ In this regard, stigma creates an additional barrier to seeking legal protection against GBVH and other workplace rights violations, further compounding informality for migrant women workers in India.

⁹² Shikha Silliman Bhattacharjee, *Fast Fashion, Production Targets, and Gender-Based Violence in Asian Garment Supply Chains*, in *LABOR, GLOBAL SUPPLY CHAINS, AND THE GARMENT INDUSTRY IN SOUTH ASIA: BANGLADESH AFTER RANA PLAZA 2007*, 213–15 (Sanchita Banerjee Saxena ed., 2020) (reporting on the lack of accountability for gender-based violence and harassment in South Asian garment factories).

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ DEV NATHAN ET AL., *REVERSE SUBSIDIES IN GLOBAL MONOPSONY CAPITALISM: GENDER, LABOUR, AND ENVIRONMENTAL INJUSTICE IN GARMENT VALUE CHAINS* 127 (2005).

⁹⁶ *Id.*

III. RESEARCH METHODS

This study focuses on how migrant women from Bihar, Chhattisgarh, and Jharkhand find employment in garment and domestic work in the Delhi-NCR and Mumbai. I selected these locations due to high rates of labor migration in garment and domestic work, specifically among women from *Dalit* (Scheduled Caste) and *Adivasi* (Scheduled Tribe) communities.⁹⁷ My research included 254 structured interviews with migrant women and sixty-three focus group discussions (“FGDs”) with migrant women and recruitment intermediaries (Table 1).

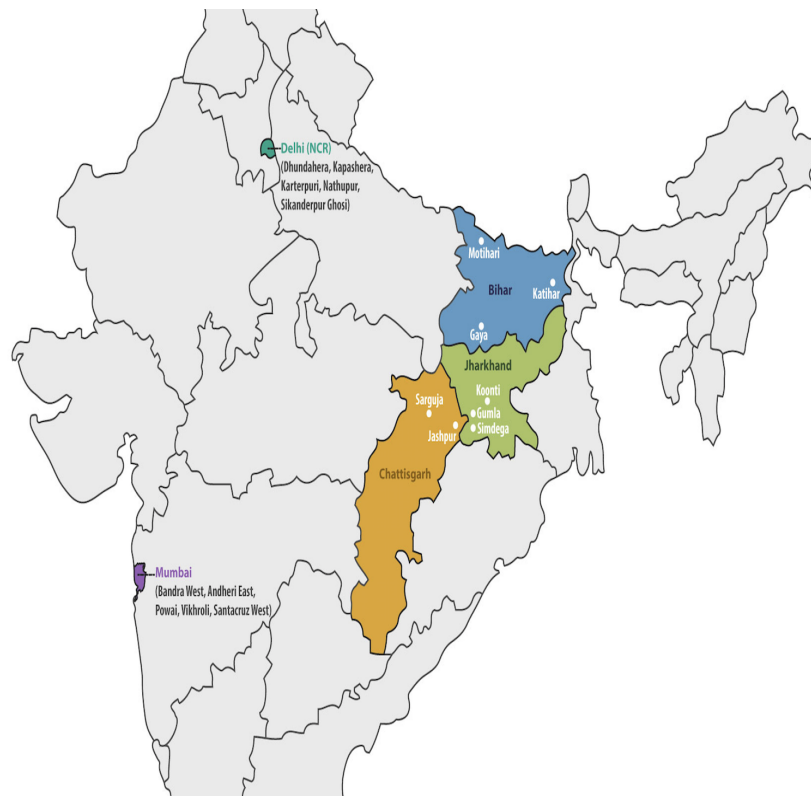
Table 1: Interview and FGD Respondents by Location and Occupation

State	District	Sector		Interviews	FGDs
		Domestic work	Garment		
Bihar	Motihari	9	9	18	5
	Gaya	6	12	18	5
	Katihar	6	11	18	5
	<i>State totals</i>	22	32	54	15
Jharkhand	Khunti	18	0	18	10
	Gumla	10	9	19	8
	Simdega	7	3	10	2
	<i>State totals</i>	35	12	47	20
Chhattisgarh	Jaspur	19	2	21	23
	Sarguja	28	0	28	0
	<i>State totals</i>	47	2	49	23

⁹⁷ “Scheduled Caste” (“SCs”) and “Scheduled Tribe” (“STs”) are officially designated groups of people recognized in the Constitution of India based on social, cultural, and material status rooted in entrenched practices of discrimination and rigid social hierarchies along caste and tribal lines. See *Scheduled Caste Welfare – List of Scheduled Castes*, MINISTRY OF SOC. JUST. & EMPOWERMENT (2012), <https://web.archive.org/web/20120913050030/http://socialjustice.nic.in/sclist.php> (providing the official caste list as of Sept. 13, 2012).

Delhi-NCR	<i>Area total</i>	26	24	50	4
Mumbai	<i>Area total</i>	26	28	54	1
Study totals		156	98	254	63

Figure 1: Primary Data Collection Sites in India



Data collection was anchored at the Society for Labour and Development (“SLD”), Delhi, from August 2015–November 2016, during my time as Research Director. Our team included fifteen researchers⁹⁸ who worked in coordination through weekly field reporting to identify recruitment processes from north and northeast regions of India to garment production and service hubs

⁹⁸ Field research was conducted by Jallalludin Ansari, Ananya Basu, Indira Gartenberg, Amar Kharate, Degree Prasad Chouhan, Falak Jalali, Sumita Kerketta, Aloka Kujur, Abhinandan Kumar, Hare Ram Mishra, Nafisha Naaz, Babli Paikra, Swati P. Tapase, Neha Verma and Surendra G. Waghmare.

in Mumbai and the Delhi-NCR (Figure 1). We selected respondents with three sets of criteria: (1) migration from target districts in Bihar, Chhattisgarh, and Jharkhand to the Delhi-NCR and Mumbai—sampling on territorial junctions; (2) employment in garment or domestic work in Delhi-NCR or Mumbai—sampling on labor market junctions; and (3) migration for employment between 2010 and 2015—sampling on a temporal band.

I designed this study with an understanding that workers engage with recruitment actors and processes at various intervals on journeys across geographies and time periods. To capture this complexity, I collected information on women’s engagement with labor supply chains at six stages: (1) learning of work options (advertisement), (2) establishing personal qualifications, (3) learning about specific employment, (4) entering a contract, (5) migrating, and (6) securing a job. These stages are not necessarily sequential and a labor supply chain may include some but not all stages. To ensure the relevance of my theory and analysis for internal and international migration, I adapted these stages from eleven international recruitment stages outlined by the ILO.⁹⁹

To identify how social identity interacts with recruitment practices, we invited respondents to self-identify as members of *Dalit* (“Scheduled Caste”), *Adivasi* (“Scheduled Tribe”), and “Other Backward Classes.”¹⁰⁰ Approximately eighty-seven percent of the women we engaged in this study self-identified as a member of a caste or tribe that has been classified as educationally or socially disadvantaged (Table 2).

Table 2: Respondents from Socially Disadvantaged Groups

	Delhi-NCR	Jharkhand	Bihar	Mumbai	Chhattisgarh	Total
Other Backward Class	11	1	21	17	4	54
Scheduled Caste	23	0	22	10	2	56

⁹⁹ See INT’L LAB. ORG., TRAFFICKING FOR FORCED LABOUR: HOW TO MONITORY THE RECRUITMENT OF MIGRANT WORKERS (TRAINING MANUAL) 37–38 (2005) (providing an eleven-step process for recruitment of migrant workers).

