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## Early Researchers Special Edition

### New Approaches to Understand and Address Contemporary Forms of Slavery

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# **Introduction: New Approaches to Understand and Address Contemporary Forms of Slavery**

Guest Editors

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**Wendy Stickle**  
**Ana Valverde-Cano**

According to the best available estimates, five in every 1000 people are trapped in a slavery-like situation.<sup>1</sup> Exploitation adapts over time in response to changes in socio-legal and political contexts. Thus, new ideas and approaches are vital to understand and combat this complex and multifaceted institution.

The want for innovation was apparent at a recent early career researcher workshop in 2020 on modern slavery, forced labour and human trafficking, co-sponsored by Universitas 21 (U21), a global network of research-intensive universities unified by the value of collaboration and internationalisation, and the University of Nottingham's Researcher Academy and the Rights Lab. Amidst the backdrop of the COVID-19 pandemic, early researchers from across multiple continents created a three-day virtual community, sharing ideas and methodologies, challenging definitions, and establishing collaborations towards achieving the United Nations (UN) Sustainable Development Goal (SDG) of Target 8.7:

Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.<sup>2</sup>

From this virtual setting came the idea for a Special Edition of the *Journal of Modern Slavery*, to highlight the innovative ideas and methodologies that can come from multidisciplinary collaboration.

Several developments in the international arena makes this Special Issue a particularly timely contribution. These include the growing visibility of the contemporary antislavery

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<sup>1</sup> International Labour Organization and Walk Free Foundation, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Geneva: ILO, 2017), 10.

<sup>2</sup> See <https://sdgs.un.org/goals/goal8>.

movement on the global stage through SDGs, the relatively recent conceptualisation of new human rights abuses which can amount to slavery, such as forced marriage,<sup>3</sup> as well as the recognition of the importance of public-private cooperation in addressing worst forms of exploitation.<sup>4</sup> This Special Issue tackles old conundrums—for example, the amount of coercion needed to invalidate consent—through a contemporary lens, challenging well-established notions of ‘free’ or ‘unfree’ labour or marriage by looking more broadly into structures, contexts and background conditions.

For instance, the paper, ‘*Syrians’ Only Option – Rethinking Unfree Labour Through the Study of Displaced Agricultural Workers in the Middle East*’, included in this Special Issue, interrogates the coercion-centred ILO definition of ‘forced labour’.<sup>5</sup> Drawing on 120 interviews of workers, employers, and intermediaries in Syria, Turkey, Lebanon, and Jordan, Zuntz et al. conclude that the ILO definition is unable to capture Syrians’ experiences of ‘unfreedom’:

The ILO definition singles out extreme acts of labour exploitation, while obscuring much more common, insidious forms of precarious work, such as the conditions experienced by Syrian agricultural workers. [...] In addition, the ILO definition explicitly excludes more structural forces that may compel a person to accept exploitative work (cf. “the employer or the State are not accountable for all external constraints or indirect coercion existing in practice: for example, the need to work in order to earn one’s living”).<sup>6</sup>

They depart from a broader definition of unfree labour which has emerged from critical scholarship ‘that accounts for economic necessity and the effects of structural forces, but also workers’ agency in opting for exploitative work’.<sup>7</sup> By combining a political economy perspective

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<sup>3</sup> Jean Allain, “When Forced Marriage is Slavery,” in *The Law and Slavery: Prohibiting Human Exploitation*, ed. Jean Allain (Leiden: Brill Nijhoff, 2015); Annie Bunting, “‘Forced Marriage’ in Conflict Situations: Researching and Prosecuting Old Harms and New Crimes,” *Canadian Journal of Human Rights* 1, no. 1 (2012): 165-185; Aisha K. Gill and Sundari Anitha, eds., *Forced Marriage: Introducing a Social Justice and Human Rights Perspective* (London: Zed Books, 2011); Jody Sarich, Michele Olivier, and Kevin Bales, “Forced Marriage, Slavery, and Plural Legal Systems: An African Example,” *Human Rights Quarterly* 38, no. 2 (2016): 450-476.

<sup>4</sup> Ann-Christin Zuntz, Mackenzie Klema, Shaher Abdullateef, Esraa Almashhor, Salim Faisal Alnabolsi, Sinem Sefa Akay, Bürge Akbulut, Selin Ayaş, Ertan Karabiyik and Lisa Boden, “Syrians’ Only Option – Rethinking Unfree Labour Through the Study of Displaced Agricultural Workers in the Middle East,” *Journal of Modern Slavery* 7, no. 1 (2022).

<sup>5</sup> Article 2(1) of the ILO Convention No. 29 on Forced Labour says that forced or compulsory labour shall mean ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’.

<sup>6</sup> Ann-Christin Zuntz et al., “Syrians’ Only Option”.

<sup>7</sup> They rely on views from scholars, such as Genieve LeBaron, Neil Howard, Cameron Thibos and Penelope Kyritsis, *Confronting Root Causes: Forced Labour in Global Supply Chains* (London: openDemocracy, 2018); Julia O’Connell Davidson, “New Slavery, Old Binaries: Human Trafficking and the Borders of ‘Freedom,’” *Global Networks* 10, no. 2 (2010): 244-261; and Julia O’Connell Davidson, “Troubling Freedom: Migration, Debt, and Modern Slavery,” *Migration Studies* 1, no. 2 (2013): 176-195.

with a grounded ethnographic approach, authors emphasise the role of kinship networks to tackle worst forms of exploitation. Its neglect, they suggest, may explain failures in addressing forced labour dynamics:

In the context of displaced Syrians working in agriculture, this means that typical humanitarian approaches that aim to turn refugees into successful micro-entrepreneurs through micro-credit and vocational training, fail to account for refugees' obligations within extended kinship networks. Ultimately, the solution to Syrians' "unfreedom" is not to free them from individual intermediaries, but rather to free them from the effects of exclusionary structures, by offering them a greater form of attachment in host countries..<sup>8</sup>

The paper, '*Forced Marriage and Modern Slavery: Analysing Marriage as a "Choiceless Choice,"*' further addresses the issue of consent within the morally and culturally loaded context of marriage.<sup>9</sup> In this article, McCabe, Stickle, and Baumeister challenge the notion of how 'consent' is (and should be) given to marriage:

We are concerned that this view of "consent" to marriage is too narrow. Specifically, it fails to consider enough of the relevant background conditions. An autonomous, isolated, atomistic free agent is imagined, entirely divorced from community, upbringing, or socio-economic realities, whose otherwise sovereign will is over-ridden by another.<sup>10</sup>

By using rational choice theory, authors argue that the limiting of people's option-sets is a form of coercion. Thus, when people (mainly women and girls) are faced with a very limited option-sets aside from entering into a marriage, marriage can become a 'choiceless choice' tantamount to a coerced, non-consensual marriage, and reach the threshold of the legal definition of forced marriage.<sup>11</sup> Although they recognise that sociocultural expectations, which often play a large role in the decision to marry, 'are difficult to discern', and that people in these situations 'are still exercising agency, and are not merely passive "victims" of patriarchal social structures', they conclude that this does not, in itself, mean that their fundamental human rights are not being violated.<sup>12</sup>

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<sup>8</sup> Ann-Christin Zuntz et al., "Syrians' Only Option".

<sup>9</sup> Helen McCabe, Wendy Stickle, and Hannah Baumeister, "Forced Marriage and Modern Slavery: Analysing Marriage as a 'Choiceless Choice'", *Journal of Modern Slavery* 7, no. 1 (2022).

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

This article further challenges the growing corpus of literature that considers ‘forced marriage’ as an unequivocal form of slavery.<sup>13</sup> In doing so, they distinguish between a ‘thin’ and a ‘thicker’ definition of forced marriage: the ‘thin’ being merely non-consensual marriage, and the ‘thicker’ referring to the subsequent exploitation after the initial ceremony that occurs ‘under the guise of marriage’. While both are serious rights violations, only the latter may amount to either forced labour, servitude, or even slavery.<sup>14</sup>

The Special Issue also provides for empirical data and analysis of specific human trafficking dynamics in particular geographical contexts. In the article, ‘*A Feminist Analysis of the Trafficking of Women and Girls into China for the Purpose of Forced Marriage and Childbearing*’, Watkins conducts a thematic analysis of 46 narratives of survivors of human trafficking for the purpose of marriage from Cambodia, Myanmar, North Korea, and Vietnam.<sup>15</sup> She uses constructivist feminism theory to illustrate how gender both facilitates and justifies the trafficking of women and girls into China for forced marriage and childbearing:

Social constructions of gender play a core role in the perpetuation of Chinese bride trafficking [...]. It is argued that this forms a multi-level system of gender that functions over time (across the chronological stages of bride-trafficking), between social fields (individual and structural), and between the three core models of socially constructed gendered relations (men exploiting women, women exploiting women, and systems exploiting women).<sup>16</sup>

Following this structure, Watkins-Smith paints a nuanced picture of the dynamics of gender within Chinese bride-trafficking, concluding that power inequalities associated with socially constructed perceptions of gender operate on a continuum through three models—men exploiting women, women exploiting women, and systems exploiting women. These work both independently and interdependently, across the three relevant chronological stages of migration, marriage, and motherhood:

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<sup>13</sup> Jean Allain, *Slavery in International Law: Of Human Exploitation and Trafficking* (Leiden: Martinus Nijhoff, 2013). As authors point out, there are certainly cases where ‘marrying’ someone constitutes an act of enslaving them, as noted by the Special Court for Sierra Leone and the International Criminal Court in *Prosecutor v Charles Taylor* (Trial Judgment) SCSL-03-01-T (18 May 2012).

<sup>14</sup> McCabe, Stickle, and Baumeister, “Forced Marriage and Modern Slavery”: “Rather than class *all* forced marriages as modern slavery, we should ensure that only those cases of forced marriage in which we can see that powers attaching to the right of ownership are being exercised in the context of marriage, be that in the initial ceremony or in the conditions of the on-going married relationship, are classed as modern slavery, understood in a narrow sense as *de facto* slavery”.

<sup>15</sup> Amelia Watkins-Smith, “A Feminist Analysis of the Trafficking of Women and Girls into China for the Purpose of Forced Marriage and Childbearing”, *Journal of Modern Slavery* 7, no. 1 (2022).

<sup>16</sup> *Ibid.*

Perceptions of masculinity and femininity sit at either extreme, forming a power imbalance between male perpetrators and female victims which facilitates and justifies the practice of Chinese bride-trafficking across the three chronological stages. Hierarchies of femininity also operate between these extremes, deeming female perpetrators more powerful than female victims. Within the structural social field, constructions of gender are embedded into structural practices that support Chinese bride-trafficking. These structural practices intersect with each other.<sup>17</sup>

Shifting geographical context, the issue of bonded labour in India is addressed with more empirical data in *'Human Rights Through the Eyes of Bonded Labourers'*.<sup>18</sup> Samonova conducts 17 interviews and 2 focus groups, examining how human rights are understood by bonded labourers that participate in human-rights based programs in India. The paper explores the links between the concepts of human rights, human dignity, and normality, and argues that the discourse of human rights provides a powerful foundation for development of agency among bonded labourers:

[...] for Sahariya bonded labourers human rights mean acknowledgement of their own 'normality' and the right to live free from oppression and extreme poverty. Human rights in this interpretation are not seen as provisions of international law, but rather as local system of legal acts and welfare support that should guarantee a minimum standard of living. The study also reveals that local interpretation of rights can positively affect self-image, reduce fear to oppose the oppression and motivate bonded laborers to raise their voices and search for appropriate methods of resistance. In this way, human rights understood within the context of bonded labour can support the deconstruction of ideologies of dehumanization of bonded labourers and open democratic spaces of resistance.<sup>19</sup>

Focusing on the intermediary stages rather than on the end of victimisation, and in prevention rather than prosecution, *'Campaigning Against Modern Slavery: Social Assets for Business Action'*, explores the reasons for the success of corporate anti-slavery campaigns.<sup>20</sup> In a context of increasing recognition of the role of corporate social responsibility, Jardine and Muaid put forward four social assets—identity, leadership, networks, and people—that businesses can leverage to campaign against modern slavery. Presented through a case study, this paper analyses

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<sup>17</sup> Ibid.

<sup>18</sup> Elena Samonova, "Human Rights Through the Eyes of Bonded Labourers in India," *Journal of Modern Slavery* 7, no. 1 (2022).

<sup>19</sup> Ibid.

<sup>20</sup> Akilah Jardine and Reem Muaid, "Campaigning Against Modern Slavery: Social Assets for Business Action," *Journal of Modern Slavery* 7, no. 1 (2022).

how these non-financial assets were used by the Co-op in 2017-2020 to successfully campaign in the area of modern slavery, instead of drawing on common strategies that focus on financial investments. Findings display fourfold:

- 1) Identity: ‘An integrity-based approach can help organisations to communicate their aims effectively, leveraging the brand’s identity for change and generating greater brand loyalty’;<sup>21</sup>
- 2) Leadership: ‘Leadership is critical for enabling cooperative undertaking and can help drive collective efforts and facilitate resource allocation to unitedly create opportunities for successful campaigns’.<sup>22</sup>
- 3) Networks: ‘... the Co-op’s work demonstrates that businesses can help contribute to anti-slavery efforts through its networks both in the business community and with other stakeholders. Collaborating with other organisations that have specialist expertise can facilitate better knowledge exchange and complement a campaign’s activities and reach’.<sup>23</sup>
- 4) People: ‘The Co-op’s use of a mixed-channel communication strategy involving social media, emails, and press releases enabled them to connect with people within and outside its organisation’.<sup>24</sup>

Finally, in recognition that history must be the bedrock for the development of law, business, policy, art, literature and technology in this field, the paper, ‘*Global Patterns of Forced Labor in Island Southeast Asia*’, draws upon case studies from archival sources, ethnographic data, and news reports “to situate the historical significance of different forms of forced labour and servitude within the contemporary context of a global and globalizing Southeast Asian region.”<sup>25</sup> As Kevin Bales suggests, “the flow of slaves from place to place mirrors the migration of opportunity seekers from poorer countries to richer countries,” where they largely engage “in simple, non-technological and traditional work that feeds into local economies.”<sup>26</sup> In comparing the experiences of transnational migrants alongside the enslaved peoples and indentured laborers

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<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Cheryl Alipio and Yancey Orr, “Global Patterns of Forced Labor in Island Southeast Asia,” *Journal of Modern Slavery* 7, no. 1 (2022).

<sup>26</sup> Kevin Bales, “Slavery in its Contemporary Manifestations,” in *Critical Readings on Global Slavery*, eds. Damian Alan Pargas and Felicia Roşu (Leiden: Brill, 2018), 1668, 1686.

that came before them, such as the *ata* of Indonesia and the *alipin* of the Philippines, the case studies reveal the following:

... patterns of poverty, debt, and bondage, arising from social and structural conditions, has engendered Southeast Asian into global slave and migrant labor systems, where vulnerabilities as a result of their race, ethnicity, class, and gender can lead to exploitation and violations of their human and labor rights.<sup>27</sup>

Yet, despite this persistence and relevance in understanding modern forms of unfree and forced labor, Alipio and Orr also find that this is rarely spoken about in Indonesia or the Philippines. Instead, “public and scholarly attention has been redirected towards overseas foreign domestic work” in which “the demand for this labor, to the indispensable care and household services they provide in Hong Kong and other countries of destination, and to their contributions to the wealth and economic sustainability of Indonesia and the Philippines” necessitates “a renewed focus on the wider implications of slavery from within Asia.”<sup>28</sup> Thus, in order to tend to the future, it is fundamental that we listen to the past because the contemporary manifestations of exploitation and enslavement do not exist within a historical vacuum.

In sum, this Special Issue is embedded within the broader discussion held in the antislavery literature with a prominent empirical approach, sustaining innovative perspectives which particularly touch upon prevention of modern slavery practices and protection of victims. Landman, when presenting new developments in researching modern slavery with a view to contributing to its abolition by 2030, indicated:

Human rights research and advocacy has long been based on the need for interdisciplinary and trans-disciplinary methods of inquiry, which harness the concepts and insights as well as the methodological approaches to address real world problems associated with human dignity.<sup>29</sup>

The papers that comprise this Special Issue do exactly that: bringing methodologically-rigorous knowledge from different areas with the common goal of ending contemporary forms of slavery.

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<sup>27</sup> Alipio and Orr, “Global Patterns of Forced Labor.

<sup>28</sup> Ibid.

<sup>29</sup> Todd Landman, “Out of the Shadows: Trans-disciplinary Research on Modern Slavery,” *Peace Human Rights Governance* 2, no. 2 (2018): 158.

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# **Syrians' only option – Rethinking unfree labour through the study of displaced agricultural workers in the Middle East**

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## Abstract

This article revisits the notion of “unfree labour” through the study of displaced Syrians working informally in Middle Eastern agriculture, drawing on interviews with Syrian agricultural workers and their intermediaries in Turkey, Lebanon, Jordan, and Syria. By taking a political economy perspective, we argue that the International Labour Organization’s definition of “forced labour” does not capture Syrians’ experience of “unfreedom”, born out of the interplay between restrictive asylum policies in Middle Eastern host countries and globalised food systems requiring cheap, mobile labour. Our ethnographic approach also reveals that Syrian refugees are recruited into global supply chains through kinship networks.

**Keywords:** Displacement, agriculture, supply chains, kinship, global capitalism

This article revisits the notion of “unfree labour” through a comparative ethnographic study of refugees in Middle Eastern agriculture during the COVID-19 pandemic. We present an in-depth analysis of some of the findings from the 2020/21 *Refugee Labour under Lockdown* project, for which we conducted remote ethnographic interviews with Syrian agricultural workers, labour intermediaries, and employers in Turkey, Lebanon, Jordan, and northern Syria—four countries where huge numbers of displaced Syrians have joined largely informal agricultural workforces. In our situation analysis report, we discussed how COVID-19 related movement restrictions and economic knock-on effects affected working conditions for displaced Syrian agricultural workers throughout the Middle East.<sup>1</sup> We found that the pandemic did not only cause disruptions, but also entrenched problematic continuities. Despite widespread movement restrictions, agricultural labour continued for most displaced Syrians across the region, with only 13% losing their jobs permanently in 2020. At the same time, greater job insecurity, reduced working hours, and the absence of protective measures worsened precarious working conditions for Syrian households, who had entered the pandemic with no financial safety net. In the present article, we zoom in on two follow-up questions: Why does work in agriculture remain many Syrians refugees’ only option during the pandemic? What causes the “unfreedom” that these refugees experience in agriculture?