¹⁰⁰ See MINISTRY OF SOC. JUST. & EMPOWERMENT, *supra* note 97.

Scheduled Tribe, including Tribal Christian	11	40	0	0	39	90
Other	5	1	6	10	0	22
No response	0	5	5	17	4	32
Total	50	47	54	54	49	254

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

In both origin and destination areas, researchers faced challenges engaging migrant women workers due to stigma associated with migration.¹⁰¹ Accordingly, our research teams included male and female researchers. We also worked with local organizations to facilitate engagement. For instance, researchers held a meeting with twenty-seven domestic workers at All India Democratic Women's Association ("AIDWA") offices in Mumbai. Women who felt unable to speak freely about their experiences within their communities agreed to participate in confidential discussions outside the community. All interviewees were assured their identity would remain confidential.

Notably, across sites, migrant women reported difficulty recalling names and identities of employers, agents, and recruitment intermediaries. In almost all cases, worker respondents were unable to produce documents related to either recruitment or employment. Some respondents were reluctant to directly identify recruitment intermediaries since they continued to engage with the intermediaries or related agents. To focus the sometimes-fragmented snapshots of labor migration processes collected through interviews and FGDs, we conducted extended interviews and interactive observations. For example, due to the long working hours and circumscribed mobility among full-time, live-in domestic workers that prevented us from conducting semi-structured interviews, we relied on participant observation and shorter, unstructured engagement strategies. Researchers in Mumbai identified a public park where young women and men from Jharkhand, Chhattisgarh, Orissa, and West Bengal congregate on Sunday afternoons. Observation and engagement at such sites provided insight into labor supply chains in full-time domestic

¹⁰¹ See generally Bhattacharjee, *supra* note 91 (providing a discussion of how sociocultural processes operate to reproduce power relationships and exclude stigmatized migrant women from legal and social protection).

work. In the garment sector, these investigations included interviews with “line in-charge,”¹⁰² supervisors, trade union representatives, community organizers, and senior workers.

In addition to these data sources, I conducted two workshops with recruitment intermediaries in the Delhi-NCR. Participants shared recruitment practices, challenges, and opportunities for advancing effective state governance. To facilitate participation, workshops were co-hosted with the ILO and SLD. The meeting with recruitment intermediaries in domestic work included seventeen participants, representing nine agencies. The workshop with recruitment intermediaries in the garment sector had six participants, including a line supervisor, a quality control manager, representatives from a women’s empowerment platform, and an NGO that specializes in recruitment, training, and placement.

At each stage of research, I worked with the team to analyze interview schedules, FGD transcripts, and participant observation and workshop memos through multiple phases of hand coding, including codes that I assigned as I identified iterative features of recruitment processes. In coding this rich data set, I identified recruitment practices and labor supply chains as fragmented, shifting material and relational practices. Part 4 describes recruitment and placement experiences of internal migrants who seek employment as garment and domestic workers. These sections include direct quotations from interviews and focus group discussions.¹⁰³

IV. RECRUITMENT OF MIGRANT WOMEN WORKERS

Migrant workers, including migrant women workers, rely upon formal and informal labor recruiters to facilitate employment.¹⁰⁴ Due to circular migration patterns and movement between employers, workers have to look for new jobs on a regular and

¹⁰² In garment factories, the “line in-charge” manage tailors in their line. Work specifications are passed from the cutting department to the floor in charge, line in charge, and finally tailors. Given their position and authority, line in-charge workers provided significant insight into recruitment, training, placement, and working conditions.

¹⁰³ All names have been withheld or replaced with pseudonyms to protect the identity of respondents.

¹⁰⁴ Bhattacharjee, *supra* note 23, at 807-08.

ongoing basis.¹⁰⁵ In the absence of effective regulation of employment and recruitment, this research found that informal labor recruiters play a dual function: first, they play the well-understood role of sourcing labor for formal and informal employers; second, they play a less well-known role in checking or vetting the reliability of informal employers interested in hiring workers. The second facet of this role, which is often ignored or misunderstood in contemporary discourses on human trafficking, is particularly important for the success of informal labor recruiters who seek to establish a reputation for successful placement to attract more clients.

A. *Informal Networks*

Many workers who migrate for employment within India do so based upon opportunities they learn about informally, through individual contacts, kinship, or social networks. Of the 254 migrant workers interviewed for this study, including those who sought employment in the garment and domestic work sectors, seventy-six percent (194 respondents) reported relying upon informal networks at some stage in the migration process or while seeking employment.

Since family members and senior workers may also have ties to specific employers, lines between informal network-based placement, sub-agents, and other forms of labor recruiters are difficult, if not impossible, to firmly delineate. Twenty-six percent of workers interviewed for this study (sixty-six respondents) who described involvement by informal networks in migrating and seeking employment also described enlisting an alternate placement structure, including combinations of agents, subagents, contractors, subcontractors, employers, training centers, non-governmental organizations, trusts, and security guards. Within placement channels, informal networks and recruitment intermediaries both intersect with more formal labor recruiters and exist outside established regulatory frameworks. Where possible, I describe particular stages in recruitment and placement where boundaries between informal and formal recruitment intermediaries seem to intersect, collapse, or emerge. These complex migration, recruitment, and placement channels segment accountability among

¹⁰⁵*Id.* at 825.

labor recruiters and employers.¹⁰⁶ As a result, no individual stakeholder – whether a labor recruiter, regulator or employer – can independently guarantee a fair outcome for workers who migrate for employment.

B. Recruitment and Placement in Garment Work

1. Workplace Hierarchy, Temporary Work, and Low Wages

Within garment factories, workers are employed on both a permanent and contingent basis—including monthly wage, daily wage, and piece rate workers. Sample tailors, responsible for making the samples approved by brands, are uniquely highly valued and hired as permanent company workers. Other categories of permanent workers include supervisors, line in-charge, and quality control monitors (Table 3).

¹⁰⁶ *Id.* at 822–23.

Table 3: Departments and positions within garment factories, including permanent positions and positions held by women

Cutting	Fusing/ pasting	Embroidery	Production	Finishing/ packing
Supervisor in charge	Supervisor in charge	Supervisor in charge	Supervisor in charge	Supervisor in charge
Quality control monitor			Quality control monitor	Quality control monitor
Sticker master			Record keeper	
Checker			Line in charge	
Pattern master				
Layer man				
Cutting and button machine operators	Machine operator	Embroidery machine operator	Sewing machine operator (line tailor)	
			Checker	
Helper	Helper	Helper	Helper	Helper

Note: Designations in bold indicate permanent workers. Shaded roles indicate the concentration of women workers.

Consistent with the high levels of informality and non-standard work discussed in Part I, in both the Delhi-NCR and Mumbai, the vast majority of workers interviewed for this study were employed on a contingent basis (including part-time, seasonal, and daily wage work). Only specialized positions were filled by permanent workers. Whether employed by garment factories or fabricators, women workers reported being confined to contingent positions. Of the ninety-nine women garment workers interviewed for this study, none of them had ever worked as a permanent employee. They were predominantly employed as helpers and checkers in the production and finishing departments—involved in thread cutting

and packaging. Due to our focus on engaging with women workers from *Dalit* and *Adivasi* communities, this distribution reflects the concentration of women workers from minority communities in contingent positions.

Workers report that initial employment in temporary positions impacts their long-term employment prospects. One respondent explained:

The daily wage workers face a lot of stigma. If one is recognized as a daily wage worker within the factory, it makes it difficult to get regular employment in that factory. Daily wage workers are considered unskilled and not good at their jobs.