Conflict and forced migration are well-known drivers of modern slavery, but contextual factors such as rule of law, migration patterns, and access to decent labour and livelihoods also

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<sup>1</sup> Ann-Christin Zuntz, Mackenzie Klema, Lisa Boden, Sinem Sefa Akay, Bürge Akbulut, Ertan Karabiyik, Shaher Abdullateef, Esraa Almashhor, and Salim Faisal Alnabolsi, *Precarious Labour under Lockdown. Impacts of the COVID-19 Pandemic on Displaced Syrian Agricultural Workers in the Middle East. Situation Analysis Report* (Ankara: One Health FIELD Network, Development Workshop and Syrian Academic Expertise, 2021).

mitigate displaced people's vulnerability to modern slavery.<sup>2</sup> In recent years, humanitarian practitioners have deplored the lack of tailored tools to identify different forms of modern slavery as protection issues in the early stages of emergency responses.<sup>3</sup> Features that complicate their detection in humanitarian settings are the absence of baseline data, inadequate legislation or poor law enforcement, the lack of monitoring, and a perception that such concerns can be dealt with later by development actors. In addition, displaced people may experience multiple forms of vulnerability, only some of which are recognised and addressed by humanitarians.<sup>4</sup> This oversight became an acute concern during the Syrian crisis: armed parties such as the Islamic State of Iraq and Syria have used enslavement as a tactic of power and to generate resources<sup>5</sup>, while refugees in neighbouring countries have experienced forced and child labour, and forced marriage.<sup>6</sup> In this article, we attend to one form of refugee labour rarely discussed in terms of modern slavery: Syrians working in Middle Eastern agriculture. We argue that introducing an anti-slavery analysis into the study of forced migration deserves a historically situated political economy approach: instead of treating refugee flows as a series of disconnected emergencies, we study them in the context of global capitalism.<sup>7</sup> We situate Syrian refugee labour at the intersection of shifting humanitarian paradigms, refugees' structural marginalisation in host countries, and the broader use of temporariness in governing migrants in countries that value them as "workers", but not as "citizens".

The Syrian crisis has led to profound changes in the humanitarian response: the hardening of the European Union's borders, and the promotion of refugee self-reliance as a means for improving Syrian livelihoods in the Middle East.<sup>8</sup> Most of Syria's 6.6 million refugees have remained in Middle Eastern countries which are either not signatories to the 1951

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<sup>2</sup> International Labour Organization, *Employment and decent work in refugee and other forced displacement contexts* (Geneva: International Labour Organization, 2020); William Avis, *Key Drivers of Modern Slavery* (Brighton: Institute of Development Studies, 2020); Viktoria Curbelo, "Exploring the Relationship Between Humanitarian Emergencies and Human Trafficking: A Narrative Review," *Journal of Modern Slavery* 6, no.3 (2021): 7-18.

<sup>3</sup> Laura Lungarotti, Sarah Craggs and Agnes Tillinac, "Human trafficking in crises: a neglected protection concern," *Humanitarian Exchange* 65 (2015): 7-9.

<sup>4</sup> International Organization for Migration, *Addressing Human Trafficking and Exploitation in Times of Crisis* (Geneva: IOM, 2015).

<sup>5</sup> Nadia Al-Dayel and Andrew Mumford, "ISIS and Their Use of Slavery," International Centre for Counter-Terrorism, January 27, 2020, accessed February 17, 2022, <https://icct.nl/publication/isis-and-their-use-of-slavery/>

<sup>6</sup> Freedom Fund, *Struggling to survive: Slavery and exploitation of Syrian refugees in Lebanon* (London: Freedom Fund, 2016); United Nations General Assembly, "Trafficking in persons, especially women and children (A/71/303)," reliefweb, August 5, 2016, accessed February 17, 2022, <https://reliefweb.int/report/world/trafficking-persons-especially-women-and-children-a71303-enar>

<sup>7</sup> Stephen Castles, "Towards a Sociology of Forced Migration and Social Transformation," *Sociology* 37, no.1 (2003): 13-34.

<sup>8</sup> Jeff Crisp, "The Syrian Emergency: A Catalyst for Change in the International Refugee Regime," *Journal of Refugee Studies* 34, no.2 (2021): 1441-1453.

Syrians' only option – Rethinking unfree labour through the study of displaced agricultural workers in the Middle East. Zuntz. Klema. Abdullateef. Almashhor. Alnabolsi. Akay. Akbulut. Ayaes. Karabiyik. Boden.

Convention on Refugees (Jordan, Lebanon) or do not recognize Syrians as “refugees” (Turkey).<sup>9</sup> In Lebanon, the proliferation of bureaucratic categories used by the United Nations High Commissioner for Refugees (UNHCR) and the host state causes many Syrian refugees to be treated as economic migrants, rather than as vulnerable people in need of protection.<sup>10</sup> In Turkey, the “temporary protection” status afforded to Syrians allows them to access some social services, while restricting their freedom of movement and labour rights.<sup>11</sup> In a major paradigm shift, the 2016 Jordan Compact granted Syrian refugees in Jordan 200,000 work permits in exchange for advantageous loans and easier access to EU markets.<sup>12</sup> However, only 122,000 permits were issued to Syrian workers between 2016 and 2019.<sup>13</sup> Bureaucratic red tape, domestic labour market dynamics, and Syrians' own survival strategies have all limited the success of the scheme.<sup>14</sup> In Jordanian agriculture, Syrian work permit holders still do not benefit from occupational health and safety protections or social security. Inspections of agricultural sites are infrequent, and labour inspectors check refugees' permits, but not the working conditions.<sup>15</sup> Hence, scholars like Jennifer Gordon demand that “the right for refugees *to work* must be accompanied by rights *at work*”.<sup>16</sup> Noting the parallels between exploitative refugee and migrant labour, Forced Migration Studies scholars have challenged the distinction between these two categories.<sup>17</sup> Many refugee-hosting countries strategically employ legal ambiguity to avoid

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<sup>9</sup> Catherine Bellamy, Simone Haysom, Caitlin Wake, and Veronique Barbelet, *The Lives and Livelihoods of Syrian Refugees* (London: Humanitarian Policy Group, Overseas Development Institute, 2017).

<sup>10</sup> Maya Janmyr and Lama Mourad, “Modes of Ordering: Labelling, Classification and Categorization in Lebanon's Refugee Response,” *Journal of Refugee Studies* 31, no. 4 (2018): 544-565.

<sup>11</sup> Feyzi Babana, Suzan Ilcan and Kim Rygielc, “Syrian refugees in Turkey: pathways to precarity, differential inclusion, and negotiated citizenship rights,” *Journal of Ethnic and Migration Studies* 43, no.1 (2018): 41–57.

<sup>12</sup> Veronique Barbelet, Jessica Hagen-Zanker, and Dina Mansour-Ille, *The Jordan Compact: lessons learnt and implications for future refugee compacts* (London: Overseas Development Institute, 2018).

<sup>13</sup> Regional Refugee Resilience Plan in Response to the Syria Crisis, “Regional Strategic Overview 2019/2020,” *3RP*, accessed 17 February, 2022, [https://www.3rpsyriacrisis.org/wp-content/uploads/2021/01/2019\\_2020.pdf](https://www.3rpsyriacrisis.org/wp-content/uploads/2021/01/2019_2020.pdf)

<sup>14</sup> Katharina Lenner and Lewis Turner, “Making Refugees Work? The Politics of Integrating Syrian Refugees into the Labor Market in Jordan,” *Middle East Critique* 28, no.1 (2019): 65–95.

<sup>15</sup> Maha Kattaa, Meredith Byrne, and Alaa Al-Arabi, *Decent work and the agriculture sector in Jordan: Evidence from workers' and employers' surveys* (Beirut: ILO Regional Office for Arab States, 2018).

<sup>16</sup> Jennifer Gordon, *Refugees and decent work: Lessons learned from recent refugee jobs compacts* (Geneva: International Labour Organization, 2018), 4.

<sup>17</sup> Catherine L. Besteman, “Militarized Global Apartheid,” *Current Anthropology* 60, S19 (2019): S26–S38; Ali Bhagat, “Governing Refugee Disposability: Neoliberalism and Survival in Nairobi,” *New Political Economy* 25, no.3 (2020): 439–452; Prem Kumar Rajaram, “Refugees as Surplus Population: Race, Migration and Capitalist Value Regimes,” *New Political Economy* 23, no.5 (2018): 627–639.

refugees' more long-term integration<sup>18</sup> - but refugees' combined experience of legal ambiguity and labour exploitation is surprisingly similar to that of labour migrants around the world.<sup>19</sup> Temporary status, coupled with the threat of deportation, reduces the bargaining power of workers vis-à-vis employers, thus increasing their vulnerability to exploitative labour, debt relationships, and dependency on labour contractors.<sup>20</sup>

This article builds on combined insights from Forced Migration and Modern Slavery Studies: it goes beyond a focus on conflict-induced displacement and the COVID-19 pandemic, to draw attention to wider processes of “migrantization” and “precarization” that compel Syrians to engage in exploitative labour *as refugees*.<sup>21</sup> After introducing our research methods and sample, the article juxtaposes the International Labour Organization (ILO)'s definition of “forced labour”, and findings from the *Refugee Labour under Lockdown* project. The third section combines an ethnographic account of Syrian refugee labour at the start of agricultural supply chains, with a study of the social structures that make these economic relationships, and Syrians' particular brand of “unfreedom”, possible. Through focusing on *labour*, we expand our understanding of displacement, not only as a humanitarian crisis, but also as a process that generates precarious workforces.

## 1) Research methods

The 2020/21 *Refugee Labour under Lockdown* project, a Modern Slavery and Human Rights Policy and Evidence Centre research project, was funded by the UK Arts and Humanities Research Council. It brought together Edinburgh-based, Syrian, and Jordanian researchers from the One Health FIELD Network and the Syrian NGO Syrian Academic Expertise, with Turkish researchers from the not-for-profit cooperative Development Workshop. Between November 2020 and February 2021, we conducted semi-structured interviews with 80 Syrian displaced agricultural workers, together with 20 agricultural intermediaries and 20 employers, in four Middle Eastern countries. In this article, we focus on the perspective of Syrian workers and intermediaries. Participants were recruited through our Syrian and Turkish partners' professional connections to NGOs in the Middle East, and interviews were conducted via telephone and WhatsApp. In addition, we asked Syrian workers to document their working and living conditions during the pandemic through ethnographic “work diaries”, in which many shared

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<sup>18</sup> Nora Stel, “Uncertainty, exhaustion, and abandonment beyond South/North divides: Governing forced migration through strategic ambiguity,” *Political Geography* 88 (2021): 102391.

<sup>19</sup> Nicholas De Genova, “Migrant ‘Illegality’ and Deportability in Everyday Life,” *Annual Review of Anthropology* 31 (2002) :419–47; Rachel Parreñas et al., “Mechanisms of migrant exclusion: Temporary labour, precarious non-citizenship, and technologies of detention,” *Population Space and Place* 27(2021): e2488.

<sup>20</sup> David Cook-Martin, “Temp Nations? A Research Agenda on Migration, Temporariness, and Membership,” *American Behavioral Scientist* 63, no.9 (2018): 1389-1403.

<sup>21</sup> Glenda Garelli and Martina Tazzioli, *Tunisia as a revolutionized space of migration* (New York: Palgrave Macmillan, 2017).

videos and photos of their worksites, lunch breaks, fellow workers, and more via WhatsApp. All interviews with Syrian workers were conducted in Arabic by our Syrian and Jordanian colleagues. All respondents received compensation of the equivalent of £10 in their local currency for an interview, and an additional £10 for contributing an ethnographic work diary. Ethics approval for this study was received from the School of Social and Political Science at the University of Edinburgh.

Among the Syrian workers, 65% (52/80)<sup>22</sup> of study participants were male; this gender bias is explained by the fact that we asked to talk to heads of households, who are usually male, even when women also engage in paid labour. Workers' age varied from 21 to 57, and most were in their mid-thirties. Most Syrians originally came from rural parts of Syria, and one third had only completed primary schooling. Prior to displacement, 63% (49/78) had been small-scale farmers, day labourers, or in some other capacity involved in agricultural production. In Lebanon and Jordan, 100% (40/40) of workers reported being registered with the UNHCR, compared to only 32% (6/20) in Turkey, where the Directorate General of Migration Management of the Turkish Government, rather than the UNHCR, is responsible for registering individuals under temporary protection. Overall, 42% (25/59) of Syrian workers outside of Syria reported having a valid permit to work in agriculture, with 65% (13/20) in Jordan, 50% (10/20) in Lebanon, and 11% (2/19) in Turkey. Differences between country-specific refugee-reception systems, resulting in different and complex experiences of documentation, are summarized in our Situation Analysis Report. De facto, having a work permit made no difference to our respondents' employment conditions: none of the workers had ever signed a formal contract with employers, or was eligible for paid sick leave. All 20 agricultural intermediaries in this study were male, with an average age of 44 years. In northern Syria and in Jordan, all intermediaries were Syrians; in Lebanon and in Turkey, we included three Syrian intermediaries and two local intermediaries. Like Syrian workers, intermediaries often had many years of experience working in agriculture. Of the 15 Syrian intermediaries outside Syria, 11 were themselves refugees. Intermediaries were not necessarily better off than workers; four of our interviewees were still doing manual labour alongside the displaced Syrians that they had recruited. Except for two Turkish intermediaries in Turkey, all intermediaries in this study only hired Syrian workers. Because of the small sample size and use of convenience sampling, our findings are not representative of all Syrian refugees working in Middle Eastern agriculture, let alone the wider displaced Syrian population in the region. However, they illustrate trends in how vulnerable people, such as Syrian refugees, eke out a living in legal limbo and increasingly globalised industries.

## 2) Displaced Syrians' "unfreedom"

In the *Refugee Labour under Lockdown* project, we sought to understand whether displaced Syrians' working conditions met the ILO's definition of "forced labour" as "all work

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<sup>22</sup> Because of the relatively high number of nonresponses to some questions, we provide in brackets the number of respondents who gave this specific answer, and the total number of respondents who answered the question.

or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily”.<sup>23</sup> To this purpose, we included a number of interview questions derived from ILO indicators of forced labour, including threats or actual physical harm, movement restrictions and confinement, debt bondage, withholding of wages, retention of identity documents, and denunciation of irregular workers to the authorities.<sup>24</sup> We found a more complex story: one in which Syrians did not have to be coerced into taking or retaining agricultural jobs, but instead struggled to find work in a volatile labour market with a surplus of workers, and thus were willing to accept badly paid, informal, and dangerous jobs. In our sample, all workers confirmed that their employers did not confiscate their identity documents, and 50% (39/78) reported that there would be no negative consequences if they left their jobs early. Except for three refugee households in Lebanon, no workers had actually received threats from their employers. (In an agricultural town in eastern Lebanon, a woman reported that an agricultural employer had first harassed her, and then stolen her phone and burnt down her tent. In Lebanon, this sadly was not an isolated incident: around the same time, in winter 2020, a fight between Syrian workers and Lebanese resulted in the torching of the tents of 75 Syrian families.<sup>25</sup>) In our study, only two Syrian workers in Turkey felt unable to complain about poor working conditions because they did not have work permits. As leaving work did not entail punitive measures, workers voted with their feet: 36% of workers (28/78) said that they would abandon jobs if they did not like the conditions. A 52-year old female in Hatay province, Turkey, explained: “I don't complain to anyone. I leave work and approach a new intermediary. All we have is patience. We finish one day's work, and the second day we don't go to work”.

However, 22% (17/78) felt that leaving was not an option. A 42-year old Syrian man in northern Syria put it this way: “I accept the working conditions because work is our only source of income”. Economic necessity, not physical coercion, locked Syrians into exploitative labour: 17% (13/78) reported that they would be unable to find work elsewhere, and 8% (6/78) were afraid that they would not be paid if they left the fields early. Greater job insecurity tied Syrians to particular workplaces. By autumn 2020, 75% of workers (60/80) had lost their jobs temporarily, and 83% (66/80) found it more difficult to find jobs in agriculture, compared to before the pandemic. A 40-year old man in Hatay province, Turkey, explained his dilemma: “[I can complain] only to God, there is no-one, I cannot complain to the *shaweesh* [the intermediary] because he could replace me with someone else”. For agricultural workers, pandemic-related job

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<sup>23</sup> ILO, “Forced Labour Convention,” International Labour Organization No 29 (1930), accessed February 17, 2022, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100\\_ILO\\_CODE:C029](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C029); ILO, “What is forced labour, modern slavery and human trafficking (Forced labour, modern slavery and human trafficking),” International Labour Organization, accessed February 17, 2022, <https://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>

<sup>24</sup> As summarized in Kendra Strauss, “Coerced, forced and unfree labour: Geographies of exploitation in contemporary labour markets,” *Geography Compass* 6, no.3 (2012): 137–148.

<sup>25</sup> Al Jazeera, “Lebanon arrests 8 as Syrian refugee camp set ablaze after fight,” Al Jazeera, December 27, 2021, accessed February 17, 2022, <https://www.aljazeera.com/news/2020/12/27/syrian-refugee-camp-in-lebanon-set-ablaze-after-row>

losses were compounded by dwindling employment opportunities in winter. A 31-year old woman, also in Hatay province, described: “We depend on work in spring because we don't always find work in winter, and work is the only way we can make a living.”

Nevertheless, some aspects of refugees' situation come close to meeting ILO criteria on debt bondage and the withholding of wages. Employers and intermediaries could punish workers by withholding wages, for example for disagreements over the quality of work and working hours, or when employers ran out of money during the pandemic. A 21-year old female in Mersin, Turkey, complained: “Every ten days, I receive my wages, and if I stopped working, I might not receive my full wage, only when the season is over”. In our sample, 34% (27/79) of workers said that employers or intermediaries could withhold their wages, with higher numbers for Syrian refugees in Lebanon (53%, 10/19). The practice of advance payments, and mixing wages with deductions for living expenses, entrapped Syrian workers and intermediaries in a relationship of overdependence, and a debt spiral. In turn, this reduced workers' bargaining power with intermediaries, and their ability to reject further work. Consider the complicated financial arrangement laid out by Abu Farhan,<sup>26</sup> a 55-year old Syrian intermediary in Qabb Ilyas, eastern Lebanon. Abu Farhan is responsible for a group of 67 Syrians, 40 of whom are women, and runs the informal camp that the workers live in.