As described above, advancement from daily wage work to more skilled work within garment production units in the Delhi-NCR and Mumbai is not common. While some women do attain higher skilled positions, such as embroidery operators and line tailors, promotion is frequently tied to patronage systems within the factory. In Mumbai, workers describe a process of advancement tied to winning the acceptance of the most senior workers or “*Masterjis*.” Within this male-dominated, patriarchal structure of advancement, this research found that women workers may face gender-based barriers to advancement beyond those experienced by men.

In the social sciences, the term “conjugated oppression” has been used to refer to the co-constitution of class-based relations and oppression along the lines of race, ethnicity, gender, caste, tribe, or migration status.¹⁰⁷ As documented in this study of recruitment and placement for garment work in India, conjugated oppression is

¹⁰⁷ See Philippe Bourgois, *Conjugated Oppression: Class and Ethnicity Among Guyami and Kuna Banana Workers*, 15 AM. ETHNOLOGIST 328, 330–31 (1988) (introducing this terminology in his ethnography to analyze a Central American banana plantation); see also Jens Lerche & Alpah Shah, *Conjugated Oppression Within Contemporary Capitalism: Class, Caste, Tribe and Agrarian Change in India*, 45 J. PEASANT STUD. 927, 928 (2018) (extending conjugated oppression analysis to encompass caste in the Indian context); CEDRIC J. ROBINSON, *BLACK MARXISM: THE MAKING OF THE BLACK RADICAL TRADITION* (2000) (noting oppression in race); David Camfield, *Elements of a Historical-Materialist Theory of Racism*, 24 HIST. MATERIALISM 31, 32 (2016) (understanding the concept of racism, race and privilege); W.E.B. DU BOIS, *BLACK RECONSTRUCTION IN AMERICA* (1935) (interpreting African American’s life from 1860-1880); Stuart Hall, *Gramsci’s Relevance for the Study of Race and Ethnicity*, 10 J. COMM. INQUIRY 5, 10, 26 (1986) (discussing oppression based in race and ethnicity); David McNally, *The Dialectics of Unity and Difference in the Constitution of Wage-Labour: On Internal Relations and Working-Class Formation*, 39 CAP. & CLASS 131, 131–46 (2015) (discussing oppression in labor environments).

apparent in industry practices of hiring women in temporary, low-wage positions with few if any opportunities for advancement. On garment supply chains across Asia, conjugated oppression also takes the form of earlier expulsion among women than men from factory employment, GBVH as a form of supervision, wages for women workers that can be up to twenty-five percent less than their male counterparts, and concentration of women workers in the most insecure forms of employment.¹⁰⁸

The conjugation of caste, indigeneity, and migration status with gender and class further depresses wages and brings entrenched structures of social discrimination onto the shop floor—including in the forms of caste denigration, concentration in hazardous jobs, and accentuation of wage depression.¹⁰⁹

Among the seventy-seven women employed as contingent workers, forty-seven were paid monthly, eight were paid weekly, three were paid daily and fourteen were paid by the piece (piece-rate). The remaining five workers did not specify their pay schedule. While India's Equal Remuneration Act, 1976, requires an employer to pay workers doing the same work or work of similar nature to be paid equally,¹¹⁰ this protection does not get used/enforced to protect workers from wage discrimination along caste, tribal or communal lines.¹¹¹ Without adequate enforcement of protection against exclusion and wage discrimination, the market in India consolidates rather than reduces social processes of exclusion.

2. *Segmented Recruitment and Placement Processes*

Most women who identified as garment workers were employed at the time they were interviewed. Workers commonly reported working ten months of the year, with July and August as routine periods of retrenchment due to fashion production cycles. Many reported returning to migration source areas during periods

¹⁰⁸ See NATHAN ET AL., *supra* note 98, at 112–31 (2005) (describing how women workers on Asian garment production lines face a spectrum of oppression).

¹⁰⁹ *Id.* at 15.

¹¹⁰ The Equal Remuneration Act, 1976, ch. II, § 4(1).

¹¹¹ *Id.* (laying out responsibilities of employers to pay equal remuneration to men and women for same work or work of a similar nature and does not specify equal remuneration along caste, tribal or religious lines; moreover, wage discrimination is consolidated along these and gender lines due to hiring practices that segregate women workers into temporary roles with lower wages).

of unemployment. Accordingly, as described in the sections that follow, it is common for workers to engage in recruitment and placement following annual periods of unemployment. Workers also reported regular shifts between and among garment fabricators and factories. Due to the regularity with which women working in garment production seek employment, most described experiences with more than one of the recruitment actors described below.

2.1. Contractors

This research found that large contractors that function as labor recruiters are significant actors in the garment industry in the NCR. Garment factories hire large contractors to supply workers across a range of departments. Workers report that within one garment factory, two to three contractors may be responsible for providing workers at any given time. In these scenarios, it is common for workers who are hired by large contractors to have no direct employment relationships with the factories where they work. Contractors sustain this workforce by sending affiliated agents, either employed by the contractor full-time or on commission, to recruit in areas where workers live and work. For instance, one worker reported that large contractors in the NCR send agents by motorbike to areas in Udyog Vihar to identify and recruit migrant workers.

The women we spoke to described finding both advantages and challenges associated with working for these large contractors. Advantages include regular wage payments and since large contractors typically work with many garment factories, the ability to rely upon consistent work despite fluctuating orders at the factory level. In this way, large contractors create the paradox of regularly channeling workers into temporary employment gigs: they facilitate consistent access to low-wage workforces for factories and regular temporary gigs for workers but short-circuit access to employment benefits and wage increases that come with permanent positions. Trade union representatives and union-affiliated workers also described the negative implications of large subcontractors on freedom of association. Namely, the availability of a pool of contract workers makes it easier for garment factories to blacklist workers who attempt to unionize. By undermining freedom of association and collective bargaining, contractor segments contribute to

foreclosing opportunities for workers to meaningfully engage in shaping their working conditions on garment supply chains.

Contract workers are protected by India's Contract Labour (Abolition and Regulation) Act, 1970.¹¹² Paragraph 2(b) of the Act defines contract labor as a worker who is employed in connection with the work of an establishment, whether the worker is hired by or through a contractor, with or without the knowledge of the principal employer.¹¹³ On the other side of this equation, contractors who function as labor recruiters by engaging in recruitment and placement can also be regulated under the Act—including through registration and licensing. The Act applies to any establishment in which twenty or more workers are employed on a contract basis and to all contractors who employ more than twenty workers on any given day.¹¹⁴ Any principal employer or contractor to whom the Act applies is required to register their establishment.¹¹⁵ Notably, our research found that most medium and large enterprises in India's garment sector hire more than twenty workers on a contract basis, making these workers eligible for protection under the Act.

Labor rights and registration requirements under the Act, however, are extremely difficult to enforce. In terms of labor rights, the Act provides minimum wage protections, entitles workers to social security benefits such as provident fund and medical facilities, and mandates decent working conditions—including safe drinking water and canteen and first aid facilities.¹¹⁶ While it is the primary responsibility of contractors to provide these facilities, principal employers are required to assign an authorized representative to oversee the disbursement of wages.¹¹⁷ Finally, a principal employer is liable for failure to provide timely wages or benefits by the contractor.¹¹⁸ Labour Department field officers are tasked with conducting regular inspections to detect violations of the provisions of the Act.¹¹⁹ In practice, however, these protections are difficult to enforce. This research found that, among other challenges, it is often difficult to identify workers through a contractor. Contractors may

¹¹² The Contract Labour (Regulation and Abolition) Act, 1970 (Sept. 5, 1970).

¹¹³ *Id.* § 2(b).

¹¹⁴ *Id.* §§ 1(4)(a)-(b).

¹¹⁵ *Id.* ch. III, § 7.

¹¹⁶ *Id.* ch. V (covering canteens, rest-rooms, other facilities, first aid facilities, liability of principal employer, and responsibility for payment of wages).

¹¹⁷ *Id.* ch. V, § 21(2).

¹¹⁸ *Id.* ch. V, § 21(4).

¹¹⁹ *Id.* ch. VII, § 28(2).

not maintain appropriate registers or use *badli* workers (workers recorded as temporary workers while holding a permanent post) without putting their names on the books. Workers have difficulty establishing claims for redress in these contexts where it is difficult to establish a consistent employer-employee relationship with a single contractor.¹²⁰

2.2. Subagents

This research also found that large contractors transfer the task of hiring workers for particular production lines to unregistered subagents. These subagents may also function as line in-charge workers on the factory floor. As one worker explained:

The company pays the contractor and the contractor keeps a smaller subagent to get people into the company.

Workers interviewed for this study in the NCR reported using varied avenues to find employment through subagents. For instance, it is common for workers to make and maintain contact with subagents by waiting at the factory gate. One worker recounted:

A line in charge will stand outside the gate with a writing pad and call out the name of a department where a worker is required. If they need more workers than they find at the gate, they may go to peer baba chowk and pick up workers [peer baba is a labor chowk—a place where workers congregate to be picked up by contractors and employers for daily wage and short duration work].

Alternatively, workers may learn about employment with a particular subagent through professional networks. Relationships between workers, subagents, and line managers may be longstanding. Workers may return to work with the same line manager after seasonal gaps in employment or if they receive a direct call from a line manager with whom they have worked in the past. One worker described maintaining ongoing relationships with subagents:

¹²⁰ Interview with Ashim Roy, Vice President, New Trade Union Initiative, in New Delhi, India (Aug. 17, 2016).

Subagents keep the details of all workers they have every worked with. When there is an urgent assignment, the subagent will call me and other workers over the phone and ask us to report for work.

When working relationships are positive, workers may move with a line manager or subagent from one factory to another. At best, these informal alignments can offer workers the combined benefits of flexibility, mobility, and some level of stability in being able to reenter the garment production industry after gaps in employment. One worker recounted:

Working with a subagent is more flexible. You can leave, go home, come back, talk to the subagent, and get reinstated.

For workers who migrate for employment within the garment industry, the capacity to re-engage informal employment channels after periods when they return from migration origin areas accommodates seasonal employment and the ability for workers to return home. This may be particularly important for workers who need to be home during the agricultural season and those who migrate for employment while leaving their children, parents, and other family members at home.

Employment through subagents, however, also has drawbacks. Workers described similar disadvantages of being employed through contractors and subagents, including differential treatment from permanent workers with regard to wages, production targets, and access to benefits. As one worker explained:

There are no benefits in working for a subagent. There is no bonus, no gratuity, no PF [Provident Fund] nor ESI [Employee State Insurance]. If you take leave, that money is deducted. People who are from the company have a sense of belonging. Those who are from contractors or subagents are differentiated and given larger production targets.

Contingent work through subagents also makes workers particularly vulnerable to termination during periods when garment production wanes.

2.3. Skills Training

Within the garment production industry, this research found that skills training centers play a role in preparing workers for

employment that requires a skill level above the job of a helper. Women workers reported that they had pursued training with the objective of advancing beyond the designation of ‘helper’. Through advancement, they aimed to earn higher salaries and hold more-skilled positions. As one worker explained:

After being trained as a tailor, the wage becomes decent. Helpers are made to stand. Further training allows me to sit and work, which makes it easier to work. Imagine standing for eight hours. This is a more respectable position.

In fact, out of the ninety-nine women garment workers interviewed for this study, forty-seven described receiving some formal or informal training in either migration origin or destination areas. The average period of training ranges from sixteen to twenty days and the costs of training vary widely depending upon the type of training center.

Among women who received training, researchers identified two distinct types of training centers: private training centers and company-run training centers. Workers can undergo training to develop skills needed for employment such as sewing machine operators (tailors), hand embroiderers, pressers, sampling tailors, fabric cutters, in line checkers, layer-men, embroidery machine operators, and quality checkers. After completing the training, workers reported being placed through relationships between training centers, contractors, sub-agents, and line managers. While arrangements may differ, line managers indicated that in some instances, training centers may charge workers retroactively for placement. These charges can be up to Rs. 1000 per month (USD \$15.40). Workers report that such training can be instrumental in facilitating mobility from unskilled to skilled positions. The high concentration of women workers who remain concentrated as helpers and checkers (Table 3), suggests, however, that for most women, aspirations of obtaining skilled work as tailors remain unfulfilled.

2.4. Private Training Centers

Non-government accredited private training centers—often referred to as “*aadas*” or “learning with *masterji*”—are usually run by well-connected former and senior workers. Most workers who attend private training centers seek training as sewing machine

operators or tailors. According to worker reports, migrants comprise the majority of workers seeking training in this type of training center in the Delhi-NCR. Private training centers run by former and senior workers can be quite small – with as few as eight to ten trainees at one time.

Duration of training in small, privately run training centers usually runs less than a month. One worker described:

My training duration was about twenty days for two hours each day, seven days a week. These centers run two batches, one in the morning and one in the evening.

Once workers have completed training, they may either seek placement through the training center or find their own employment through subagents, contractors and at factory gates. Some workers reported that senior workers who run training centers use established professional networks to place workers. Women workers in both the Delhi-NCR and Mumbai, however, reported that it is easier for men to find employment in higher-skilled roles after completing training.

Women workers who did seek placement through the training center reported that they had little choice in where they were placed after they were trained. For instance, one woman reported that the training center decided her placement arrangements before she had even completed her training:

I was on my 15th day of training when a contractor from [a factory] arrived at the training center. The master told me I had been appointed as a piece rate tailor at [the factory] and that I had to start tomorrow onwards. All of this was decided without my consent. I had not completed my full training and was underconfident to be a piece rate worker. I felt this was unfair, so after working there for two weeks, I left the position. After leaving, I found it hard to find a job. I was not very comfortable with the machine, so I worked as a helper.

Other women also reported that even after training, they did not feel confident being sewing machine operators. Accordingly, many continued to seek employment as helpers. Without the patronage of senior workers, including line in-charge and master tailors, many women workers interviewed for this study found training to be a necessary but insufficient condition for advancement to more highly skilled and paid work.

2.5. Company-Run Training Centers

Company training centers have a much higher turnover than private training centers. For instance, one worker reported that at the company training center she attended, the company trains between 400 and 500 workers each year. Each batch may have as many as twenty-five to thirty workers.

Another worker described choosing to train at a company-run center because she was paid during this period—a feature she described as unique to company-run training centers:

Unlike private training centers, the company-run training centers pay the workers during their training period.

Consistent with this account, researchers found that it is not uncommon for company-run training centers to hire workers as apprentices during training periods that last for one to two months. As apprentices, workers are usually paid less than other workers. During training, workers reported completing factory work from the alterations department. While some workers valued the opportunity for on-the-job training, others reported feeling exploited, receiving less payment than they anticipated during their training period. For instance, one woman reported that she was promised Rs. 5,300 (USD \$81.55) per month for three months by a subagent while she underwent training within a company-run training center. In the end, however, she received only Rs. 1,000 (USD \$15.39) for the duration of the training.