*I visit each tent every evening and give workers instructions. [For example,] I tell [a female worker:] “You will work in garlic for two days starting tomorrow.” [...]. Once they finish working at the end of each day, I record on a card how many hours each family has worked and how much they earned. I give a card to each family. I pay workers what they're owed each two or three months or at the end of the year. I have a notebook to record expenses. I record every time a family takes from me 100,000, 50,000 or one million [Lebanese Pound, i.e. £49, £25, or £491]. I record that x took this amount of money from me on this date. I allocate two or three pages of my notebook for each family. I deduct the annual rent and electricity fee from the wages which I pay to workers. You know I pay the electricity fee and I pay for bread in advance on their behalf. The bread vendor visits our camp every day at 7 am and provides us with 100 or 150 bags of bread. [At the end of the year], I pay each worker what they're owed after making the necessary deductions and I renew the work agreement with each worker for the next year.*

Abu Farhan's bookkeeping efforts show that he is involved in the payment of refugees' wages, but also of running costs, including for electricity, rent, and bread. While he settles his accounts with refugee workers every couple of months, in the meantime, refugees keep accruing new debts for living expenses. Of course, not all intermediaries are also refugees' landlords, and financial relationships are not always as complex; across the region, most refugees do not live in either formal or informal camps. Still, 37% (7/19) of agricultural workers in Jordan and 25% (5/20) of workers in northern Syria had received an advance payment for their most recent job

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<sup>26</sup> All names of study participants have been changed.

from their intermediary or employer. Most intermediaries we interviewed (75%, 15/5) also confirmed that they offered advance payments to their workers. Intermediaries took track of payments through keeping ledgers, and handing out cards to refugees that later served as proof of the total working hours. As Abu Farhan's statement illustrates, advance payments were subtracted from workers' first salaries or outstanding wages at the end of the harvesting season. The financial complexity of these arrangements is exacerbated by increasingly irregular payment rhythms: 11% of workers (9/80) reported being paid less frequently, and 46% (37/80) were paid more irregularly, compared to before the pandemic.

Taken together, these findings present a mixed picture: while Syrian workers did not usually experience physical coercion at the hands of intermediaries or employers, they were often entrapped in complicated financial relationships. As such, they would probably not meet the threshold of the ILO's definition of "forced labour". In recent years, Migration and Modern Slavery Studies scholars have criticised the ILO's narrow understanding of "forced labour" as acts of coercion committed by *individual* employers or states.<sup>27</sup> The ILO definition singles out extreme acts of labour exploitation, while obscuring much more common, insidious forms of precarious work, such as the conditions experienced by Syrian agricultural workers. To be clear, not all refugees described agricultural labour during the pandemic as exploitative, and working conditions may have changed for the same individuals throughout the course of the pandemic; exploitation is thus better understood on a continuum.<sup>28</sup> In addition, the ILO definition explicitly excludes more structural forces that may compel a person to accept exploitative work (cf. "the employer or the State are not accountable for all external constraints or indirect coercion existing in practice: for example, the need to work in order to earn one's living").<sup>29</sup>

Following O'Connell Davidson, we argue that the Western liberal notion of freedom as "freedom *from* something", which underpins binary policy definitions of "forced labour" and "forced migration", does not fit the lived realities of many mobile people.<sup>30</sup> Before the onset of the Syrian conflict, many Syrians had migrated seasonally inside Syria, Lebanon and Jordan, to find informal employment in agriculture.<sup>31</sup> As refugees, many have returned to work with the

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<sup>27</sup> For a summary of this debate, see Genieve LeBaron, Penelope Kyritsis, Cameron Thibos, and Neil Howard, "Confronting Root Causes: Forced Labour in Global Supply Chains," openDemocracy, March 19, 2019, accessed February 17, 2022, <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/confronting-root-causes/>.

<sup>28</sup> Klara Skrivankova, *Between Decent Work and Forced Labour: Examining the Continuum of Exploitation*, (York: Joseph Rowntree Foundation, 2010).

<sup>29</sup> ILO, *Report of the Committee of Experts on the Application of Conventions and Recommendations. Report III (Part 1A). International Labour Conference, 90th Session* (Geneva: International Labour Organization, 2002), 98.

<sup>30</sup> Julia O'Connell Davidson, "New slavery, old binaries: Human trafficking and the borders of 'freedom'," *Global Networks* 10, no.2 (2010): 244–261; Julia O'Connell Davidson, "Troubling freedom: Migration, debt, and modern slavery," *Migration Studies* 1, no.2. (2013): 176–195.

<sup>31</sup> John Chalcraft, *The Invisible Cage: Syrian Migrant Workers in Lebanon* (Stanford: Stanford University Press, 2008).

same employers.<sup>32</sup> In displacement contexts around the world, we find similar examples of migrants-turned-refugee workers, and migrants and refugee workers moving and toiling alongside each other.<sup>33</sup> There is no doubt that all Syrian workers in this study have experienced forced migration and the loss of livelihoods, but this does not preclude the fact that they continue to take active decisions on where to seek agricultural employment, and often choose to remain with the same intermediaries with whom they have partnered for years. Instead of considering some people as inherently “free” or “unfree”, we thus ask how “unfreedom” is *politically constructed*. If we accept a broader definition of “unfree labour” that accounts for economic necessity and the effects of structural forces, but also workers’ agency in opting for exploitative work,<sup>34</sup> then we can reappraise the factors that push displaced Syrians to accept work in agriculture: longstanding marginalisation in host countries, together with the added economic pressures of the COVID-19 pandemic. Unlike historical forms of forced labour, informal employment in agriculture is often short-term, paid, and accepted by displaced Syrian workers without coercion by employers. As Nicola Phillips remarks, “in contemporary global production, unfreedom is primarily constituted not by coerced entry but by precluded exit.”<sup>35</sup> To paraphrase LeBaron et al.<sup>36</sup>, the particularity of displaced Syrians’ “unfreedom” is that they lack the “power to say no” to jobs over whose conditions they have no control.

### 3) Disposable workers with kinship ties

In this section, we argue that politically produced forms of marginalisation – notably refugees’ lack of labour rights and decent work standards – act in concert with neoliberal market dynamics to produce realities of “unfreedom” for Syrian agricultural workers.<sup>37</sup> A key insight of Modern Slavery Studies is that “unfree labour” is not a vestige of the past – it is central to the

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<sup>32</sup> Lama Mourad, “Brothers, Workers or Syrians? The Politics of Naming in Lebanese Municipalities,” *Journal of Refugee Studies* 34, no.2 (2021): 1387–1399; Ann-Christin Zuntz, “Refugees’ Transnational Livelihoods and Remittances: Syrian Mobilities in the Middle East Before and After 2011,” *Journal of Refugee Studies* 34, no.2 (2021): 1400–1422.

<sup>33</sup> Oliver Bakewell, “Research Beyond the Categories: The Importance of Policy Irrelevant Research into Forced Migration,” *Journal of Refugee Studies* 21, no.4 (2008): 432–453; Alessandro Monsutti, “Afghan migratory strategies and the three solutions to the refugee problem,” *Refugee Survey Quarterly* 27, no.1 (2008): 58–73.

<sup>34</sup> For example Filipe Calvao, “Unfree Labour,” *Annu. Rev. Anthropol.* 45 (2016): 451–67; Nicola Phillips, “Unfree labour and adverse incorporation in the global economy: Comparative perspectives on Brazil and India,” *Economy and Society* 42, no.2 (2013): 171–196; Strauss, “Coerced, forced and unfree labour”, 7–148.

<sup>35</sup> Phillips, “Unfree labour and adverse incorporation”, 178.

<sup>36</sup> LeBaron, Howard, Cameron et al., *Confronting Root Causes*.

<sup>37</sup> Hannah Lewis, Peter Dwyer, Stuart Hodgkinson, and Louise Waite, “Hyper-precarious lives: Migrants, work and forced labour in the Global North,” *Progress in Human Geography* 39, no.5 (2015): 580–600.

function of contemporary supply chain capitalism.<sup>38</sup> This analysis goes hand in hand with a critical appraisal of the effects of capitalist markets: although long touted as a solution to ending poverty in the Global South, the inclusion of poor people into markets has entrenched, rather than diminished, their marginalisation. Across the Mediterranean, migrant (and female) labour has come to play a central role in agriculture because the inclusion of regional economies into global supply chains has increased pressure on small-scale suppliers to minimise costs by subcontracting cheap, flexible, and exploitable workforces.<sup>39</sup> As *refugees*, often unable to obtain jobs in other sectors due to their legal status, Syrian agricultural workers have entered segmented agricultural labour markets at the very bottom. Tellingly, most Syrians in our sample do not compete for jobs with locals, but rather with other migrants, for example with Egyptians in Jordan.<sup>40</sup> This “rivalry among the poor”<sup>41</sup> is not a side-effect of a largely informal sector, but allows agricultural employers to cut labour costs as the most marginalised workers – in this case Syrian refugees – are willing to work for particularly low wages. Hence, it would be a mistake to ascribe exploitative refugee labour to Syrians’ economic exclusion in host countries. Rather, refugees have joined agricultural labour markets that need seasonal and mobile workforces, and that prefer the most vulnerable, and thus cheapest, workers, for badly paid and exploitative jobs that are not attractive to local workforces.<sup>42</sup> Making visible the dynamics of Syrians’ “adverse incorporation”<sup>43</sup> into neoliberal economies with specific labour needs allows us to get to the core of refugees’ “unfreedom”. In agriculture, displaced Syrians get poorer *through working*: in a volatile labour market, they further descend into a circle of debts, advance payments, and yet more exploitative jobs. Seasonal employment also keeps Syrian children outside the educational system, thus producing a new generation of exploitable workers. Even non-working refugee children risk missing schooling as many families move between different seasonal work sites.<sup>44</sup> In this regard, the situation of displaced Syrians working in Middle Eastern agriculture is not

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<sup>38</sup> Stephanie Barrientos, Uma Kothari, and Nicola Phillips, “Dynamics of Unfree Labour in the Contemporary Global Economy,” *Journal of Development Studies* 49, no.8 (2013): 1037-1041; Tom Brass, “Medieval working practices? British agriculture and the return of the gangmaster,” *Journal of Peasant Studies* 31 (2004): 313–340.

<sup>39</sup> Joerg Gertel and Sarah Ruth Sippel, eds., *Seasonal Workers in Mediterranean Agriculture* (Milton Park: Routledge, 2014); Alessandra Corrado, Carlos De Castro, and Domenico Perrotta, eds., *Migration and Agriculture: Mobility and change in the Mediterranean area* (Milton Park: Routledge, 2017).

<sup>40</sup> Allison Hartnett, “The Effect of Refugee Integration on Migrant Labor in Jordan,” *Review of Middle East Studies* 52, no.2 (2018): 263–282; Kattaa, Byrne and Al-Arabi, *Decent Work and the Agriculture Sector in Jordan*; Tamkeen, *Forgotten Rights: The Working and Living Conditions of Migrant Workers in the Agricultural Sector in Jordan* (Amman: Tamkeen, 2014).

<sup>41</sup> Development Workshop, *Fertile Lands, Bitter Lives: The Situation Analysis Report on Syrian Seasonal Agricultural Workers in the Adana Plain* (Ankara: Development Workshop, 2016) 8.

<sup>42</sup> Sinem Kavak, “Syrian refugees in seasonal agricultural work: a case of adverse incorporation in Turkey,” *New Perspectives on Turkey* 54 (2016): 33–53.

<sup>43</sup> Philips, “Unfree labour and adverse incorporation”.

<sup>44</sup> Development Workshop, *Fertile Lands, Bitter Lives*.

unlike that of Mexican and Central American farmworkers in the US<sup>45</sup>, and West African migrants working in the Italian tomato harvest.<sup>46</sup> What all have in common is that restrictive migration or asylum policies, which limit their access to the formal labour market and labour rights, facilitate their entry into exploitative, insecure work relationships.

Where a political economy approach falls short is when it comes to understanding *how* particular people in particular places are drawn into global capitalism. Here, we develop a proposition made by Anna Tsing on the role of cultural difference in global supply chains.<sup>47</sup> Global supply chains tend to be associated with processes of “economic, political, and ecological standardization”.<sup>48</sup> However, Tsing argues, diversity is not incidental, but vital to the functioning and expansion of supply chain capitalism. Following Tsing, anthropologists have studied a number of context-specific niches: for example, how child labour in the Ghanaian cocoa production occurs more frequently in divorced families<sup>49</sup>, and how patriarchal family structures oblige Mexican teenager daughters to take part in the strawberry harvest in California.<sup>50</sup> This type of anthropological scholarship chimes with recent interest in Modern Slavery Studies in the role of kinship, gender, and social reproduction in upholding wage labour relationships.<sup>51</sup>

In the context of displaced Syrian agricultural workers, our contention is that in order to understand Syrians' peculiar positioning in global capitalism, we have to pay attention to the moral economy of extended kinship networks. Anthropologists of the Middle East have demonstrated that people access and circulate resources through their next of kin.<sup>52</sup> Extended Syrian families often function as economic units, with different household members taking on

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<sup>45</sup> Seth Holmes, *Fresh Fruit, Broken Bodies: Migrant Farmworkers in the United States* (Berkeley: University of California Press, 2013); Teresa M. Mares, *Life on the Other Border, Farmworkers and Food Justice in Vermont* (Berkeley: University of California Press, 2019).

<sup>46</sup> Alessandra Corrado, “Clandestini in the Orange Towns: Migrations and racisms in Calabria’s agriculture,” *Race/Ethnicity* 4, no.2 (2011): 191–201; Domenico Perrotta, “Agricultural day laborers in Southern Italy: Forms of mobility and resistance,” *South Atlantic Quarterly* 114, no.1 (2015): 195–203.

<sup>47</sup> Anna Tsing, “Supply chains and the human condition,” *Rethink. Marx.* 21, no.2 (2009):148–176.

<sup>48</sup> Tsing, “Supply chains and the human condition”, 150.

<sup>49</sup> Amanda Berlan, “Social sustainability in agriculture: an anthropological perspective on child labour in cocoa production in Ghana,” *Journal of Development Studies* 49, no.8 (2013): 1088–100.

<sup>50</sup> Teresa Figueroa Sanchez, “Californian strawberries: Mexican immigrant women sharecroppers, labor, and discipline,” *Anthropol. Work Rev.* 34, no.1 (2013):15–26.

<sup>51</sup> Ellie Gore and Gennie LeBaron, “Using social reproduction theory to understand unfree labour,” *Capital & Class* 43, no.4 (2019): 561–580.

<sup>52</sup> Suad Joseph, “Problematizing Gender and Relational Rights: Experiences from Lebanon,” *Social Politics* 1, no.3 (1994): 271–85; Suad Joseph, “Patriarchy and Development in the Arab World,” *Gender & Development* 4, no.2 (1996): 14–19.

paid or unpaid tasks.<sup>53</sup> While the Syrian conflict and mass displacement have somewhat eroded kinship networks<sup>54</sup>, displaced families keep following each other to sites of refuge, help each other access jobs in agriculture, and circulate remittances across closed borders.<sup>55</sup> Kinship is thus relevant to a study of refugee labour because of how agricultural workforces and recruitment processes are organised in the Middle East. Workers' relationships with land owners are usually negotiated by intermediaries, called *shaweesh* in Arabic, a practice well documented for Turkish seasonal migratory workers and Syrian refugees in Turkey<sup>56</sup>, domestic Syrian migrant workers inside Syria<sup>57</sup> and in Lebanon<sup>58</sup>, and more recently also in Jordan, where Syrian refugees introduced the role of the intermediary after 2011.<sup>59</sup> Intermediaries serve as a liaison between employers and workers: they recruit labourers, drive them to fields and greenhouses, oversee their work, and arrange their payment. Besides sub-contracting labour and offering informal banking services, intermediaries are also often members of refugees' extended families. Hence, we can only understand Syrian workers' recruitment and working conditions if we factor in the language of kinship, patriarchal obeisance, and belonging. Work in Middle Eastern agriculture is deeply relational, and zooming in on the ties between workers and intermediaries (and sometimes employers) is a unique entry point for understanding how Syrian refugees get trapped at the beginning of global supply chains. In our study, 61% (49/80) of workers relied on intermediaries to find their most recent job. These numbers are even higher in Turkey, where Syrians rely on Turkish-speaking intermediaries to communicate with employers (65%, 13/20), and in Lebanon, where many intermediaries operate informal camps for refugees, and are thus simultaneously refugees' employment agents and landlords (85%, 17/20). Across study countries, 42% (28/66) of respondents reported that they could not find jobs on their own – often because they lacked contacts with agricultural employers in new sites of refuge, as well as knowledge of local agricultural production sites and transport routes.

Policymakers and anti-human trafficking activists in the Global North have vilified labour contractors, people smugglers, and other intermediaries who facilitate refugees' movements and work, as “evil gangmasters”. However, this does not do justice to how Syrian

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<sup>53</sup> Annika Rabo, ““Doing Family”: Two Cases in Contemporary Syria.” *Hawwa*, 6, no.2 (2008), 129–53; Andrea Rugh, *Within the Circle: Parents and Children in an Arab Village* (New York: Columbia University Press, 1996).

<sup>54</sup> Michelle Lokot, ““Blood Doesn't Become Water”? Syrian Social Relations during Displacement,” *Journal of Refugee Studies* 33, no.3 (2020): 555–576; Matthew R. Stevens, “The Collapse of Social Networks among Syrian Refugees in Urban Jordan,” *Contemporary Levant* 1, no.1 (2016): 51–63.

<sup>55</sup> Zuntz, “Refugees' Transnational Livelihoods and Remittances”.

<sup>56</sup> Development Workshop, “*A Child's Work Makes A Day's Wage...*” *Agricultural Intermediaries and Child Labour in Agricultural Production in Turkey* (Ankara: Development Workshop, 2018).

<sup>57</sup> Abdelali-Martini and Dey de Pryck, “Does the Feminisation of Agricultural Labour Empower Women?”

<sup>58</sup> Chalcraft, *The Invisible Cage*.

<sup>59</sup> Kattaa, Byrne and Al-Arabiati, *Decent Work and the Agriculture Sector in Jordan*; Zuntz, “Refugees' Transnational Livelihoods and Remittances”.

refugees and intermediaries themselves described their relationships with each other. In our study, they often had longstanding connections: 88% (42/48) had worked with the same intermediary before, and 95% (19/20) of intermediaries confirmed that the nationality of workers, and the composition of their workforce, had not changed during the pandemic. In a similar vein, 71% (34/48) of workers described their relationship as “good”, and only 4% (2/48) as “tense”. Among Syrians who used intermediaries, only 15% of workers were recruited by members of their extended family. Even then, the language of (fictive) kinship permeated both workers' and intermediaries' statements, and even came to include non-Syrian labour contractors. As 58-year old Abu Anas, a Lebanese intermediary working with Syrian refugees in eastern Lebanon, explained, this shared sentiment is based on years of living and working together:

*You are not present in person to understand my relationship with my workers. I behave as if I am one of them, I live with them most of the time. I barely spend two hours at my house in total at day and night. Our relationship is no longer one between a shaweesh and workers. I consider that all of us are people of the same country now. They have been here for so many years and I used to visit them in Syria before. When I spend five or ten hours with the same person every day, we become very close.*

As Neil Howard has argued in the context of migrant labour in Italian agriculture, intermediaries are “facilitators of an unjust system [rather] than [...] architects of systemic injustice.”<sup>60</sup> The complexity of worker-intermediary relationships becomes particularly clear when we consider how some intermediaries use their privileged access to Syrian refugees to collaborate with local security authorities. In Lebanon, like in other Middle Eastern host countries, ambivalent refugee-reception policies have made many Syrian refugees illegal, pushing them to work in the informal economy with no labour or residency rights.<sup>61</sup> Intermediaries like Abu Anas, who keep close tracks of refugees' whereabouts, help make these workers visible to the Lebanese state:

*[The workers] don't have work permits. But there's a tacit oral understanding with the state that in Lebanon, in the Bekaa area in particular, landowners are in need of workers and that the shaweesh provides these workers. [...] This type of work was kind of unofficial before the outbreak of the Syrian revolution. [...] With the outbreak of the Syrian revolution and the flock of refugees, the state now knows how many workers I supervise and how many people live in the camp through the Army Intelligence, the State Security, the municipality, the Information Branch [of Lebanon's Internal Security Forces]. I officially inform the state that I am a shaweesh, I have a code for my camp*

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<sup>60</sup> Neil Howard and Roberto Forin, “Migrant workers, ‘modern slavery’ and the politics of representation in Italian tomato production,” *Economy and Society* 48, no.4 (2019): 579-601.

<sup>61</sup> Maja Janmyr, “Precarity in Exile: The Legal Status of Syrian Refugees in Lebanon,” *Refugee Survey Quarterly* 35 (2016): 58–78.

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*which the state and the UN knows. I disclose how many workers I supervise and receive a report from the Army Intelligence on a regular basis. I have to inform the intelligence when anyone leaves my camp. A few days ago two families left my camp to the Akkar area. I took them to the intelligence and informed them that these people want to leave. They crossed their names out of the list of workers for whom I am responsible.*

Abu Anas' case demonstrates that intermediaries are not simply the handmaids of capitalist exploiters, as it hints at a tacit understanding by authorities in Lebanon that refugees should be able to work in agriculture, despite their legal status. Thus, the figure of the *shaweeh* condenses the interlinkages between neoliberal businesses, and their need for mobile workforces, and host-countries' refugee-reception policies, which produce these workers. These joint dynamics of exploitation and containment are particularly effective because they are channelled through actors that Syrians have trustful, and often familial, relationships with.

## Conclusion

In this article, we offered a discussion of displaced Syrians' unfree labour at the intersection of restrictive asylum policies, global economies, and kinship. Instead of treating refugee labour as a humanitarian anomaly, we included it in a broader analysis of how marginalized people enter globalised economies built on cheap, mobile workforces. We demonstrated that the ILO's definition of "forced labour", which emphasises acts of coercion by *individual* employers or states, fails to capture the complex reality of displaced Syrians' "unfreedom". Insights from Modern Slavery Studies on the role of economic necessity in shaping workers' willingness to accept non-decent jobs help us make sense of the perfect storm that displaced Syrians experience: the mutually reinforcing effects of structural marginalisation in refugee-receiving countries, entrenched poverty, volatile labour markets, and debt relationships. Although our study was conducted during the first year of the COVID-19 pandemic, all these factors predate the current crisis, having long been characteristics of how migrant labour is organised in the Middle Eastern agriculture. However, their effects have been further exacerbated by pandemic-related movement restrictions and economic losses. To displaced Syrians, poverty and "unfreedom" go hand in hand, as exploitative, informal labour entrenches insecure livelihoods, lack of access to education, and thus the absence of present and future options.

To grasp Syrians' positioning in global capitalism, we combined a political economy perspective with a grounded ethnographic approach. On the one hand, Syrians' working conditions have to be situated in the context of migrant agricultural workers' struggles globally. In this regard, they are one case study of how restrictive migration and asylum policies produce the perfect - i.e. disposable - workforces for neoliberal markets. On the other hand, we can only fully understand Syrians' role in Middle Eastern agriculture through their specific historic and cultural context, namely the role of kinship networks, through which displaced people circulate

resources and find jobs. Our ethnographic close-up of agricultural intermediaries highlights the heterogeneous nature of global supply chains, which exploit specific socioeconomic and cultural niches.

Thinking about forced labour as one end of a spectrum of exploitation raises new questions about what counts as “acceptable” exploitation in capitalist economies, and what the alternative to displaced Syrians’ “unfreedom” could be. Anthropologists have gathered ethnographic evidence that in many parts of the world, the opposite of “unfreedom” is not “freedom”, in the Western liberal sense of autonomy and independence. They have documented that people may willingly seek out forms of dependency and patronage – say, “unfreedom” – to secure access to resources.<sup>62</sup> As Kopytoff famously argued, “ethnographically, the opposite of slavery in most societies (and with the striking exception of the modern West) is some notion not of autonomy but of citizenship, of civic belongingness, of attachment to structure rather than detachment from it.”<sup>63</sup> In the context of displaced Syrians working in agriculture, this means that typical humanitarian approaches that aim to turn refugees into successful micro-entrepreneurs through micro-credit and vocational training fail to account for refugees’ obligations within extended kinship networks.<sup>64</sup> Ultimately, the solution to Syrians’ “unfreedom” is not to free them from individual intermediaries, but rather to free them from the effects of exclusionary structures, by offering them a greater form of attachment in host countries.

What could this attachment look like? In a context in which refugees work alongside marginalised migrants, critical evaluations of humanitarian experiments such as the Jordan Compact indicate that work permits alone may not translate into greater legal security for refugee workers. An alternative and more radical approach, already tried out with communities in India, would be to provide displaced households with social protections such as unconditional basic income.<sup>65</sup> Cash assistance has emerged as a major form of intervention during the Syrian crisis, but it is often reserved for female-headed households, the disabled, the elderly, and others considered particularly vulnerable.<sup>66</sup> Such humanitarian tools are not usually employed in the fight against modern slavery. Extending cash assistance to a greater mass of refugees could

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<sup>62</sup> Antonio De Lauri, “The Absence of Freedom. Debt, Bondage and Desire among Pakistani Brick Kiln Workers,” *Journal of Global Slavery* 2 (2017): 122–138; James Ferguson, “Declarations of Dependence: Labour, Personhood, and Welfare in Southern Africa,” *Journal of the Royal Anthropological Institute* 19, no.2 (2013): 223–242.

<sup>63</sup> Igor Kopytoff, “Slavery,” *Annual Review of Anthropology* 11 (1982): 221.

<sup>64</sup> Evan Easton-Calabria and Naohiko Omata, “Panacea for the Refugee Crisis? Rethinking the Promotion of ‘Self-Reliance’ for Refugees,” *Third World Quarterly* 39, no.8 (2018): 1458–1474; Evan Easton-Calabria and Maurice Herson, “In Praise of Dependencies: Dispersed Dependencies and Displacement,” *Disasters* 44, no.1 (2020): 44–62; Zuntz, “Refugees’ Transnational Livelihoods and Remittances”.

<sup>65</sup> Neil Howard, “WorkFREE,” University of Bath, accessed February 17, 2022, <https://researchportal.bath.ac.uk/en/projects/workfree-erc-starting-grant-transfer-in>

<sup>66</sup> Cash Learning Partnership, “Cross-sector cash assistance for Syrian refugees and host communities in Lebanon: An IRC Programme,” CALP, 2014, accessed February 17, 2022, <https://www.calpnetwork.org/wp-content/uploads/2020/01/calp-case-study-lebanon-web.pdf>

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increase displaced workers' ability to say “no” to exploitative jobs. In displacement settings, cash assistance is short-term, and humanitarian funding shortfalls often mean that it is inconsistent. However, Syrian agricultural workers in the Middle East live in protracted displacement, and such investments in social protection would need to be similarly long-term, until both legal and workplace protections for displaced people improve.

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# Forced Marriage and Modern Slavery: Analysing Marriage as a “Choiceless Choice”<sup>1</sup>

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## Abstract

Several international conventions, and domestic law in fifty-two countries, ban forced marriage, and Human Rights conventions insist that marriage should only be entered into with the “free and full consent” of both parties. Using rational choice theory, we show that a closer examination of this concept reveals the extremely “bounded” nature of consent to marriage, such that marriage may be a “choiceless choice”, even where such marriages would not – in law – be considered “forced”. We do not use this to argue that *all* marriages are forms of modern slavery, but to urge for caution, and further research into the ways in which the powers attaching to the rights of ownership are exercised by one person over another could be manifested in marriage (i.e. could be *de facto* slavery), and the extent to which forced marriage necessarily involves a loss of sexual autonomy and non-commercial labour extracted under menace of penalty “under the guise of marriage” (i.e. be a form of modern slavery as defined by the International Labour Organisation and Walk Free). We agree that this *might* be manifested in a lack of consent to the marriage in the initial ceremony. However, we argue that this focus misses a variety of other ways in which some marriages could rightly be considered forms of modern slavery either narrowly or broadly understood, or as forms of human trafficking.

**Keywords:** choice, consent, agency, forced marriage, modern slavery

## Introduction

Forced marriage remains a significant problem around the world. The International Labour Organisation (ILO) and Walk Free (conservatively, as they admit) estimate that 15.4

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million people globally were in a forced marriage on any given day in 2016.<sup>2</sup> Although this issue is often associated with countries in South Asia and Sub-Saharan Africa, the United Kingdom’s (UK’s) Forced Marriage Unit deals with, on average, 1,350 cases each year.<sup>3</sup> In recognition of the scale and scope of this problem, the international community has committed itself to ending forced marriage by 2030 as target 5.3 of the Sustainable Development Goals.<sup>4</sup>

Article 16 of the Universal Declaration of Human Rights (UDHR) enshrines the right only to marry with one’s full and free consent.<sup>5</sup> Thus, a forced marriage is generally defined as a marriage in which at least one spouse did not give their free and full consent to the union: in domestic law, often accompanied by the need to prove coercion, threat or abuse.<sup>6</sup> The ILO and Walk Free note that this lack of consent, accompanied by coercion, leads to people being in situations where they have lost their sexual autonomy, and are forced to provide labour “under the guise of marriage”.<sup>7</sup> That is, forced marriage is a form of forced labour occurring outside the commercial sector. There is a rather “thicker” definition of forced marriage than the “thin” one found in most domestic law, or usually extrapolated from the UDHR. However, it is related to the “thin” one: the ILO and Walk Free emphasise the exploitation which occurs *after* the initial ceremony in which at least one spouse was forced to consent to the marriage, but their definition relies on that same “thin” understanding of a forced marriage as non-consensual to explain how subsequent labour done within the marriage is “forced”.

In this article, we apply the idea of “choiceless choices”<sup>8</sup> to show that many apparently “consensual” marriages may, in fact, fit under the “thin” definition of “forced marriage”, even where there is no overt coercion, because people (mainly women and girls<sup>9</sup>) are faced with a very limited option-set aside from marriage. However, instead of arguing that there are therefore

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<sup>2</sup> International Labour Organization and Walk Free Foundation, “Global Estimates of Modern Slavery.”

<sup>3</sup> Forced Marriage Unit, “Forced Marriage Unit Statistics.”

<sup>4</sup> United Nations Department of Economic and Social Affairs, “THE 17 GOALS | Sustainable Development.”

<sup>5</sup> See Article 16 in United Nations, Universal Declaration of Human Rights.

<sup>6</sup> Foreign & Commonwealth Office and Foreign, Commonwealth & Development Office, “Forced Marriage.”

<sup>7</sup> International Labour Organization and Walk Free Foundation, “Global Estimates of Modern Slavery.”

<sup>8</sup> Langer, “The Dilemma of Choice in the Death Camps.”

<sup>9</sup> We recognise that men can be, and indeed are, subject to forced marriage. However, what data there is about this issue suggests it predominantly affects women. For instance, the ILO and Walk Free estimate that 84% of victims of forced marriage were female, and 16% male (International Labour Organization and Walk Free Foundation, “Global Estimates of Modern Slavery.” In the UK, the Forced Marriage Unit’s reported statistics show that 79.5% of victims in cases they handled between 2011 and 2019 were female, and 20.5% male (Forced Marriage Unit, “Forced Marriage Unit Statistics.” and McCabe et al., “Impact of Covid-19 on Calls to the Forced Marriage Unit: Analysis of 2020 Data.” For more on this topic, see for instance, Aijazi and Baines, “Relationality, Culpability and Consent in Wartime: Men’s Experiences of Forced Marriage”; Schulz, *Male Survivors of Wartime Sexual Violence*; Samad, “Forced Marriage among Men: An Unrecognized Problem.”

many, many *more* than 40.3 million people living in modern slavery on any given day,<sup>10</sup> we argue that a more nuanced understanding of the lack of consent involved in “forced marriage” should lead us to be cautious regarding the link between forced marriage and modern slavery.

Rather than class *all* forced marriages as modern slavery, only those cases of forced marriage in which powers attaching to the right of ownership are being exercised in the initial marriage ceremony or in the conditions of the on-going married relationship should be classed as modern slavery, understood in a narrow sense as *de facto* slavery.<sup>11</sup> In other words, the category of “forced marriage” does not always equate to modern slavery. More research is needed into understanding exactly how, when, and why, this would be so. Similarly, only those cases of forced marriage where someone *does* lose their sexual autonomy *and* is forced to provide non-commercial labour on menace of penalty “under the guise of” a marriage they cannot leave should be classed as modern slavery on the broader understanding of it as an “umbrella term” for egregious exploitation (as it is used by the ILO and Walk Free). More research is needed to determine how large a subset of all forced marriages this would be. Forced marriage remains a significant human rights violation which ought to be eradicated, but only *some* forms of forced marriage should be viewed as *also* being forms of modern slavery, either narrowly or broadly understood.

## 1. Legal Background: Forced Marriage and Consent

The UDHR (1948) and the United Nations (UN) Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962) state that “marriage shall be entered into only with the free and full consent of the intending spouses”.<sup>12</sup> Relatedly, the UN Convention on the Elimination of All Forms of Discrimination against Women (1979) protects women’s “same right to freely choose a spouse and to enter into marriage only with their free and full consent” as men.<sup>13</sup>

So far, fifty-two countries have criminalised forced marriage.<sup>14</sup> In several others, proving that a marriage was non-consensual for one or both spouses is grounds for an annulment.<sup>15</sup> The

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<sup>10</sup> International Labour Organization and Walk Free Foundation, “Global Estimates of Modern Slavery.”

<sup>11</sup> That is, as slavery as defined in League of Nations, Slavery Convention; Research Network on the Legal Parameters of Slavery, “Bellagio-Harvard Guidelines On The Legal Parameters of Slavery.”

<sup>12</sup>Article 16 in United Nations, Universal Declaration of Human Rights; Articles 1 and 2 in United Nations, Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

<sup>13</sup> Convention on the Elimination of All Forms of Discrimination against Women.

<sup>14</sup> Walk Free Foundation, “Stacked Odds: How Lifelong Inequality Shapes Women and Girls’ Experience of Modern Slavery.”

<sup>15</sup> See, for example, Article 26 Islamic Republic of Afghanistan Ministry of Justice, Law on the Elimination of Violence Against Women; Article 168 Family Code of Bolivia; Article 100 Ghana Criminal Code; Article 68 Malaysia Law reform (Marriage and Divorce) Act 1976; Article 12 UK Matrimonial Causes Act (as amended).

ILO defines forced marriages as “situations in which persons, regardless of their age, have been forced to marry without their consent”, adding that this may be “through physical, emotional, or financial duress, deception by family members, the spouse, or others, or the use of force, threats, or severe pressure”.<sup>16</sup> Several states take a similar view. For example, Article 26 of Afghanistan’s Law on Elimination of Violence Against Women defines forced marriage as a situation in which “a person gets a woman engaged or married who has reached the legal marriage age without her consent”. Article 293.1 of Canada’s Zero Tolerance for Barbaric Cultural Practices Act (2015) defines forced marriage as a situation in which a person “celebrates, aids or participates in a marriage rite or ceremony knowing that one of the persons being married is marrying against their will”. Article 270.7A of Australia’s Criminal Code Act defines forced marriage as a non-consensual conjugal association, and specifies that the lack of consent can be caused by coercion, threat or deception of the victim or a third party, or by incapacity for example due to the age of a spouse. The law in England and Wales highlights that violence, threat and coercion directed at the victim or another person invalidate consent to marriage.<sup>17</sup> Article 58 of Belize’s Criminal Code (2000) also highlights that force or duress invalidates consent.

We are concerned that this view of “consent” to marriage is too narrow. Specifically, it fails to consider enough of the relevant background conditions. An autonomous, isolated, atomistic free agent is imagined entirely divorced from community, upbringing, or socio-economic realities. And their otherwise sovereign will is deemed to be over-ridden by another. In this article, we seek to critique this notion of who is being forced to consent to marriage, and the “consent” given to marriage, with implications for the link between forced marriage and modern slavery.

## 2. “Bounded Consent” and “Choiceless Choices”

The idea that women – in particular – give their “free and full consent” to marriage has been criticised for at least two centuries, with feminists pointing out how little choice women actually have in the matter.<sup>18</sup> We look to update this analysis through applying the insights of rational choice theory, which has interrogated a wide range of apparent “choices” to explore how people make decisions in extremely constrained circumstances, and to cast light on the bounded nature of many apparent acts of consent. Using these insights illuminates the “bounded” nature of consent to many marriages, and casts doubt on the question of how many could be said to have been entered into with the “full and free consent” of both parties.

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<sup>16</sup> International Labour Organization and Walk Free Foundation, “Global Estimates of Modern Slavery.”

<sup>17</sup> Article 121 UK Anti-social Behaviour, Crime and Policing Act 2014.

<sup>18</sup> Mill, Jacobs, and Payne, *The Complete Works of Harriet Taylor Mill*.