As with other recruitment channels, workers who engage in recruitment, training, and placement through company-run training centers also reported involvement with other recruitment actors including agents, line managers and NGOs. For instance, a Delhi-NCR-based NGO reported identifying workers through “community mobilization drives” that reach out to over 150 workers per day—predominantly from Bihar, Eastern Uttar Pradesh and Uttarakhand. The NGO refers these workers to a range of placement opportunities. Workers interested in garment-sector employment are referred exclusively to Matrix Pvt. Ltd., a garment manufacturer that also trains workers for employment in the garment sector. Matrix charges workers Rs. 300 for a three-month training. Workers are placed by Matrix externally or within Matrix factories.

2.6. Apprenticeships

Within production lines, line managers interviewed for this study reported that new workers may be required to undergo informal, unremunerated training for extended periods of time. As one line manager in Gurgaon explained:

Work within factories is distributed by the line-in-charge to a group of workers. New, untrained workers may assist the group, but may not receive wages for the first one to three months of employment during this [informal] training period.

Workers in Mumbai described a similar process of informal training. Helpers in the tailoring industry in Mumbai may spend at least a few months – and at times more – working in very low-skill, unremunerated, or meagerly-paid work before winning the acceptance of a *Masterji* (master tailor) that is required to advance within the production process.

Passed together with a slate of labor law changes, India's Apprentices (Amendment) Act, 2014 facilitates these stints of low and unpaid work by permitting employers to engage apprentices. Under the 2014 Act, employers determine the weekly and daily hours of on-the-job training work and face reduced penalties for contravening workers' rights.¹²¹ Where rights violations were previously punishable with up to six-months imprisonment, the 2014 Act reduces penalties against employers for engaging apprentices for regular production work – a practice that is already prevalent across the country.¹²²

¹²¹ The Apprentices (Amendment) Act, 2014, §§ 9, 13 (December 26, 2014).

¹²² *Id.* § 13. The Amendment extends the scope for engagement of apprentices by allowing employers to engage graduates without diplomas in engineering and technology as graduate technician apprentices; and engage migrant workers from other states as apprentices in addition to apprentices from the home states where businesses are located. The Amendment also affords greater flexibility to employers by allowing them to initiate training in an "optional trade" without waiting for central government notification of this trade; determine the weekly and daily hours of work for apprentices; and engage apprentices according to the minimum and maximum numbers prescribed by the central government. Finally, the Amendment reduces the penalties for contravening the Act from up to six months imprisonment to the mere requirement of answering a notice in writing and paying a fine. These amendments reduce penalties against employers for engaging apprentices for regular production work instead of direct or contract workers – a practice that is already prevalent across the country. *See generally*

As detailed in the preceding sections, women workers who are overwhelmingly hired in temporary positions are subordinate to the senior male workers who hold permanent and supervisory positions within the factory, including as line in-charge and supervisors that determine hiring within the factory. Such senior male workers also run training centers. These lines of authority leave women workers in temporary positions exposed to wage theft in scenarios where they work without remuneration in order to gain entry to employment. Patronage relationships can also expose women workers to GBVH since male monopolies over positions of authority create cultures of impunity around sexual and other forms of violence and harassment. As such, strengthening protection for on-the-job trainees under India's Apprenticeship Act, 1961 and enforcing India's Sexual Harassment at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 could make inroads in both of these areas. Training certification standards, enforced at the level of both private and company-run training centers, would facilitate clear pathways for advancement among women in temporary work.

C. Recruitment and Placement in Domestic Work

In the Delhi-NCR and Mumbai, researchers identified three predominant types of employment among domestic workers: full-time live-in employment, part-time employment and full-time housekeeping. Among the 155 domestic workers we interviewed, sixty reported being employed as live-in full-time workers; forty reported being employed on a part-time basis; and four reported working in commercial housekeeping, either as full- or part-time employees. Another fifty-one women reported being between jobs.

1. Segmentation of the Labor Supply Chain for Full-Time Domestic Work

113 domestic workers interviewed for this study reported migrating for employment in full time domestic work. Workers described migrating and finding employment by engaging a range of actors—including kinship networks, agents and subagents,

RAMAPRIYA GOPALAKRISHNAN, HANDBOOK ON LABOUR REFORMS IN INDIA (2016) (discussing the evolution of Indian labor laws and their impacts).

NGOs, trusts, societies, contractors, subcontractors and direct employers. These varied actors, described in the sections that follow, appeared in women's labor migration stories in a range of combinations.

1.1. Informal Networks and Employment Relationships

Of the 113 women who found employment in full time domestic work, seventy-eight reported engaging with informal networks—including family, extended family, relatives, neighbors, and community members—at some stage of the labor migration process (sixty-nine percent). Only thirty-five domestic workers (thirty-one percent) reported there being no involvement by personal networks at all. These numbers suggest the critical role of kinship and other personal networks in internal migration.

Since internal migrants routinely return to their home villages, many respondents reported learning informally, from other women employed as domestic workers, about the nature of employment, salary ranges, working hours, and living conditions in destination areas. It is common for women who have already migrated for employment in domestic work to become involved in recruiting other women from their home villages. A Program Manager from an NGO in Jharkhand that works with migrant women explained:

People are most comfortable if they migrate with someone they know. Therefore, significant migration happens through kinship networks. Relatives and neighbors who return from destination areas are aware of work opportunities and bring their families with them.

For some workers, migrating through agents that intersect with kinship networks creates a sense of security. For instance, one domestic worker from Bihar reported that agents known through personal networks ensured her security and safety by maintaining regular communication after helping her to find full time employment in the Delhi-NCR.

After migrating through kinship networks, domestic workers described finding employment in a variety of ways. In some instances, employers informed other domestic workers that they were looking for help. Alternately, women described approaching other women who were already employed as domestic workers and asking for help in finding employment. Established domestic

workers may bring women from their home villages with them when they return to the city but then refer them to other placement actors. One respondent explained:

When a woman comes back home after working in a city as domestic help, she often takes other girls who want to join her. In this sense, she acts as an agent. Later, the woman may send these girls to a placement agency.

Study respondents include twenty-five workers who reported that they migrated through kinship networks but ultimately found employment through other placement agencies, subagents, and contractors.

Women who migrate for employment in domestic work, furthermore, are not always aware of the recruitment and placement channels they will enter when they depart from their homes.

Pathways and subsequent employment conditions may be uncertain even when women and girls migrate for employment with the assistance of family members. For instance, one respondent reported that although she traveled to the NCR from Jharkhand with her uncle, she was ultimately sent for placement in full-time domestic work through a placement agency.

I had agreed to look after my nephew while both my uncle and aunt worked. When I came to the NCR, I was also made to cook, clean, and complete other domestic work. They did not pay me or my family. I was isolated from my family. When I began to fight with my aunt, my uncle sent me to a placement agency.

These examples illustrate the fluid, and porous boundaries between kinship networks, returning domestic workers who engage in informal recruitment, and other labor recruiters. They also suggest the complex interaction between women workers and recruitment intermediaries that make it difficult for any individual actor to ensure safe migration and decent work outcomes.

1.2. Subagents

Another nineteen women reported that subagents, in addition to other placement actors, were involved in their recruitment, migration, and placement. They described complex recruitment chains that included kinship networks, agents, subagents, and employers. In total, forty-four percent of the 113 respondents who

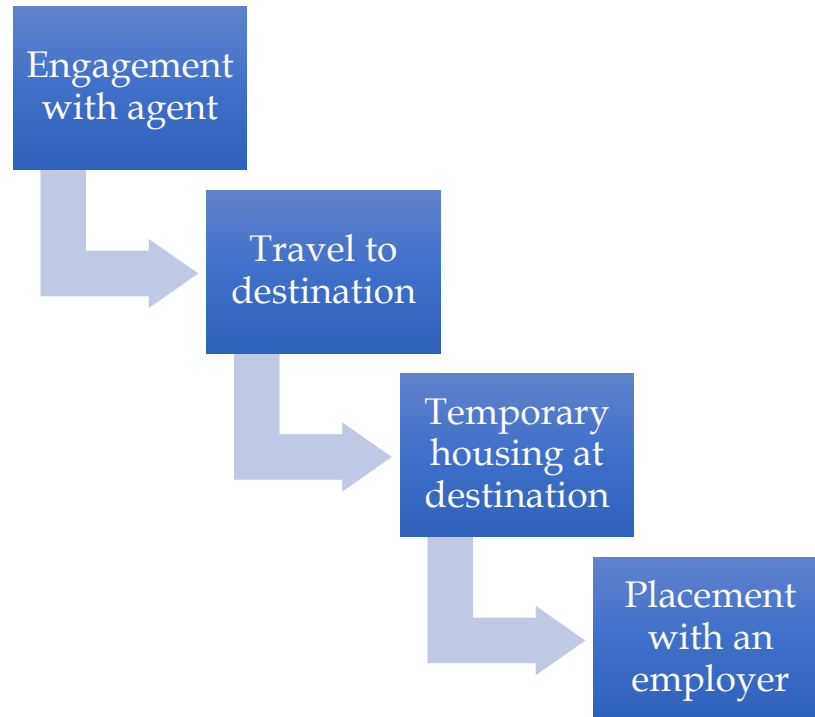
migrated for employment in full-time domestic work reported that agents or subagents were involved at some stage in the recruitment process.

During this research, Pooja Singh from the Srijan Foundation and Jharkhand Anti-Trafficking Network (“JATN”) explained that migration from Jharkhand through agents has increased exponentially since 2010. Recruitment agents in Jharkhand typically operate as part of complex recruitment chains with a high level of organization among informal agents. Pooja explained:

Agents are organized. Each agent has their own work, and roles are divided and well-defined.

Consistent with this account, workers who were recruited and placed for full time domestic work through an agent described journeys that could be divided into four stages: (1) engagement with recruitment intermediaries in the source area, (2) transit for employment, (3) brief accommodation in the destination area, and (4) placement with an employer (Figure 2).

Figure 2: Stages of migration for women who migrate for employment in full-time domestic work through agents or subagents



Within this system, women have distinguished between local recruitment agents and other recruitment intermediaries engaged in intermediary and destination areas. In Jharkhand, the former type of agent is referred to as *sardaar* or *sardarni*. They recruit migrants from a particular area or locality and bring them to Ranchi. These agents interact directly with workers and their families, are typically younger, and are likely to be linked to a chain of agents who coordinate recruitment and placement. From Ranchi, workers engage with the latter type of agent who takes responsibility for placing workers in destination areas. While these chains of agents are not directly employed by labor recruitment agencies, they often collaborate with recruitment agencies to facilitate employment. Domestic workers from Jharkhand reported paying local agents between INR 5,000 and INR 10,000 (USD \$77-144). Of this amount, local agents keep around INR 1000 per worker (USD \$15.39). The remainder is transferred to agents and recruitment agencies further

down the recruitment chain, with as many as five distinct actors involved in placing women in domestic work. Recruitment agents also described paying monthly commissions to local police officers in source and destination areas.

These multi-party recruitment chains are not unique to Jharkhand, but may take different local forms. In Bihar, for instance, women also described engaging with local recruitment intermediaries who, in turn, connect them to other contacts in migration destination areas. In Dihuri village, Gaya district, women and girls who seek to migrate for domestic work approach a specific woman in the village who provides short-term informal training within her home, including for cooking and cleaning. Following this training, they migrate through kinship networks with subagents and agents. The following section describes the interactions between migrant women and these local and destination area recruitment intermediaries.

1.3 Small and Medium-Scale Recruitment Agencies

Small- and medium-scale labor recruitment agencies rely upon agents and informal networks to identify workers. The director of a labor recruitment agency who places domestic workers in the Delhi-NCR explained:

Labor is not easily available, so we go to the villages to find workers. We reach out to workers through agents we employ, and we also rely upon workers we have placed to refer other workers who are looking for jobs.

In addition to recruitment, small- and medium-scale agencies described taking steps to successfully match worker profiles with employer needs. For instance, some provide skill development training for domestic workers, paid for by employers and tailored to fit employer specifications. Other agencies conduct interviews with workers and reference checks to ensure workers are eligible for employment. Agencies also described protocols for vetting employers, including inquiry into the number of family members, the size of the home, and specific tasks that will be expected. In some cases, agencies also facilitate three-day trial periods to ensure a good fit between workers and employers. Once a worker is matched with an employer, some agencies work with both parties to establish contracts. Contracts are typically eleven months long,

provide workers with two compulsory leaves each month (on alternate Sundays), and establish procedures for payments to be transferred directly to workers' bank accounts. For these services, recruitment agencies charge fees to employers.

In Mumbai, recruitment agencies also described using new technology to match domestic workers with employers, including online employer surveys and app-based requests for hourly domestic work services. Under the hourly service model, domestic workers are trained by the company to provide a range of specified services. When domestic work support is requested via the mobile cellphone application, rickshaw drivers hired by the company transport domestic workers between these extremely short-term employment stints.

Small- and medium-sized labor recruitment agencies also discussed challenges associated with their role as labor market intermediaries. Challenges raised by small and medium-sized labor recruitment agencies included:

- Attempts by workers and employers to bypass the agency and make independent agreements during trial periods;
- Challenges in placing workers across caste lines;
- Requests for underage domestic workers;
- Explicitly articulated expectations among employers that they should be able to hire domestic workers at low wages (especially full-time workers);
- Inconsistent wage rates between labor recruiters that erode the ability to request fair wages;
- Lack of clear standards and certification systems to substantiate training undertaken by workers in domestic skills;
- Lack of industry standards governing working conditions;
- Stigmatization of labor recruiters by police and other officials and a corresponding inability to seek police assistance in registering workers without excessive commissions; and
- Incoherent legal standards governing labor recruiters across states presenting challenges for labor recruiters that operate across state jurisdictions.

Many of these challenges can be addressed by common standards for labor recruiters. Some representatives from small- and medium-sized labor recruitment agencies indicated interest in contributing to developing standards for recruitment, training, and

placement. Others, however, expressed concern that unless these standards are strictly enforced, agencies that adopt standards may be at a disadvantage in competitive recruitment, training and placement markets.

2. Recruitment stages

2.1. Initial Engagement with Recruitment Agents

Women described both actively seeking out opportunities to migrate for employment and being contacted by labor recruiters located near their homes. For instance, one woman from Bihar described being persuaded to migrate by a neighbor:

My husband hardly earned and whatever he earned, half was spent on alcohol. My neighbor worked for an agency that provided employment to women. She saw my condition and told me: "There is a lot of money in Delhi, come along with me. You will earn enough doing household chores – cleaning, washing utensils, cooking." I said to myself, "That is what I do here, I will do the same there." I took an instant decision to travel to Delhi. I left one of my sons with my in-laws and took the other one with me.