## 2.1 Rational Choice Theory

Firstly, then, a brief exposition of rational choice theory. In rational choice theory, “rational” thinking is taken to mean that people weigh the costs and benefits of their decisions, and act accordingly (choosing the least-costly and/or most-beneficial outcome). In this context “rational” is not a normative word – that is, it is not a value-judgement on these choices. It is merely a process for understanding how choices came to be made.

Rational choice theory can be applied to a plethora of decision-making processes. It is particularly of interest for helping explain apparently “irrational” or “bad” choices as being, in fact, entirely rational given the constrained circumstances in which actors found themselves. For instance, Cha et al show that overweight and obese young people “choose unhealthy behaviours due to inaccurate information and insufficient competence to practice healthy lifestyles rather than because of laziness or being irrational”.<sup>19</sup>

## 2.2 “Bounded Rationality”

The concept of “bounded rationality” attempts to explain the constrained nature of the cost-benefit analysis. If someone perceives only limited options, their cost-benefit analysis is consequently limited to those options. When considering criminal decision-making, for instance, those who perceive themselves to have limited options may consider criminal behaviour as their best option to meet their goals.<sup>20</sup> For example, individuals who have a criminal record, cannot secure employment or access housing, and needs to support their family, may rationally make the choice to sell drugs. However, that decision is bounded based on the (limited) options those individuals have available to them. Similarly, individuals who choose to prostitute themselves may also perceive limited options in terms of employment and providing basic needs for themselves and family members.<sup>21</sup> This point is reinforced in the Coalition Against Trafficking in Women (CATW) manifesto which states “Women in prostitution do not wake up one day and “choose” to be prostitutes. It is chosen for us by poverty, past sexual abuse, the pimps who take advantage of our vulnerabilities, and the men who buy us”.<sup>22</sup>

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<sup>19</sup> Cha et al., “Understanding How Overweight and Obese Emerging Adults Make Lifestyle Choices.”

<sup>20</sup> E.g., Felson, “Violence, Crime, and Violent Crime”; Jacobs and Wright, “Bounded Rationality, Retaliation, and the Spread of Urban Violence”; Newman, “Policy Thoughts on Bounded Rationality of Identity Thieves”; Taylor, “On the Edge of Reason? Armed Robbery, Affective Transgression, and Bounded Rationality.”

<sup>21</sup> E.g., Capaul, “An Examination of Prostitution and Sex Trafficking Laws within the United States”; Kennedy et al., “Routes of Recruitment: Pimps’ Techniques and Other Circumstances That Lead to Street Prostitution.”

<sup>22</sup> O’Connor and Healy, “The Links between Prostitution and Sex Trafficking: A Briefing Handbook.”

### 2.3 “Choiceless Choices”

In its most extreme form, bounded rationality can result in individuals making “choiceless choices”. The term “choiceless choices” has been used to describe the plight of Jews who were given privileges, in the form of material items and other benefits, in exchange for their services to the Nazis during World War II.<sup>23</sup> It has also been employed in regard to the decision-making of criminals (including human traffickers).<sup>24</sup>

There has been some controversy, however, over the term “choiceless choices”. The concept seems to inherently remove agency for the decision-maker. Expanding on the sex work example, sex worker advocates passionately argue that, even with limited options, to assume all sex work is forced takes away the agency of the sex worker.<sup>25</sup> Relatedly, Wertheimer argues that people facing undesirable alternatives are still capable of making a “rational choice”, with what he calls “constrained volition”.<sup>26</sup> In other words, even with bounded rationality, agency still exists. This said, identifying agency can be very difficult, and appearances of agency may be illusory. This is well-illustrated by Batsyukova, who describes the inherently exploitive nature of prostitution. Although an individual engaging in prostitution may be able to leave their employment, they often have limited control over who they serve or the conditions of the service. Frequent violence against prostitutes is well-documented.<sup>27</sup> Therefore, even when there is an appearance of agency (real or illusory), clear “constraints” on volition ought also to be seen as forms of coercion.

### 2.4 “Bounded Rationality” and “Choiceless Choices” in the Context of Marriage

We agree that people exercise agency, even in cases of bounded rationality and “choiceless choices”. And, indeed, a strength of rational choice theory is that it explains how people were, in fact, making rational decisions based on cost-benefit analyses, even where their decisions can appear (to an outside observer, unaware of the constraints under which they were operating) sub-optimal, and even irrational. But we think this agency is increasingly constrained as the “bounds” of their option sets are drawn ever tighter, until they are faced with only “choiceless choices”. We also argue that this limiting of people’s option-sets is a form of coercion. In the context of marriage, this might be done through overt threat of violence, actual

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<sup>23</sup> Langer, “The Dilemma of Choice in the Death Camps.”

<sup>24</sup> For instance, Cornish and Clarke, “The Reasoning Criminal: Rational Choice Perspectives on Offending”; Giannini and Di Filippo, “The Trafficking In Human Beings Prevention: A Criminological Perspective: Part Two.”

<sup>25</sup> Deady, “The Girl next Door: A Comparative Approach to Prostitution Laws and Sex Trafficking Victim Identification within the Prostitution Industry.”

<sup>26</sup> Wertheimer, *Coercion*.

<sup>27</sup> Batsyukova, “Prostitution and Human Trafficking for Sexual Exploitation.”

violence, abuse or deception, as noted in much domestic legislation on forced marriage. But it may also be done in other ways, not captured by legislation. Moreover, we argue, as so many people’s (mainly women’s and girls’) option-sets are severely constrained when it comes to marriage, understanding the notion of bounded rationality and choiceless choices undermines the notion that many people give their “free and full” consent to marriage. Although both parties may appear to consent, emotional and socio-cultural expectations often play a large role in the “decision” to marry, and are difficult to discern.<sup>28</sup> In this way, many marriages (even ones that would not count as “forced” as understood in domestic law or international conventions), though a rational choice, may be the outcome of severely bounded option-sets, and may even be “choiceless choices”. People (mainly women and girls) in these situations are still exercising agency, and are not merely passive “victims” of patriarchal social structures. But this does not, in itself, mean that their fundamental human rights are not being violated.

The idea of “choiceless choices” and bounded consent with regard to forced marriage has already been explored in the context of conflict-related forced marriages. Like women in war more generally, forced wives can be seen purely as passive “victims”.<sup>29</sup> However, as Chris Coulter and others have highlighted, women in and at war, including forced wives, use their agency to make choiceless decisions.<sup>30</sup> For example, in Sierra Leone, some women chose to become combatants to end continuous sexual abuse and domestic slavery.<sup>31</sup> This decision was bounded by circumstances. Most of these women had been forced to join fighting groups, often by kidnapping or as a result of their homes and districts being overrun, taken-over, and destroyed, by the fighting groups of which they were then “part”. Some women were taught to fight in order to protect themselves and the camp in case of an attack, or to help their forced husbands in combat. For some it was a rational route to accessing better food and loot (and greater chances of escape). Others were forced to use combat skills when sent to the front line as a form of punishment. Arguably, some forced wives see their participation in direct combat as a means of escaping their “victim” status and exercising agency – but this is a “choiceless choice”.<sup>32</sup> Relatedly, in Namibia’s struggle for independence, women are recorded as seeking to become pregnant in order to avoid service on the frontline.<sup>33</sup> More broadly, it has been argued

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<sup>28</sup> Sowe, “From an Emic Perspective: Exploring Consent in Forced Marriage Law”; Anitha and Gill, “Coercion, Consent and the Forced Marriage Debate in the UK.”

<sup>29</sup> Aoláin et al., *The Oxford Handbook of Gender and Conflict*; O’Reilly, *Gendered Agency in War and Peace: Gender Justice and Women’s Activism in Post-Conflict Bosnia-Herzegovina*.

<sup>30</sup> Coulter, *Bush Wives and Girl Soldiers*; Mani, *Beyond Retribution: Seeking Justice in the Shadows of War*; Mazurana et al., “Girls in Fighting Forces and Groups: Their Recruitment, Participation, Demobilization, and Reintegration”; Utas, “West-African Warscapes: Victimcy, Girlfriending, Soldiering: Tactic Agency in a Young Woman’s Social Navigation of the Liberian War Zone.”

<sup>31</sup> Coulter, *Bush Wives and Girl Soldiers*.

<sup>32</sup> Coulter.

<sup>33</sup> Shikola, “We Left Our Shoes Behind”; Turshen, “Women’s War Stories.”

that forced wives in Sierra Leone and Uganda reproduced their socially-constructed “female” roles as wives and mothers as a way of surviving.<sup>34</sup> Although we should avoid generalising experiences, the testimony of one ex-forced wife in Uganda shows how marriage was a rational choice for unmarried girls abducted by the Lord’s Resistance Army, as it made them less likely to be subjected to extramarital sexual violence (and related punishments for sex outside marriage), and gave increased access to resources.<sup>35</sup>

When understanding the experiences of forced wives and their role in conflict, it is important to note both their agency and that this was exercised in extremely limited and constrained circumstances. Though we should not see them as necessarily “passive”, the freedom of their choices must be questioned.<sup>36</sup>

In at least some conflict situations, the life of forced wives mirrored the peace-time roles of wives: they withdrew from school, got married early, bore children, and performed domestic tasks. Indeed, defence counsel in some international criminal cases involving charges of forced marriage have argued (though unsuccessfully), that forced marriages in conflict situations were no different to “normal” marriages in the relevant communities (and thus not a crime).<sup>37</sup>

We agree with the judges of the Special Court for Sierra Leone, that similarities between the experience of forced wives in conflict situations, and “unforced” wives in the same communities in peacetime, were no defence for forcing these women into marriage. That this defence was offered in the first place highlights the limited option set faced by many women when it comes to marriage, even in peacetime. We note that this is not unique to the specific communities involved in this particular conflict. Indeed, we argue that it is true for people (mainly women and girls) across the world.

For instance, see this analysis by Anitha and Gill in the UK context. They argue that

“consent and coercion in relation to marriage can be better understood as two ends of a continuum, between which lie degrees of socio-cultural expectation, control, persuasion, pressure, threat and force. Women who face these constraints exercise their agency in complex and contradictory ways that are not always recognised by the existing ... initiatives designed to tackle [forced marriage]”.<sup>38</sup>

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<sup>34</sup> Annan et al., “Civil War, Reintegration, and Gender in Northern Uganda”; Baines and Stewart, “‘I Cannot Accept What I Have Not Done’: Storytelling, Gender and Transitional Justice”; Van Gog, *Coming Back from the Bush Gender, Youth and Reintegration in Northern Sierra Leone*.

<sup>35</sup> Baines and Stewart, “‘I Cannot Accept What I Have Not Done’: Storytelling, Gender and Transitional Justice.”

<sup>36</sup> Coulter, *Bush Wives and Girl Soldiers*.

<sup>37</sup> *Al Hassan; Case 002; AFRC Case*.

<sup>38</sup> Anitha and Gill, “Coercion, Consent and the Forced Marriage Debate in the UK.”, 165.

They continue: “little attention is given to the many ways in which all women located within a matrix of structural inequalities can face social expectations, pressure and constraint in matters of marriage”.<sup>39</sup>

We emphasise this analysis of the UK context, because we think it is important to note that not only forced marriage, but significantly bounded option sets, affect women in the Global North as well as the Global South. Including its eradication in the Sustainable Development Goals may have given weight to a stereotypical view that forced marriage only happens in “un-developed” countries, but this is far from being the case. Instead, as Anitha and Gill rightly argue, women faced significantly bounded option sets around wherever there is a “matrix of structural inequalities” leading to them facing particular “social expectations” and experiencing “pressure and constraint” – which, we argue, is everywhere in the world.

Anitha and Gill note that, prior to forced marriage being criminalised in the UK, courts focussed on what was called the “choice-prong”.<sup>40</sup> This is “a bi-conditional proposal whereby the coerced person is presented with two choices: an unwanted marriage or violence to her person”.<sup>41</sup> “Theoretically”, they note, “the petitioner still has a choice, but the choice is between two unpalatable alternatives, and the petitioner has to give up one right – to a free choice in marriage – in order to protect another – her right to safety and/or liberty”.<sup>42</sup> On our account, these women were faced with “choiceless choices”.

Anitha and Gill are right to note that the emphasis on “explicit threats” means that some other “coercive forces often go undetected”. In particular, the courts’ idea of a “free” agent – being a “gender-less, race-less being”, “predicated on [many judges’ own] ... experiences of a white man” – means that many women’s real experiences of coercion are not understood or captured.<sup>43</sup> As they also rightly note “[f]eminists have long recognised the variety of pressures on women to marry, including poverty, pregnancy and social norms and expectations ... underpinned by ... patriarchal structures”.<sup>44</sup> (For instance, women grow up knowing that they will be sanctioned if they refuse to go along with a marriage organised, or sanctioned, by their parents or families, or they grow up internalising the idea that they will bring “shame” on their families if they are pregnant before they are married.<sup>45</sup>) Anitha and Gill also rightly note that

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<sup>39</sup> *Ibid.*

<sup>40</sup> Wertheimer 1987, cited Anitha and Gill, “Coercion, Consent and the Forced Marriage Debate in the UK,” 165.

<sup>41</sup> Anitha and Gill, “Coercion, Consent and the Forced Marriage Debate in the UK.”, 165.

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.* Some examples include Carole Pateman (1988), Susan Okin (1989), and early feminists including Harriet Taylor Mill (1998), and John Stuart Mill (1984).

<sup>45</sup> Bhopal, “South Asian Women and Arranged Marriages in East London”; also see Gangoli, Razak, and McCarry, *Forced Marriage and Domestic Violence among South Asian Communities in North East England*; Wilson, *Dreams, Questions, Struggles*. The examples are from British South Asian communities, but have a much broader application

“[w]omen’s class, education and employment status, along with generational differences in outlook, differences in migration routes ... the woman’s position within community networks ..., the perception and reality of racism, and access to appropriate support and services, all intersect to shape women’s agency in the face of these constraints”.<sup>46</sup> Relatedly, Crenshaw (1991) and Hill (2000) rightly speak of a “matrix of domination” faced by Black women and women of colour.<sup>47</sup>

These constraints are faced by other minoritised communities, and – in several cases – also by majority-ethnic women in many countries around the world. That is, women, regardless of ethnic background (and to a great extent socio-economic background), may face pressure to marry if pregnant; from financial constraints arising from patriarchal tax and employment rules; from perceiving themselves to be a financial burden on their families; and from the general weight of social expectation. Feminist theorists have also written powerfully about how women internalise these expectations, and see their own worth as intrinsically linked to their marital status, which also puts constraints on the “free” nature of the choice to marry.<sup>48</sup> These factors are exacerbated where women have many fewer economically-viable options for survival except marrying, particularly where women are less likely (for a range of reasons) to be able to find work outside the home (and can only have their own “home” through marriage); where women’s right to own property is limited; and/or where their opportunities for education and employment are already limited, leaving marriage as their sole option.

Relatedly, many (again, especially and predominantly women and girls) know that marriage is their only route to social respect and the maintenance of physical safety outside the home (even if they are at risk of violence within the home). Having children may also be people’s most rational choice when considering their care in old(er) age: and for many, having children involves being married. There are also many other reasons for wanting children, and for many this desire can only be fulfilled through marriage (where unmarried parents, and/or single parenting is not socially acceptable; or where it is legally impossible to adopt without being married).

Similarly, children (and particularly girls) may be brought up to see themselves as having a duty to obey their parents, including regarding the choice of their spouse and the timing of their marriage. This is not to say that *all* arranged marriages are either “choiceless choices” or “forced”, but to highlight that consent is not always an individual issue, but something constructed and given by communities.

In many cases, then, even where overt force (of a physical, psychological, financial or emotional kind) is not in evidence, women may face severely bounded option-sets, and even a “choiceless choice”, when it comes to marriage. Rational choice theory can show why women still “choose” to marry in these situations (the alternative is much worse), but this does not mean

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<sup>46</sup> Anitha and Gill, “Coercion, Consent and the Forced Marriage Debate in the UK.” Their focus is on the UK context, but their arguments have wider applicability.

<sup>47</sup> Collins, *Black Feminist Thought*; Crenshaw, “Mapping the Margins.”

<sup>48</sup> Finlay and Clarke, “A Marriage of Inconvenience?” For an early example, see Mill.

their consent was “free”. These cases, too, should be seen as “forced” marriages, given the “thin” definition of forced marriages in international and Human Rights conventions, which is *not* that “force” was used to gain (apparent) consent, but that at least one of the parties did not give their free consent.

Indeed, it also shows that most definitions in domestic law, which insist on proof of physical, psychological, emotional and/or financial, are too narrow to really capture the varied circumstances in which people (generally, but not exclusively women and girls) “consent” to a marriage without that consent being really “free”. Women and girls (in particular) face option-sets which are “bounded” by patriarchal social structures, male violence, and gendered social expectations (including those which women themselves internalise). An intersectional lens shows that this produces particularly limited option-sets when women are young; are from minoritised ethnic communities; are of low socio-economic status; have little physical or social capital; have insecure immigration status; are disabled; and/or identify as LGBTQI+.

Marriage, then, may be the most rational choice for many women. However, even where women do not experience overt physical, psychological, emotional or financial abuse to consent to a specific marriage, they operate within bounded option sets which may become so limited that marriage becomes the least-bad option, and it may even, in some cases, be a “choiceless choice”. Although the marriage is a rational choice, and an exercise of agency, recognition of the background limitations should make us challenge whether both spouses really gave their “full and free” consent to it.

This expansion of what constitutes a forced marriage has implications for the relationship between forced marriage and modern slavery, which we will turn to in the next section.

### **3. Legal Background: Forced Marriage and Modern Slavery**

In 2012, the report of the United Nations Special Rapporteur on Contemporary forms of Slavery, including its Causes and Consequences included a section on forced marriage arguing that “[u]nder the [1956] Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, all forms of forced marriage are defined as practices similar to slavery, which reduce a spouse to a person over whom any or all of the power attaching to the right of ownership are exercised”.<sup>49</sup> As already noted, the ILO and Walk Free included forced marriage in their global estimates of slavery in 2017.<sup>50</sup> Four countries currently

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<sup>49</sup> Shahinian and Slavery, “Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences, Gulnara Shahinian.”