Domestic workers from Gumla, Khunti, and Simdega districts in Jharkhand and Sarguja district in Chhattisgarh also described seeking out known local recruitment agents within their villages and local markets. In Khunti district, local shopkeepers routinely act as subagents. In Motihari, Bihar, where it is common for men to migrate to the Delhi-NCR for employment as rickshaw drivers, drivers are actively involved in facilitating migration. As one woman described:

If you are looking for a job in domestic work, you can travel from this area with men who work as rickshaw drivers. They know the areas in the city where you can find a job.

Other women described traveling to urban centers in their home states to meet labor recruiters. Women from Jharkhand described finding recruitment agents in Ranchi. Similarly, women from Bihar described meeting recruitment agencies in Katihar. A Bihari woman described the ease of contacting labor recruiters:

Dotted across Katihar town and Balrampur block, there are numerous offices of agents who promise employment in different industries. We know where to go to find work.

Some women reported receiving advances from recruiters prior to migration. In some cases, women take advances directly; in others, families take advances when daughters, sisters, and wives migrate with agents for employment in domestic work. Once women begin earning, these advances are typically adjusted against their salaries. A woman from Bihar described entering a job that was arranged by her family:

My family was paid to send me with the agent. I was promised work and my wages were promised to my family. The agent said they would give the wages to my family each month.

This case was not unique. Married women reported instances in which they never had direct contact with an agent. Instead, their husband managed all dealings. Whether negotiated directly by women workers or through male members of their families, none of the women interviewed for this study were given contracts or clear terms of employment from either the recruiter or the employer prior to migration.

2.2. Travel to Destination Areas

Many domestic workers interviewed for this study reported that they were accompanied by family members or agents for some or all of their journey to destination areas. Some reported traveling with only an escort while others reported traveling with other domestic workers.

Many women, including women who migrated voluntarily, reported being instructed not to speak to anyone during transit to the destination area in order to avoid detection by officials who may suspect trafficking. Saachi Kumari from Chotanagpur Sanskritik Sangh (“CSS”), an NGO in Jharkhand, described the common practice among labor recruiters of arranging travel for women in groups but separating them to avoid detection.

CSS was notified that 30 girls had departed by train from Ranchi. They were split up on the train so they were less visible – so it didn't look like a case of trafficking. We spoke to the girls. Those who did not want to go for work, we helped them get off the train.

Some did want to go. We provided them with the information they needed to be less vulnerable when they arrived at their destination.

As illustrated in the example above, the practice of masking migration to avoid criminalization associated with trafficking may be employed irrespective of whether women and girls have chosen to migrate of their own volition. This example not only depicts heightened attention to trafficking among law enforcement officials in high migration areas such as Jharkhand but also shows the corresponding adaptation among recruitment intermediaries. Facing laws and policies that criminalize trafficking without protecting the legitimate functions of recruitment intermediaries, labor recruiters adapt by concealing their activities and taking measures to side-step regulation.

2.3. Temporary Accommodation in Destination Areas

Upon arriving in destination areas, most full-time domestic workers reported that they spent some time in temporary accommodations prior to placement. One woman described the time she spent in the Delhi-NCR prior to being placed as a domestic worker in Haryana:

Three or four of us traveled with the agent. We boarded the train at night and traveled all night. When we arrived, the agent took us to her own house where her son and his wife lived. She found work for the other three girls first. Then she found me full time work in Haryana. During those two or three days, she paid my expenses. She must have gotten a commission from the employer.

Women interviewed for this study described accommodations ranging from individual home-stays to hostel-like living arrangements, where between six and eight women share a room. These larger-scale accommodations are referred to by women workers in the Delhi-NCR as “office.” Some women reported receiving basic training on serving and other forms of domestic work while transiting through hostels and “offices.” Workers did not report paying additional charges for accommodation.

2.4. Placement with an Employer

In the final stage of placement, women report being matched with employers. Many reported that the recruiting agents would sever ties with them at this stage. None of the women interviewed for this study reported entering written contracts directly with their employers.

In some cases, workers described receiving payment directly. In other cases, employers paid wages directly to recruitment agents. Women who did not receive wages directly reported reluctance to leave employment situations where they may lose their wages, even in cases where they were subjected to rights abuses, ranging from denial of food, threats from employers, confinement and physical abuse.

3. Moving Between Jobs in Destination Areas

Once they have reached destination areas, migrant women routinely cycle through informal and formal recruitment and placement pathways as their employment needs evolve. For instance, one woman described her decision to transition from full-time to part-time work:

Girls who come to Delhi for the first time prefer to work full-time and live-in to avoid lodging and food expenses. Soon enough, though, many realize the restriction on movement and the scanty pay. Then, like I did, they search for a few part-time jobs. They can earn the money they need without giving up their freedom.

Among study respondents, researchers interviewed forty-two women engaged in part-time domestic work. Typically working between two and four hours in each place of employment, part-time domestic workers reported negotiating their own terms of employment directly with employers. In general, part-time workers are able to earn higher wages than full-time workers. As migrant women employed in domestic work move between jobs in Delhi-NCR and Mumbai, this research found that they engage a range of recruitment intermediaries. These include small and medium scale recruitment agencies, informal placement networks and religious-community institutions and networks. The recruitment intermediaries described in this section are, in many cases,

connected to the interstate networks of informal labor recruiters, subagents and agents discussed in the previous section.

3.1. Informal Network-Based Placement in Destination Areas

As in migration-origin areas, domestic workers draw upon their kinship and professional networks in destination areas to find work. In fact, thirty-five out of the forty-two part-time domestic workers interviewed for this study – the vast majority – reported that their personal networks helped them to find jobs. Personal networks may form in the neighborhoods where domestic workers live and work or in shared public spaces.

For instance, in a suburb in Mumbai, researchers visited a public park located near a local church that was a social hub for domestic workers from Jharkhand, Chhattisgarh, Odisha, and West Bengal. Many of the women present in the park on Sundays identify as Tribal-Christians. Most are employed as live-in domestic workers and spend their weekly day off in the park after they attend church services. Women workers explained to researchers that this park provides them with a space to connect with their friends and unwind. Migrant workers from various states use this space to form bonds, remain informed, and learn from one another. As one woman recounted:

Here, I feel I am not alone in my struggle. My story is one among thousands of men and women.

In addition to providing a site for solidarity among workers, the park functions as a clearing house for information about prospective employers and employment opportunities. Women seek, find, and use information from other workers to identify households where they may be comfortable working. Workers described preferences for working with families with whom they share sociocultural backgrounds. Accordingly, the park, a meeting place for domestic workers from a range of backgrounds, allows workers to identify prospective jobs that have been vetted by domestic workers from similar social, cultural, and religious backgrounds.

Workers who sought employment through this informal forum did not describe any system of commission or monetary compensation. Instead, facilitating employment was described as one of many forms of social capital exchanged among workers who frequented the park. Within this informal network, workers are

routinely called upon to stand up for one another in times of crisis, including through collective problem solving, facilitating employment, and loaning money to other women workers in times of crisis.

3.2. Placement Through Religious Institutions and Networks

Migrant women workers described religious institutions as powerful bases for solidarity. Religious institutions in both Delhi-NCR and Mumbai, likewise, described their role in anchoring and providing resources for migrant communities. For instance, the Assistant Director of a community development center that is linked to a local religious institution in Mumbai explained the importance of providing support to migrants in the city:

Migrant workers have multiple vulnerabilities and are exposed to a large array of human rights violations due to their informal status. This center provides migrant workers with support when they are in crisis and institutional backing in a large city.

This particular resource center assists migrant workers in securing identity documents, accessing legal support, achieving adult literacy, facilitating medical check-ups, providing crèche-services at nominal rates, and providing family support services including free marriage ceremonies and family counseling. The resource center also provides a space for migrant workers to gather for cultural celebrations.

Meeting an identified need among workers, centers with religious affiliations may also facilitate placement through private recruitment agencies and informal networks. The Assistant Director of the center in Mumbai described referring domestic workers to a trusted private employment agency. He also noted that local employers often inquire about finding domestic workers through the center. In such instances, the center provides domestic workers with information about these vacancies. The center does not charge for facilitating this exchange of information.

A faith-based recruitment center in the Delhi-NCR also described providing holistic services to migrant domestic workers. In this case, the center actively engaged in facilitating employment for domestic workers. Contracts between domestic workers and employers were prepared and reviewed by this training center and included provisions governing wages, hours, and weekly Sunday

leave. Religious institutions in Jharkhand and Chhattisgarh also engage in recruitment and placement, especially of live-in domestic workers. However, due to challenges in interviewing live-in workers, researchers did not take any direct accounts from workers who migrated through such organizations.

Promising sites for regulating labor supply chains in domestic work include training certification standards for domestic workers and initiatives to promote employment contracts. These approaches draw from practices modeled by recruitment agencies that provide training and place workers through formal contractual processes. Under this model, agencies charge recruitment and placement fees directly to employers, and workers benefit from compulsory leave and regular wages. The benefits accruing to workers under this longer-term placement structure contrast with recruitment agencies that use technology to match domestic workers with employers for hourly domestic work services. In this labor supply chain structure, this research documented practices wherein workers and employers pay commissions to agencies, and workers forfeit benefits associated with regular, full-time employment. Labor supply chain outcomes for domestic workers can also be strengthened by facilitating access to information at key junctions where migrants engage labor supply chains, including institutions that provide resources for migrant communities, recruitment hubs in migration origin areas, and train stations and other transit junctions.

D. Key Findings

In addition to the sector-specific legal and policy recommendations provided in the empirical sections on recruitment for garment and domestic work, taken together, these case studies provide critical insights into recruitment regulation across sectors.

First, in both the garment- and domestic-work sectors, recruitment and placement practices are segmented and fluid, leaving no individual intermediary, whether a personal contact, labor recruiter, or employer, with complete control over the labor migration process or its employment outcome. As such, in most cases, rights violations during migration, placement, and employment cannot be attributed to a single bad actor but are rather embedded in market shifts toward deregulation and flexible employment that strip workers of labor rights protections.

Second, I found that labor recruiters operating in both the garment- and domestic-work sectors use a wide range of practices that yield varied outcomes. Some facilitate employment that benefits workers and employers, and others place workers in jobs that fall short of decent work standards.

Regulatory approaches that criminalize traffickers without also taking initiatives to regulate the legitimate functions of recruitment intermediaries misunderstand the critical functions many recruitment intermediaries play in matching workers to employers as they shift between temporary roles in highly informal labor contexts. Accordingly, the concluding section of this paper calls for regulatory approaches that promote transparent and accountable recruitment practices.

V. CONCLUSIONS—TRANSPARENCY, ACCOUNTABILITY, AND RESPONSIVE REGULATION

How can new legal frameworks encourage recruitment practices that protect the interests of both workers and employers in informal markets? Instead of criminalizing recruitment intermediaries and providing these market actors with incentives to side-step regulation, new legal frameworks should recognize labor recruiters as legitimate service intermediaries and promote contextually responsive licensing, certification, monitoring, and enforcement.

The turn from criminalization to certification that I advocate for in this article is in line with shifts within the ILO toward allowing the operation of recruitment intermediaries, referred to as private employment agencies (“PrEAs”), while protecting workers using these services. In 1997, the ILO Private Employment Agencies Convention, 1997 (No. 181)¹²³ replaced the Fee-Charging Employment Agencies Convention, 1949 (No. 96).¹²⁴ A primary focus of Convention No. 181 is to encourage effective operation of PrEAs and temporary work agencies.¹²⁵

To this end, Convention No. 181 promotes transparent recruitment practices. Preventive regulatory measures include licensing, certification, registration, and standards of ethical

¹²³ ILO No. 181.

¹²⁴ Convention Concerning Fee-Charging Employment Agencies, as Modified by the Final Articles Revision Convention, Aug. 10, 1949, 39 U.N.T.S. 152.

¹²⁵ ILO No. 181, at pmbl.

recruitment. Prescribed codes of conduct include proactive steps to ensure that workers are matched with employers that uphold core international labor standards pertaining to freedom of association and collective bargaining, minimum wages, working hours, occupational health and safety, and social security. Under Convention 181, PrEAs are also required to take measures to prevent workplace discrimination. Extending this obligation, the ILO Private Employment Agencies Recommendation, 1997 No. 188, which came into force in May 2001, requires competent authorities to prohibit unfair advertising practices and offers of employment that directly or indirectly result in discrimination on grounds such as race, color, sex, age, religion, political opinion, national extraction, social origin, ethnic origin, disability, marital or family status, sexual orientation, or membership in a workers' organization.¹²⁶

In order to hold actors accountable, recruitment practices require multiple dimensions of accountability: between worker and intermediary; employer and worker; intermediaries and regulatory authorities; and employers and intermediaries. Convention No. 181 calls for states to bolster accountability channels by requiring PrEAs to investigate complaints by workers in cases of rights violations.¹²⁷ In order to promote accountability between intermediaries and regulatory authorities, monitoring practices under Convention No. 181 include mandatory periodic reporting by PrEAs and inspection of licensees.¹²⁸ Under Convention 181, these mechanisms are enforced through actions against illegal recruiters, liability provisions, and sanctions.¹²⁹

In addition, accountability requires proactive measures to equip all stakeholders with the information required to understand and enforce robust regulatory standards. Legal education initiatives should be accessible across language barriers and attend to the specific, intersectional challenges facing women, migrants, racial minorities, workers with disabilities, and other social identity categories at heightened risk of recruitment and workplace violence. Legal education initiatives that extend to the community level, moreover, have the potential to address stigma associated with migration and support migrant women to report rights violations.

In framing laws governing recruitment intermediaries, legislators should consider and respond to the perspectives of

¹²⁶ ILO No. 188.

¹²⁷ ILO No. 181 art. 10.

¹²⁸ *Id.* art. 14.

¹²⁹ *Id.* art. 8.

workers, employers, and recruitment intermediaries. Informal markets, recruitment pathways, and employment relationships are varied across sectors and geographies. Accordingly, laws regulating recruitment require specific local and sectoral engagement in order to address the needs of workers, labor recruiters, and employers. Social dialogue processes aimed at framing locally relevant standards should take measures to include informal sectors workers from marginalized communities. For instance, recruitment codes of conduct for sectors with high concentration of women workers should be informed by the lived experiences of women workers. These nuanced, situational insights are a critical counterweight to discourses that victimize and stigmatize women workers. Finally, to promote regulation that is not only responsively drafted, but also responsive in practice, branches of the judicial system charged with enforcement, including police, public prosecutors, and judicial officers, should be able to distinguish between mutually beneficial recruitment relationships and human trafficking.