<sup>50</sup> International Labour Organization and Walk Free Foundation, “Global Estimates of Modern Slavery.”

treat forced marriage as a form of modern slavery in their domestic legislation,<sup>51</sup> with some other states treating it as a form of exploitation for the purpose of which people can be trafficked.<sup>52</sup>

Despite these connections being made by states and intergovernmental bodies (or their representatives), the link between forced marriage and modern slavery is not obvious. As noted above, the human rights-based “test” of a forced marriage is a lack of consent in the initial ceremony. The “test” of slavery (in line with the 1926 Slavery Convention and the Bellagio-Harvard Guidelines on the Legal Parameters of Slavery) is the exercise of powers attaching to the rights of ownership by one person over another, which is quite different.<sup>53</sup>

That forced marriage *did* involve the exercise of the powers attaching to property ownership in certain situations was determined in the first forced marriage case that came before the Special Court for Sierra Leone. The Court found that the act of calling someone a “wife” and “marrying” her could be taken as an indication of an act of enslavement, with her new “husband” claiming (and asserting against others) powers attaching to the rights of ownership over the woman in question.<sup>54</sup> In peacetime situations (in which the vast majority of forced marriages occur), we might arguably see something similar, with parents and guardians “giving” their offspring (both under and over the age of majority in their country) in marriage as if they were property. However, that the powers attaching to property-ownership were being exercised would have to be proved to show that the people being forced to marry *were* being treated as property.

The Bellagio-Harvard Guidelines also make this plain concerning the three types of marriage-related “institution or practice similar to slavery” detailed in the 1956 Supplementary Convention: to be actual slavery, and not “similar to slavery”, the exercise of powers attaching to property-ownership must be evident.<sup>55</sup> The three practices included in the 1956 Supplementary Convention are: the sale/purchase of women for the purpose of marriage “without the right to refuse”; the transfer of wives by their husband, his family or clan “for value received”; and the inheritance of widows.<sup>56</sup>

But not all forced marriages fall into these categories. For instance, some men are forced to marry, and they are not covered by this Convention. Similarly, many forced marriages

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<sup>51</sup> Article 167 The Criminal Code of the Republic of Moldova; Article 270.7A Australia Criminal Code Act.; Article 98(1)(g) New Zealand, Crimes Act.; Article 257(1)(d)(i)-(ii) Nauru, Crimes Act..

<sup>52</sup> See for example Article 2-3 Bahamas, Trafficking in Persons (Prevention and Suppression) Act.; Article 2-3, 6 Bangladesh, Human Trafficking Deterrence and Suppression Act.; Article 612, 615-618 Micronesia, Revised Code.; Article 149 Ukraine, Criminal Code.

<sup>53</sup> See Research Network on the Legal Parameters of Slavery, “Bellagio-Harvard Guidelines On The Legal Parameters of Slavery.”

<sup>54</sup> *AFRC Case*.

<sup>55</sup> See Research Network on the Legal Parameters of Slavery, “Bellagio-Harvard Guidelines On The Legal Parameters of Slavery.”

<sup>56</sup> United Nations Economic and Social Council, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

involving women and girls do not involve the bride’s family receiving anything of value from the groom or his family – and even where they *do*, it is not clear that this necessarily amounts to “payment” which would imply the bride is being treated as property. Moreover, we argue that the lack of consent is less important to these practices being “similar to slavery” than the fact that brides and/or wives are bought/sold, transferred and/or inherited: i.e. that something similar to treating them like property happens in each of these practices.

It is true that, in order to “bring ... to an end” these “institutions and practices”, Article 2 of the Supplementary Convention calls on states to “undertake to prescribe, where appropriate, suitable minimum ages of marriage, to encourage the use of facilities whereby the consent of both parties to a marriage may be freely expressed in the presence of a competent civil or religious authority, and to encourage the registration of marriages”.<sup>57</sup> In doing so, Article 2 certainly emphasises that consent to marriage is important. The idea behind minimum ages of marriage is that there is an age at which people become “competent” to consent to marriage. The Supplementary Convention clearly encourages the “consent of both parties” being “freely expressed”, and “the presence of a competent civil or religious authority” might be another way of ensuring that this *was* properly free and full consent, as ascertained by an impartial, and expert, witness. The same might be said about the registration of marriages, though this also protects the observance of minimum ages of marriage.

However, the Supplementary Convention is not saying that *all* forced (or non-consensual) marriages are institutions or practices similar slavery, or slavery itself. Instead, it is saying that in making it harder to marry people without their consent, states will be acting to “bring ... to an end” these three specific institutions and practices similar to slavery. That is, these institutions and practices are three sub-sets of *all* non-consensual marriages, specifically those in which a “price” is given, or “value” exchanged, by one party to another “for” a bride/wife, or where she is treated like property in that she can be “inherited”. *This* is the key link to slavery, and why the institution or practice is “similar to slavery”.

Indeed, that people are – generally – expected to give even coerced “consent” to a marriage, and that people go to great lengths to force people to “consent”, stands in some tension with the idea that those being forced are being treated “as property”. This is because one of the attributes of property is that “consent” is an entirely irrelevant notion. In buying/selling a piece of property, the consent of both purchaser and vendor are necessary, but not that of the thing being sold. Indeed, this is one of the elements of chattel slavery that people found (and still find) so inhuman: because enslaved people were (legally) property, they were sold with no reference to their own wishes or consent.<sup>58</sup> It may, therefore, be important that the Supplementary Convention uses the phrase “without a right to refuse” rather than talking about being forced to consent, and does not mentioned consent (or the lack of it) at all when considering the transfer of

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<sup>57</sup> *Ibid.*

<sup>58</sup> See, for instance, Crawford, “The Slave Family: A View from the Slave Narratives”; Williams, *Help Me to Find My People*.

wives, or the inheritance of widows. Property also “has no right to refuse”, because such a “right” would not be appropriate: property cannot have rights.

The ILO and Walk Free use “modern slavery” as more of an “umbrella” term to cover a wide range of exploitative practices, and describe forced marriage as a form of forced non-commercial labour which is accompanied by a loss of sexual autonomy “under the guise of marriage”.<sup>59</sup> The lack of consent to the marriage (as already noted) is thereby necessarily connected to the “forced” nature of the labour, as forced labour is defined as “all work or service which is exacted from any person under the threat of penalty *and for which the person has not offered himself or herself voluntarily*” (our italics, for emphasis).<sup>60</sup> However, there is *more* than just this lack of consent making forced marriage, on this account, a form of modern slavery – there is the loss of sexual autonomy, and the extraction of labour under menace of penalty, and it is *these*, arguably, which make forced marriage an egregious form of exploitation, on a par with forced labour, debt bondage, human trafficking and other “situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power”.<sup>61</sup>

Again, not all forced marriages necessarily involve this loss of sexual autonomy, or this extraction of forced labour under menace of penalty. For example, in the main, men are not expected to perform household labour as part of their role as “husbands”, and men who are forced to marry may be less likely to also experience forced labour.<sup>62</sup> In the UK, men with learning disabilities are sometimes forced to marry in order to secure them long-term care. In this case, they are not subject to forced labour. And “force” here refers to their inability to give consent, rather than that any particular coercion was used to make them agree. Similarly, there are examples of children being married and not expected to live together “as husband and wife”. In those situations, neither, therefore, experienced a loss of sexual autonomy of the kind being invoked by the ILO and Walk Free, nor forced labour “under the guise of marriage”. However, their future options regarding sexual partners had been closed off through the marriage.<sup>63</sup>

### **Forced marriage as a form of human trafficking**

Finally, as “modern slavery” can be understood as synonymous with “human trafficking”, the link between forced marriage and human trafficking is also of interest. The Palermo Protocol

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<sup>59</sup> International Labour Organization and Walk Free Foundation, “Global Estimates of Modern Slavery.”, 9.

<sup>60</sup> International Labour Organization, Forced Labour Convention. See also Article 1(3) International Labour Organization, Protocol of 2014 to the Forced Labour Convention.

<sup>61</sup> International Labour Organization and Walk Free Foundation, “Global Estimates of Modern Slavery.”, 9.

<sup>62</sup> Though there are exceptions to this – for instance, accounts of men being trafficked to Hong Kong for the purpose of marriage where they were expected to perform all the household labour – Yu, “Hong Kong ‘Slave Husband’ from Pakistan Warns of Marriage Migration Dangers after Six Difficult Years in City.”

<sup>63</sup> Antislavery Usable Past, “Narendra Chamar.”

defines trafficking in persons as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”. It adds, “[t]he consent of a victim of trafficking in persons to the exploitation ... shall be irrelevant where any of the[se] means ... have been used”.<sup>64</sup> Forced marriage is not explicitly listed as one of the types of exploitation which “at a minimum” are included in Article 3 of the Protocol. These are: “the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.<sup>65</sup>

However, even without forced marriage being explicitly included, we can see that at least some forced marriages might count as a form of exploitation for the purpose of which people can be trafficked. That is, people might be “transferred” (with or without “the giving or receiving of payments or benefits”) from one person who had “control” over them (e.g. a parent or guardian) to another (e.g. a husband) via their ostensible consent to a marriage. Here, consent was extracted “by means of the threat or use of force or other forms of coercion”. This includes “abduction”, “fraud”, “deception” and/or “the abuse of power or of a position of vulnerability”, “for the purpose of” marriage. Marriage here generally includes labour which may be forced; sexual exploitation; and potentially domestic servitude. Indeed, the Palermo Protocol also helps us understand as trafficking in persons situations in which one person (A) deceives another (B), when marrying them with the *intention* of exploiting them.

#### 4. Implications

We have argued that we should see as “forced” marriages all those to which at least one party cannot be said to have given their free and full consent. We have also argued that we should take a more nuanced approach to understanding what “full and free” consent would look like, recognising that a number of ostensibly “consensual” marriages may represent (in particular, but not solely) women and girls making a rational choice in extremely limited circumstances (indeed, perhaps even being a “choiceless choice”). Following this, if *all* forced marriages are treated as forms of modern slavery, there will be far more than the already admittedly-conservative estimate of 15.4 million people living in forced marriages in any given year.<sup>66</sup>

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<sup>64</sup> United Nations General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime.

<sup>65</sup> *Ibid.* One might think that forced marriage is included under “practices similar to slavery”, but we challenge the idea that *all* forced marriages are covered by that term in the 1956 Supplementary Convention.

<sup>66</sup> International Labour Organization and Walk Free Foundation, “Global Estimates of Modern Slavery”, 10.

Moreover, to end forced marriage, states would have to do much more than that which they are obliged to do by the 1956 Supplementary Convention (i.e. set a minimum age of marriage, register marriages, and ensure people could give their consent to marry in front of an official). That is, although a minimum age for marriage would help protect under-age people (primarily, though not solely, girls) from being forced to marry before they reached whatever was set as the age of majority in their country, it would not help them overcome, or escape (or, in itself, dismantle) coercive (generally patriarchal) structures which leave them with no other viable options but to marry on, or shortly after reaching their age of majority (whatever that might be).<sup>67</sup> On this point, states would also have to do more than ensure they meet Sustainable Development Target 5.3.1.<sup>68</sup>

Similarly, states would need to do more than demand that marriages are registered (as coerced marriages can be registered) – and even the stipulation that states should “encourage the use of facilities whereby the consent of both parties to a marriage may be freely expressed in the presence of a competent civil or religious authority”<sup>69</sup> would do little. This is for three reasons. Firstly, states are only asked to “encourage”, not “mandate”, this, so a number of marriages (including, potentially, forced marriages) may not happen “in the presence of a competent civil or religious authority”. Second, the judgement of such “competent civil or religious authorit[ies]” might also be shaped and constrained by the same structural forces which constrain women and render their option-set so limited. That is, they might not recognise the circumstances with which they are being faced as “coercive”. This is linked to Anitha and Gill’s argument about judges in the UK, but is also evident in decisions whereby judges, for instance, even when faced with the evident non-consent and distress of the woman involved, rule that women should marry their rapists.<sup>70</sup> Much seems to hang on what is meant by “competent”. Thirdly, given the background of coercion, it is not clear that women (or men) would necessarily feel safe in revealing their lack of consent to a “competent civil or religious authority” (who is most likely a stranger). *Not* telling the “competent ... authority” might well be women’s most rational option in a very constrained set of circumstances – this does not guarantee that her consent is “freely given”.

However, the idea of “bounded consent”, and “choiceless choices”, and the illumination of the issue of forced marriage provided by rational choice theory serves to further cast doubt on the idea that *all* forced marriages ought to be considered forms of modern slavery. Women’s agency is often severely constrained by patriarchal social structures when it comes to the

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<sup>67</sup> This is not to undermine the great gain it would, in fact, be if children could not marry, and the protection it would afford children who are pressured to marry. It is only to point out that this would not protect *all* women (or men) from forced marriages *and* that, in itself, it would do little to prevent women (and men) from being pressured to marry as soon as, or shortly after, achieving the age of majority.

<sup>68</sup> United Nations, “Sustainable Development Goals 5 Gender Equality.” The SDG target indicator measures the “proportion of women aged 20-24 years who were married or in a union before age 15 and before 18”.

<sup>69</sup> *Ibid.*

<sup>70</sup> E.g. the recent case in India: France-Press, “India’s Top Judge Tells Accused Rapist to Marry Victim to Avoid Jail.”

question of marriage, but this is not the same as treatment like property. In patriarchal societies,<sup>71</sup> women use their agency to navigate a more-or-less limited set of options (depending on a range of other intersecting factors including race, age, disability, health, socio-economic status, levels of – and opportunities for – education, employment status, and immigration status among many others). Though in doing so they do exercise agency, and make rational choices, this does not make them “free” agents who are not being coerced, particularly in cases where their option-sets are *so* limited, we should class them as facing “choiceless choices”, because the limitation of option-sets is itself a form of coercion.

In itself, however, a lack of choices is not the same as slavery, which should be identified by one person exercising the powers attaching to the right of property over another person.<sup>72</sup> It is true that when one person *is* enslaved by another, their option sets are very limited, but this is not the defining feature of slavery. As also noted, aside from when we consider enslavement (and, indeed, one of the moral arguments against enslaving *people*), it is something of a category error to even speak of property and agency, or property and “choices”. That enslaved people *do* have, and exercise, agency (within limited option-sets), and have done so throughout history, is a sign that they ought not to be being treated as property, *not* a sign that property *can* (rightly) have agency.

There are certainly cases where “marrying” someone constitutes an act of enslaving them, as noted by the Special Court for Sierra Leone and the International Criminal Court.<sup>73</sup> This might happen in peacetime as well as in conflict situations. There may also be cases which fit the descriptions in the 1956 Supplementary Convention – i.e. where women, without their consent, are given in marriage on receipt of some form of payment; where women are transferred once married for “value received”; and/or where widows are “inherited” (like property) on the death of their husbands.<sup>74</sup> As noted, the key here is that payment, transfer, and/or “inheritance” occur – i.e. that women are being treated *as property* in the context of marriage. A lack of consent is deliberately mentioned in the first case, but not the other two. This adds to our contention that it is not so much a lack of consent which is important when determining whether marriages are forms of slavery, but whether or not women are being treated as property. And we do not think that *just by virtue* of their consent being coerced, this can be said to count as treatment as property.

Similarly, when it comes to the definition of forced marriage offered by the ILO and Walk Free, a lack of consent to the labour being enforced under menace of penalty “under the

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<sup>71</sup> By which we mean basically all societies.

<sup>72</sup> See Research Network on the Legal Parameters of Slavery, “Bellagio-Harvard Guidelines On The Legal Parameters of Slavery.”

<sup>73</sup> *AFRC Case*; Prosecutor v Dominic Ongwen (Decision on the Confirmation of Charges Against Dominic Ongwen); Prosecutor v. Charles Ghankay Taylor (Judgement Summary).

<sup>74</sup> United Nations Economic and Social Council, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

guise of marriage” is evidently key to recognising that labour as “forced”, and thus of seeing forced marriages as a form of modern slavery broadly conceived. However, as noted, not all forced marriages result in a loss of sexual autonomy and non-commercial labour being extracted under menace of penalty. Moreover, some marriages which were initially consensual may also end up involving a loss of sexual autonomy and labour being extracted under menace of penalty, if one party decides they no longer wish to be married, but have no means of leaving. Yet these marriages do not count under the human-rights based, “thin”, definition of a “forced marriage”.

## 5. Conclusion

We should (continue to) recognise forced marriage as a serious human rights violation, crime and inhumane act, both in conflict situations and in times of peace, and work as a global community to end this practice by 2030. We should further recognise that many women and girls (and some men and boys) face extremely limited option-sets such that their choice to marry, though explainable by rational choice theory, is “bounded” and may even be a “choiceless choice”; that they are therefore coerced even if there is no evident use of physical, psychological, emotional and/or financial abuse; and that, their consent is not “free”. Thus, these, too, are “forced marriages”.

We argue, however, that we should not see *all* forced marriages as forms of modern slavery. (In some countries, of course, this is how they are seen in law, in which cases, in those jurisdictions, forced marriages simply are forms of modern slavery and/or human trafficking.) We suggest that marriages which are rightly to be considered forms of *de facto* slavery are those in which the powers attaching to the right of property are exercised by one person over another. We also recognise that marriages which involve a loss of sexual autonomy and the extraction of non-consensual labour under menace of penalty ought to be considered forms of modern slavery, where that term is used more broadly as an “umbrella” for various egregious practices, as by the ILO and Walk Free.

Importantly, these might be marriages into which people were forced by use of physical, psychological, emotional and/or financial means of coercion. We also argue that they might be marriages which presented themselves as the “best” (and perhaps only) option in a very limited option-set, marriages which ought *also* to be seen as “forced”. But they might not be. Marriages which were entered into consensually may turn out to involve forced labour, domestic servitude, a loss of sexual autonomy, and other institutions and practices similar to slavery. That the spouse consented to the initial ceremony would not diminish the exploitation they were subjected to (as with trafficking in persons).

That is, the way the “thin”, human-rights based definition of forced marriage is interpreted in domestic law misses the ways in which social structures limit people’s (mainly women’s and girls’) option-sets and coerce them into ostensibly consenting to marriage. Both in its non-expanded, and certainly in its expanded, form however, this “thin” definition is too wide for the argument that all forced marriages are forms of modern slavery (even when understood as

broadly as possible, as by the ILO and Walk Free). Instead, further research should carefully delineate the typologies of forced marriage which might plausibly be considered *de facto* slavery, a form of modern slavery on the ILO and Walk Free’s definition, and a form of human trafficking.

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# A Feminist Analysis of the Trafficking of Women and Girls into China for the Purpose of Forced Marriage and Childbearing

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## Abstract

The trafficking of women and girls into China for forced marriage and childbearing is a major social problem in our global society. This article serves to improve understanding of the problem by conducting a thematic analysis of 46 narratives of survivors from Cambodia, Myanmar, North Korea, and Vietnam. The theoretical lens of social constructivist feminism is utilised to illustrate how constructions of gender evolve throughout and within the process to form a multi-level system of gender which dictates power inequalities, thus both facilitating and justifying the trafficking of women and girls into China for forced marriage and childbearing.

**Keywords:** Gender, Forced Marriage, Bride-Trafficking, China.

## Introduction

*“My name is Jang Mi Kyung... I was living with my mother [in North Korea]... we were very poor. So I decided to cross the river [to China] to work... I followed a man who was going to get me a job. But soon as I crossed the river, I found I was trapped... I was married forcefully to a Chinese man... Later I found that the man had paid 15,000 [Chinese Yuan] for me. Now I have no choice but to live as his sexual play mate. I can't go out. This is like Hell to me... I like to have freedom of my own. Please help me.”<sup>1</sup>*

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<sup>1</sup> Jang Mi Kyung, North Korea, <http://antislavery.ac.uk/items/show/2569> (accessed 10 February 2022).

The 1948 *Universal Declaration of Human Rights* (Art.16.2) states that ‘marriage shall be entered into only with the free and full consent of intending spouses’.<sup>2</sup> Yet over seven decades later, forced marriage persists as a significant problem in our global society with the most recent estimate suggesting that 15.4 million people globally were living in a forced marriage on any given day in 2016.<sup>3</sup> This includes women and girls like Jang Mi Kyung<sup>4</sup> who are trafficked into China from neighbouring nations for the purpose of forced marriage and childbearing.

Within existing literature regarding Chinese bride-trafficking<sup>5</sup> there is an agreed-upon assumption that it is ‘at its core, a profound expression of gender discrimination’.<sup>6</sup> However, there is no clear evidence or understanding of *how* constructs of gender operate in this specific context. Hence, this research presents a unique contribution to the field by analysing the role of gender throughout the process of Chinese bride-trafficking, giving precedence to the survivor voice. The central research question is: *What is the role of gender in the trafficking of women and girls into China for the purpose of forced marriage and childbearing?*

This research utilises the Antislavery Usable Past VOICES Archive;<sup>7</sup> the world’s largest archive of modern slavery survivor narratives which holds 46 narratives of survivors of Chinese bride-trafficking from Myanmar,<sup>8</sup> North Korea, Cambodia, and Vietnam. These narratives are analysed using thematic analysis and the theoretical framework of social constructivist feminism.

The data paints a nuanced picture of how the dynamics of gender operate throughout this social problem across three core models of socially constructed gendered relations: *men exploiting women*, *women exploiting women*, and *systems exploiting women*. It is argued that these models operate independently and interdependently to form a multi-level system of gender

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<sup>2</sup> “Universal Declaration of Human Rights,” *United Nations*, 1948, [https://www.ohchr.org/EN/UDHR/Documents/UDHR\\_Translations/eng.pdf](https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf) (accessed 10 February 2022).

<sup>3</sup> “Global Estimates of Modern Slavery: Forced Labour and Forced Marriage,” *International Labour Organisation and Walk Free Foundation*, 2017, [https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms\\_575479.pdf](https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf) (accessed 10 February 2022): 43.

<sup>4</sup> This article follows VOICES database guidance to ‘acknowledge the survivor’s name [and] provenance’ when citing narratives. See Hannah-Rose Murray, “Voices: Ideas for using survivor testimony in antislavery work,” *Rights Lab, University of Nottingham*, October 2019, <https://www.antislaverycommissioner.co.uk/media/1336/voices-ideas-for-using-survivor-testimony-in-antislavery-work.pdf> (accessed 10 February 2022): 6.

<sup>5</sup> The term ‘Chinese bride-trafficking’ is herein utilised as an abbreviation for ‘the trafficking of women and girls into China for the purpose of forced marriage’ per Heather Barr, “China’s Bride Trafficking Problem,” *Human Rights Watch*, October 31, 2019, <https://www.hrw.org/news/2019/10/31/chinas-bride-trafficking-problem> (accessed 10 February 2022).

<sup>6</sup> Heidi Stöckl *et al.*, “Trafficking of Vietnamese women and girls for marriage in China,” *Global Health and Research Policy* 2, no.28 (2017): 8.

<sup>7</sup> “Voices Database,” *Rights Lab, University of Nottingham*, 2021, <http://antislavery.ac.uk/> (accessed 10 February 2022).

<sup>8</sup> Formerly Burma. The name Myanmar is problematic because it was introduced by military dictators, but is used by citizens and the UN, so is also used in this article. See Nehginpao Kipgen, *Myanmar: A Political History* (New Delhi: Oxford University Press, 2016).

that functions over time (across the chronological stages of bride-trafficking), and between levels of society (individual and structural). This multi-level system of gender operates to dictate power inequalities, thus facilitating and justifying the practice.

## Literature Review

Existing literature broadly addresses two key elements of Chinese bride-trafficking. Namely, the Chinese demand for forced marriage, and the supply of vulnerable women in neighbouring nations. These are taken in turn.

### *Demand*

In China, there is an intense cultural pressure for all men to marry and continue the family line.<sup>9</sup> However, China also has a distorted sex ratio of 120 men to 100 women, and a dearth of approximately 32 million women<sup>10</sup> within a total population of over 1 billion.<sup>11</sup> This is commonly attributed to the One Child Policy of 1978 whereby a preference for male children prompted gender-selective abortions.<sup>12</sup> Consequently, there is an oversupply of men in the marriage market, and not all are able to marry, threatening both their masculinity and ability to fulfil cultural expectations.<sup>13</sup> This has caused ‘a huge demand for wives through illegal means’ (i.e., bride-trafficking).<sup>14</sup>

Demand for bride-trafficking is supported by the distortion of the traditional practice of matchmaking. Per Confucian thought, Chinese marriages are not a romantic endeavour, but a practical family arrangement whereby parents carry primary responsibility for the marriage of

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<sup>9</sup> Stöckl *et al.*, “Trafficking of Vietnamese women and girls for marriage in China.”

<sup>10</sup> Under the age of 20 in 2005.

<sup>11</sup> Zhou Chi *et al.*, “Changing Gender Preference in China Today: Implications for the Sex Ratio,” *Indian Journal of Gender Studies* 20, (2013): 51; Wei Xing Zhu, Li Lu, and Therese Hesketh, “China’s excess males, sex selective abortion, and one child policy: analysis of data from 2005 national intercensus survey,” *British Medical Journal (International ed.)* 338, no.7700 (April 2009).

<sup>12</sup> Quanbao Jiang and Jesús J. Sánchez-Barricarte, “Bride price in China: the obstacle to ‘Bare Branches’ seeking marriage,” *The History of the Family* 17, no.1 (February 2012): 3; Geping Qiu, Sheldon X. Zhang, and Weidi Liu, “Trafficking of Myanmar women for forced marriage in China,” *Crime, Law and Social Change* 72, no.1 (February 2019): 38.

<sup>13</sup> Jiang and Sánchez-Barricarte, “Bride price in China,” 3; Erin M. Kamler, “Women of the Kachin Conflict: Trafficking and Militarized Femininity on the Burma-China Border,” *Journal of Human Trafficking* 1, no.3 (August 2015): 219.

<sup>14</sup> Gracie Ming Zhao, “Trafficking of women for marriage in China: Policy and practice,” *Criminal Justice* 3, (February 2003): 86.

their children.<sup>15</sup> Therefore, matchmaking is utilised by some parents to find a spouse for their child.<sup>16</sup> This is not the case for all marriages in China, and the 1950 Marriage Law abolished ‘all feudal forms of marriage’, including arranged marriage.<sup>17</sup> However, some parents have responded to their son’s inability to marry by employing a matchmaker to *purchase* a wife for him,<sup>18</sup> thus blurring the lines between traditional matchmaking and bride-trafficking.<sup>19</sup>

The bride price is also utilised to facilitate bride-trafficking. The bride price is traditionally paid to compensate the loss of a daughter who will now benefit her husband’s family.<sup>20</sup> Yet within bride-trafficking, it is used to justify the trafficker’s payment.<sup>21</sup> This is termed ‘the sale of women for marriage’ since the bride’s consent is deemed unnecessary.<sup>22</sup> The bride price is often cheaper for a women from overseas,<sup>23</sup> meaning that for many men, the simplest and cheapest way to marry is to purchase a wife.<sup>24</sup>

In many cases, demand for bride-trafficking is also socially accepted. Bride-trafficking is illegal in China, punishable with up to three years in prison.<sup>25</sup> Yet the ‘collective social normalization’ process sees the crime destigmatised and legitimised within some Chinese communities.<sup>26</sup> To some, the purchase of a wife is ‘not considered a disgrace... but rather an

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<sup>15</sup> Therese Hesketh and Zhu Wei Xing, “Abnormal sex ratios in human populations: causes and consequences,” *Proceedings of the National Academy of Sciences – PNAS* 103, no.36 (July 2006); Jiang and Sánchez-Barricarte, “Bride price in China,” 8; Gordon Kerr, *A Short History of China: From Ancient Dynasties to Economic Powerhouse* (Somerset: Pocket Essentials, 2013), 26.

<sup>16</sup> Qiu, Zhang, and Liu, “Trafficking of Myanmar women for forced marriage in China,” 37.

<sup>17</sup> Zhao, “Trafficking of women for marriage in China,” 92.

<sup>18</sup> Qiu, Zhang, and Liu, “Trafficking of Myanmar women for forced marriage in China,” 38.

<sup>19</sup> Laura K. Hackney, “Re-evaluating Palermo: The case of Burmese women as Chinese brides,” *Anti-Trafficking Review* 4, no.1 (2015): 3.

<sup>20</sup> Stevan Harrell and Sara A. Dickey, “Dowry systems in complex societies,” *Ethnology* 24, no.2 (April 1985); Jiang and Sánchez-Barricarte, “Bride price in China,” 2; Zhao, “Trafficking of women for marriage in China,” 87.

<sup>21</sup> Alivn Hoi-Chun Hung, “Tortured between Two Hells: A qualitative Analysis of the Collective Social Normalization of the Trafficking of Brides from Myanmar to China,” *Journal of Human Trafficking*, (June 2021): 3.

<sup>22</sup> June J. H. Lee “Human trafficking in East Asia: current trends, data collection, and knowledge gaps,” *International Migration* 43, no.1-2 (2005); Stöckl *et al.*, “Trafficking of Vietnamese women and girls for marriage in China,” 1; Zhao, “Trafficking of women for marriage in China.”

<sup>23</sup> Hung, “Tortured between Two Hells,” 3.

<sup>24</sup> Zhao, “Trafficking of women for marriage in China,” 90.

<sup>25</sup> *Ibid.* 92.

<sup>26</sup> Hung, “Tortured between Two Hells,” 4.

inherent right'.<sup>27</sup> Patriarchal attitudes that justify the subordinate position of women are central to this moral tolerance.<sup>28</sup>

Demand is also exacerbated in rural areas.<sup>29</sup> Gender equality policies have mainly been implemented through urban reforms,<sup>30</sup> causing rural women to migrate to cities to seek financial and social independence.<sup>31</sup> Yet the patrilocal marriage system deems rural men immobile.<sup>32</sup> As a result, the rural gender distortion is increased, and literature agrees that bride-trafficking is a rural problem, whereby entire villages are termed 'Vietnamese Bride Villages' due to their high prevalence of forced marriage.<sup>33</sup>

Evidently, the intersection of multiple factors causes the Chinese demand for bride-trafficking.<sup>34</sup> Amongst these factors, gender inequality<sup>35</sup> and the gender imbalance<sup>36</sup> are important. This is evident through threatened masculinity of men unable to marry, the gendered practice of the bride price, patriarchal attitudes that contribute to collective social normalization,<sup>37</sup> and the role of urban gender equality policies.

### *Supply*

China's neighbouring nations are home to a supply of vulnerable women and girls to meet the demand for bride-trafficking. This vulnerability stems from a broad range of socio-

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<sup>27</sup> Zhao, "Trafficking of women for marriage in China," 90.

<sup>28</sup> *Ibid.* 89.

<sup>29</sup> Qiu, Zhang, and Liu, "Trafficking of Myanmar women for forced marriage in China," 38.

<sup>30</sup> Yuhui Li, "Women's Movement and Change of Women's Status in China," *Journal of International Women's Studies* 1, no.1 (2000): 34.

<sup>31</sup> *Ibid.* 38-9.

<sup>32</sup> Delia Davin, "Marriage Migration in China: The Enlargement of Marriage Markets in the Era of Market Reforms," *Indian Journal of Gender Studies* 12, no.2-3 (2005): 174.

<sup>33</sup> Jiang and Sánchez-Barricarte, "Bride price in China," Qiu, Zhang, and Liu, "Trafficking of Myanmar women for forced marriage in China," 36.

<sup>34</sup> Annie Bunting, Benjamin N. Lawrance, and Richard L. Roberts, *Marriage by force?: Contestation over consent and coercion in Africa* (Ohio: Ohio University Press, 2016); Qiu, Zhang, and Liu, "Trafficking of Myanmar women for forced marriage in China," 36; Zhao, "Trafficking of women for marriage in China," 90.

<sup>35</sup> Hackney, "Re-evaluating Palermo," 1.

<sup>36</sup> Hung, "Tortured between Two Hells," 3; Weidi Liu, Geeping Qiu and Sheldon X Zhang, "Easy Prey: Illicit Enterprising Activities and the Trafficking of Vietnamese Women in China," *Asian Journal of Criminology* 16, no.4 (July 2020); Qiu, Zhang and Liu, "Trafficking of Myanmar women for forced marriage in China."

<sup>37</sup> Hung, "Tortured between Two Hells," 4.

economic factors including extensive famine and economic devastation in North Korea;<sup>38</sup> a lack of employment opportunities and rising debt in Cambodia;<sup>39</sup> widespread unemployment and poverty in Vietnam;<sup>40</sup> and long-term racism, violence, and armed conflict in Myanmar.<sup>41</sup> This vulnerability is exacerbated by weak borders with corruption of law enforcement officials on both sides.<sup>42</sup> Increased cross-border transportation also aids traffickers' efforts to illegally enter China.<sup>43</sup>

The supply of women and girls also depends upon constructions of gender. This is evident in three main ways. Firstly, women are 'less visible than men since they are primarily located in the private sphere' and are consequently more vulnerable to exploitation.<sup>44</sup> Secondly, women are under pressure to migrate to China, further increasing their vulnerability to bride-trafficking. Some women are pressured to migrate for work due to 'militarized femininity' in Myanmar and increasing demands on women as both housekeepers and breadwinners.<sup>45</sup> Other women are pressured to migrate for marriage due to Vietnamese cultural expectations for all women to marry,<sup>46</sup> and female reliance on spousal income and to financially support ageing parents in North Korea.<sup>47</sup> Traffickers utilise this pressure to lure victims under the guise of employment, or with deceptions regarding consensual marriage.<sup>48</sup> Thirdly, constructions of gender also justify bride-trafficking through the stigmatization and exclusion of victims when they return home. This is realised through customary legal practices which negate the voices of

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<sup>38</sup> Kathleen Davis "Brides, Bruises and the Border: The Trafficking of North Korean Women into China," *SAIS Review of International Affairs* 26, no.1 (Winter-Spring 2006).

<sup>39</sup> Matt Blomberg and Kong Meta, "Wedlocked: tangled webs trap Cambodian 'brides' in China," *Thomson Reuters Foundation*, March 11, 2019, <https://news.trust.org/item/20190311004959-hf9x6/> (accessed 10 February 2022).

<sup>40</sup> Stöckl *et al.*, "Trafficking of Vietnamese women and girls for marriage in China," 2.

<sup>41</sup> Qiu, Zhang, and Liu, "Trafficking of Myanmar women for forced marriage in China," 37.

<sup>42</sup> Hackney, "Re-evaluating Palermo," 9; Laetitia Lhomme, Siren Zhong, and Billie Du, "Demi Bride Trafficking: A Unique Trend of Human Trafficking from South-East Asia to China," *Journal of International Women's Studies* 22, no.3 (April 2021): 34; Yiwei Xia *et al.*, "Mapping Trafficking of Women in China: Evidence from Court Sentences," *Journal of Contemporary China* 29, no.122 (2020).

<sup>43</sup> Ralf Emmers, "The Threat of Transnational Crime in South-East Asia: Drug Trafficking, Human Smuggling and Trafficking and Sea Piracy," *UNISC Discussion Paper*, May 2003, <https://www.redalyc.org/pdf/767/76711296006.pdf> (accessed 10 February 2022); Lhomme, Zhong, and Du, "Demi Bride Trafficking," 28.

<sup>44</sup> Specifically in North Korea, see Kyunghye Kook "I Want to Be Trafficked so I Can Migrate!': Cross-Border Movement of North Koreans into China through Brokerage and Smuggling Networks," *The ANNALS of the American Academy of Political and Social Science* 676, no.1 (March 2018): 120, 121.

<sup>45</sup> Kamler, "Women of the Kachin Conflict."

<sup>46</sup> Stöckl *et al.*, "Trafficking of Vietnamese women and girls for marriage in China," 2.

<sup>47</sup> Davis, "Brides, Bruises and the Border," 132.

<sup>48</sup> Qiu, Zhang, and Liu, "Trafficking of Myanmar women for forced marriage in China," 48.

women,<sup>49</sup> harsh conditions on return (including detention-interrogation facilities and forced infanticide),<sup>50</sup> and social rejection from home communities.<sup>51</sup>

The extent to which women do, or do not, have agency to enter bride-trafficking is a key debate within this literature.<sup>52</sup> Agency in human rights violations operates on a continuum.<sup>53</sup> In this case, at one extreme of the continuum women report no agency, and are lured and deceived into bride-trafficking, and are unable to leave their forced marriage.<sup>54</sup> In the middle, women exercise partial agency. Some migrate to China of their own accord and are then trafficked into a forced marriage.<sup>55</sup> Others are openly recruited as brides but are ‘lied to about the details of the men they were set up to marry’.<sup>56</sup> At the other end of the continuum, some women present full agency in entering these marriages, and ‘choose to be sold to Chinese men’ as a survival strategy.<sup>57</sup> Although it is then questioned whether this fits the definition of forced marriage. For example, other women simply marry Chinese men through choice; a legitimate ‘love marriage’.<sup>58</sup>

It is evident that the intersection of multiple socio-economic factors, weak borders, and constructions of gender generate a supply of vulnerable women and girls in China’s neighbouring nations to fulfill the demand for bride-trafficking.

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<sup>49</sup> Kamler, “Women of the Kachin Conflict,” 224.

<sup>50</sup> Davis, “Brides, Bruises and the Border,” 134, 135.

<sup>51</sup> Runa Lazzarino, “Between Shame and Lack of Responsibility: The Articulation of Emotions among Female Returnees of Human Trafficking in Northern Vietnam,” *Antropologia* 1 (November 2014).

<sup>52</sup> Jennifer K. Lobasz, “Beyond Border Security: Feminist Approaches to Human Trafficking,” *Security Studies* 13, no.2 (May 2009).

<sup>53</sup> Austin Choi-Fitzpatrick and Amelia Watkins-Smith, “Agency Continuum? A Non- Binary Approach to Agency Among Human Rights Violators and Victims,” *Human Rights Quarterly* 43, no.4 (November 2021).

<sup>54</sup> Kamler, “Women of the Kachin Conflict,” 218; W Courtland Robinson and Casey Branchini, “Estimating trafficking of Myanmar women for forced marriage and childbearing in China,” *Johns Hopkins Bloomberg School of Public Health and KWAT*, December 2018, [https://reliefweb.int/sites/reliefweb.int/files/resources/ETFM\\_Full%20Report\\_07Dec2018\\_Final.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/ETFM_Full%20Report_07Dec2018_Final.pdf) (accessed 10 February 2022): viii, 63.

<sup>55</sup> Hackney, “Re-evaluating Palermo,” 8; Robinson and Branchini, “Estimating trafficking of Myanmar women for forced marriage and childbearing in China,” 62.

<sup>56</sup> Qiu, Zhang, and Liu, “Trafficking of Myanmar women for forced marriage in China,” 48.

<sup>57</sup> Hackney, “Re-evaluating Palermo,” 3, 10 (emphasis added); Hung, “Tortured between Two Hells,” 8; Stöckl *et al.*, “Trafficking of Vietnamese women and girls for marriage in China.”

<sup>58</sup> Robinson and Branchini, “Estimating trafficking of Myanmar women for forced marriage and childbearing in China,” 53, 43.

## *Summary*

Existing literature acknowledges the role of gender in Chinese bride-trafficking. Regarding Chinese demand, gender operates in threatened masculinity of men unable to marry, the bride price, patriarchal attitudes influencing collective social normalization,<sup>59</sup> and urban gender equality policies. Regarding supply in bordering nations, gender operates in increased female vulnerability to exploitation, pressures on women to migrate for work or marriage, and the stigmatisation of women when returning home. Indeed, ‘there can be little doubt that bride-trafficking is... a profound expression of gender discrimination’.<sup>60</sup>

Yet whilst constructions of gender are frequently cited as important elements of this social problem, they are not yet fully understood. Analyses of gender currently sit independent from each other, and there is no overall understanding of the way that gender operates in Chinese bride-trafficking as a whole. These understandings are also mainly interested in the causes of bride-trafficking and do not fully consider the role of gender in the maintenance of, and after, the forced marriage. Moreover, the consultation of survivor voices in current literature is limited as many studies focus on governance and policy, and the analysis of court documents.<sup>61</sup> Therefore, this article addresses a gap in knowledge by specifically considering the role of gender *throughout* the process of Chinese bride-trafficking, giving precedence to the survivor voice.

## **Theory and Methods**

### *Research Paradigm*

This research adopts a constructionist ontological approach, and an interpretivist epistemological approach. Therefore, analysis is conducted ‘through an examination of the interpretation’ of relevant social actors (i.e., survivors) per the underlying philosophy of qualitative research that meaning is socially constructed by individuals.<sup>62</sup> Marriage is not understood as ‘fact’, but as a social construct. Bride-trafficking is understood as the result of multiple social structures and relationships, not a fixed reality.

Reflexivity is engaged with throughout the research process. Dominant personal assumptions and prejudices include a Western-centric perspective as the research concerns a different cultural and political context to that of the author, and a predilection towards victims/

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<sup>59</sup> Hung, “Tortured between Two Hells,” 4.

<sup>60</sup> Stöckl *et al.*, “Trafficking of Vietnamese women and girls for marriage in China,” 8.

<sup>61</sup> Davis, “Brides, Bruises and the Border;” Qiu, Zhang, and Liu, “Trafficking of Myanmar women for forced marriage in China.”

<sup>62</sup> Alan Bryman, *Social Research Methods*, 5th Edition (Oxford: Oxford University Press, 2016), 327; Sharan B. Merriam and Elizabeth J. Tisdell, *Qualitative Research: A Guide to Design and Implementation*, 4th Edition (Newark: John Wiley & Sons, 2015), 3.

survivors as the author has previously worked with survivors of Chinese bride-trafficking in Myanmar.<sup>63</sup> These assumptions and prejudices are repeatedly confronted, specifically in the data analysis process. This article moves away from Western-centric views by utilising a survivor-informed approach, giving precedence to the voices of survivors.

### *Theory*

This research utilises the theoretical framework of social constructivist feminist theory. Feminism is broadly defined as social and political movements that aim to enhance rights for women.<sup>64</sup> This large field has contested boundaries but primarily consists of the political movement advocating for gender equality, and the academic understanding of the world through the lens of gender.<sup>65</sup> This research focuses on the latter. Gender is defined as ‘the socially constructed dichotomy of masculine-feminine... shaped only in part by biologically constructed male-female dimensions’.<sup>66</sup> Hence, social constructivism is also inherent to feminism. There are multiple readings of social constructivism, but it is here defined as the theory of knowledge whereby perceptions of reality are corporately produced and reproduced by popular assumptions in society.<sup>67</sup> Social constructivist feminist theory is well-suited to this research question since it facilitates a thorough interrogation of the social constructions of gender that adversely affect women in Chinese bride-trafficking.

### *Data*

Data collection is conducted via the Antislavery Usable Past VOICES Archive;<sup>68</sup> the world’s largest archive of modern slavery survivor narratives. The publicly available archive holds over 900 survivor testimonies, including 46 narratives of survivors of Chinese bride-trafficking. This includes women and girls trafficked from Myanmar (26), North Korea (12), Cambodia (7), and Vietnam (1).

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<sup>63</sup> Bryman, *Social Research Methods*.

<sup>64</sup> Deborah Frances-White, *The Guilty Feminist* (London: Virago Press, 2020), 5.

<sup>65</sup> Laura Sjöberg and J. Ann Tickner, *Feminism and International Relations: Conversations about the Past, Present and Future* (Florence: Taylor & Francis Group, 2011), 5.

<sup>66</sup> V. Spike Peterson, *Gendered States: Feminist (Re)Visions of International Relations Theory* (Colorado: Lynne Rienner, 1992), 8.

<sup>67</sup> Annika Björkdahl, “Norms in International Relations: Some Conceptual and Methodological Reflections,” *Cambridge Review of International Affairs* 15, no.1 (June 2010): 10; Vivien Burr, *An introduction to social constructionism* (London: Routledge, 1995); Matthew J. Hoffmann, “Norms and social constructivism in international relations,” *Oxford Research Encyclopaedia of International Studies*, December 22, 2017, <https://oxfordre.com/internationalstudies/view/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-60?print=pdf> (accessed 10 February 2022): 2.

<sup>68</sup> Rights Lab, “Voices Database.”

This dataset is limited. The narratives are pre-existing, so are not specifically iterative to this research question. They are taken from a range of sources including non-governmental organisation websites, research reports, and radio interviews. There is also numerical distortion between the countries.

Yet this data is considered valuable for two main reasons. Firstly, it enables a survivor-informed answer to the research question. Survivor narratives are understood as specialist knowledge presented by experts and thus have potential to significantly enhance academic understanding.<sup>69</sup> Secondly, and more pragmatically, ‘primary data collection on topics of this sensitive nature is difficult in China and... it is only prudent’ to utilise available secondary data before conducting fieldwork.<sup>70</sup> Therefore, this research utilises secondary data before further primary research is conducted in the field.

### *Ethics*

Since this data set is publicly available, ethical considerations regarding the data collection process have already been addressed.<sup>71</sup> This research follows all guidance of the database regarding the use and analysis of the narratives.

### *Analysis*

Thematic analysis is well-suited to this research because it facilitates a flexible approach to the data whereby the voices of participants can be prioritised. Moreover, thematic analysis conducted within a constructivist framework – as this research is – does not focus on individuals but ‘seeks to theorise the sociocultural contexts and structural conditions that enable the individual accounts’.<sup>72</sup> This aligns well with the research question and paradigm. Braun and Clarke’s six-phase guide to conducting thematic analysis is followed.<sup>73</sup> Coding is conducted using NVivo. Due to the exploratory nature of the study, an inductive approach is employed to generate themes, with a specific awareness of reflexivity, as above.<sup>74</sup>

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<sup>69</sup> Murray, “Voices,” 8.

<sup>70</sup> Qiu, Zhang, and Liu, “Trafficking of Myanmar women for forced marriage in China,” 40.

<sup>71</sup> Rights Lab, “Voices Database”.

<sup>72</sup> Virginia Braun and Victoria Clarke, “Using thematic analysis in psychology,” *Qualitative Research in Psychology* 3, no.2 (2006): 85.

<sup>73</sup> *Ibid.* 87.

<sup>74</sup> Nektaria Pouli *et al.*, “The experience of living with knee osteoarthritis: exploring illness and treatment beliefs through thematic analysis,” *Disability & Rehabilitation* 36, no.7 (June 2013).

## Findings and Analysis

Data shows three core themes of socially constructed gender relations operating within Chinese bride-trafficking: *men exploiting women*, *women exploiting women*, and *structures exploiting women*. Findings and analysis are presented within each core theme in turn. These are then drawn together to illustrate how the multi-level system of gender operates within and between them.

The chronological stages of Chinese bride-trafficking are identified as *migration*, *marriage*, and *motherhood*, and are utilised throughout. These stages are not exhaustive and do not represent all women. Some women are exploited in other sectors during the trafficking process,<sup>75</sup> and not all women experience forced childbearing and motherhood within the forced marriage.<sup>76</sup> However, the stages are representative of the data analysed in this study.

### Men Exploiting Women

The male exploitation of women occurs across the three chronological stages of Chinese bride-trafficking.

Within the migration process, male brokers<sup>77</sup> subject female victims to gender-based violence.

*“The broker slapped me. This continued for a few days... Then the broker raped me. The broker got mad – to calm himself down at night he raped me. It was a violent rape. When I did not take off my clothes he beat me.”*<sup>78</sup>

*“He took a rope – he showed it to me... “If you try to run away from here, look at this – I will tie you up,” he said.”*<sup>79</sup>

Within the forced marriage, male “husbands” subject female victims to gender-based violence.

*“At night I had to have sex with the Chinese man. I couldn’t stand it. I kept crying... but then they beat me severely.”*<sup>80</sup>

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<sup>75</sup> Stöckl *et al.*, “Trafficking of Vietnamese women and girls for marriage in China.”

<sup>76</sup> *Ibid.* 4; Robinson and Branchini, “Estimating trafficking of Myanmar women for forced marriage and childbearing in China.”

<sup>77</sup> ‘Broker’ refers to a perpetrator or ‘trafficker’.

<sup>78</sup> Htoi Nu Ja, Myanmar, <http://antislavery.ac.uk/items/show/2293> (accessed 10 February 2022).

<sup>79</sup> Ja Tawng, Myanmar, <http://antislavery.ac.uk/items/show/2282> (accessed 10 February 2022).

<sup>80</sup> Ja Tsin Mai, Myanmar, <http://antislavery.ac.uk/items/show/2294> (accessed 10 February 2022).

*“The Chinese man raped me. Then he locked me in the room for the whole day... He came in and had sex with me every night. But one night it could not be okay anymore—it hurt too much... I refused to take off my clothes. The Chinese man kicked me, and I hit the corner of the wall. That’s how I got this scar.”<sup>81</sup>*

Female victims are also subjected to rape within the forced marriage with the explicit purpose of forced childbearing.

*“The Chinese man told me I would need to have a baby. I said I don’t want to have a baby. He pushed back and asked me to have a baby.”<sup>82</sup>*

Here the masculine-feminine dichotomy is active in constructing power inequalities between the powerful male perpetrator and the powerless female victim.<sup>83</sup> This is evident through the male control of female bodies and sexuality via gender-based violence and rape across the three chronological stages. This is also evident in the dehumanisation of women, as victims are treated in animalistic ways being beaten, held captive, fed in their bedroom (or “cage”), and forced to work. This is epitomised as Sook Joo recounts *“I was not a human in that house”*.<sup>84</sup> In both instances, the patriarchal expectation of men as powerful is realised through the abuse of female victims, and bride-trafficking is consequently facilitated by this performance of gendered expectations of dominant masculinities and submissive femininities.

The distinction between gender and sex is acknowledged here. Gender is defined as ‘the socially constructed dichotomy of masculine-feminine’, whereas sex refers to the *biological* distinction between men and women.<sup>85</sup> Thus, it may be argued that forced childbearing is not a question of gender, but of sex, since it is based on female biology and reproductive organs (sex), not socially constructed notions of femininity (gender). However, to draw a dichotomy between sex and gender is overly simplistic. Instead, this research understands sex and gender as co-constructed concepts.<sup>86</sup> The act of childbearing is a distinctly female pursuit and is thus dictated by sex. Whereas *forced* childbearing involves actions of gender-based violence and rape which are facilitated by gender hierarchies that deem men powerful over women. This forced childbearing also stems from gendered expectations for all men to continue the family line

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<sup>81</sup> Htoi Nu Ja, Myanmar, <http://antislavery.ac.uk/items/show/2293> (accessed 10 February 2022).

<sup>82</sup> Ja Seng Htoi, Myanmar, <http://antislavery.ac.uk/items/show/2295> (accessed 10 February 2022).

<sup>83</sup> Peterson, *Gendered States*.

<sup>84</sup> Sook Joo, North Korea, <http://antislavery.ac.uk/items/show/1863> (accessed 10 February 2022).

<sup>85</sup> Peterson, *Gendered States*, 8.

<sup>86</sup> Anna Fausto-Sterling, “The problem with sex/gender and nature/nurture,” in *Debating Biology*, ed. Gillian A. Bendelow, Lynda Birke, and Simon J. Williams (London: Routledge, 2005).

through the birth of a child.<sup>87</sup> Thus, gender-based violence with the purpose of forced childbearing is also a result of patriarchal beliefs and expectations.

It is further argued that these social constructions of gender justify bride-trafficking through the hostility, shame, and stigma victims experience when (and if) they return home.

*“[I] was sent back to North Korea and placed in a correctional facility.”<sup>88</sup>*

*“My husband then divorced me and told me I could not have a relationship with my children anymore... among my relatives, every person condemns and looks down on me.”<sup>89</sup>*

In these accounts, the responsibility for male-inflicted abuse and harm is given to the female victim, who suffers the consequent social exclusion. Thus, the male exploitation of women is rationalised and legitimised through victim-blaming since the female victim is perceived to be at fault. This victim-blaming attitude and behaviour again correlates with patriarchal ideology that men are powerful and privileged over women.

In summary, the socially constructed masculine-feminine dichotomy, and consequent power inequalities, play a central role in the facilitation and justification of Chinese bride-trafficking through the male control of female victims before, during, and after the forced marriage.

## **Women Exploiting Women**

However, to view exploitation within Chinese bride-trafficking as a purely male pursuit is overly simplistic since female perpetrators also exploit female victims across the chronological stages.

Female brokers assist in the recruitment trafficking of victims.

*“She just said there are many jobs – in the shop... in a restaurant... [She] arranged everything from the camp to get to China.”<sup>90</sup>*

*“When we arrived the Shan-Chinese woman locked the door from the outside and warned us not to run away. She said if we try to run she will cut off our hands and legs.”<sup>91</sup>*

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<sup>87</sup> Stöckl *et al.*, “Trafficking of Vietnamese women and girls for marriage in China.”

<sup>88</sup> Park Ji-hyun, North Korea, <http://antislavery.ac.uk/items/show/1714> (accessed 10 February 2022).

<sup>89</sup> Seng Ja Ngai, Myanmar, <http://antislavery.ac.uk/items/show/2284> (accessed 10 February 2022).

<sup>90</sup> Seng Ja Aung, Myanmar, <http://antislavery.ac.uk/items/show/2290> (accessed 10 February 2022).

<sup>91</sup> Nang Nang Tsawm, Myanmar, <http://antislavery.ac.uk/items/show/2291> (accessed 10 February 2022).

The mothers of Chinese “husbands” also abuse victims.

*“Then the mother beat me... Every time I was beaten, I did not know what to do. I was bleeding from my nose and my mouth... No matter what, they beat me.”<sup>92</sup>*

*“I discovered that I was in the house of a Chinese man... I had to do lots of housework. I had to wash their clothes, cook for them, give a bath to his parents.”<sup>93</sup>*

The “mother-in-law” also exercises violence and manipulation to achieve forced childbearing.

*“I was locked in the room for one year. Before I had a baby, the family members – especially the mother-in-law – treated me badly. Her face was furious. Sometimes they didn’t feed me because I didn’t get pregnant as soon as possible.”<sup>94</sup>*

*“When I had sex with him, his parents would lock the door from the outside.”<sup>95</sup>*

Constructions of gender are interesting here since there is no male-female dichotomy. Instead, femininities are plural, and gender hierarchies operate on a continuum.<sup>96</sup> For example, the marriage is instigated by the “mother-in-law” exercising power over the victim as she purchases a wife for her son.<sup>97</sup> This power is maintained since the couple live in the “husband’s” family home. Therefore, the “mother-in-law” is more powerful than the victim for reasons that are not gendered, and a hierarchy of femininities is formed within the family whereby the victim is exploited by her more powerful “mother-in-law”. This is evident in physical violence, the restriction of food, and obligatory housework and caring responsibilities.

Social constructions of gender play an active role within these hierarchies of femininity. Female brokers rely on demand for bride-trafficking which stems from patriarchal norms including the preference for male children, the bride price, and patriarchal attitudes that

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<sup>92</sup> Ja Tsin Mai, Myanmar, <http://antislavery.ac.uk/items/show/2294> (accessed 10 February 2022).

<sup>93</sup> Ja Htoi Tsawm, Myanmar, <http://antislavery.ac.uk/items/show/2287> (accessed 10 February 2022).

<sup>94</sup> Seng Ja Ban, Myanmar, <http://antislavery.ac.uk/items/show/2289> (accessed 10 February 2022).

<sup>95</sup> Pan Pan Tsawm, Myanmar, <http://antislavery.ac.uk/items/show/2288> (accessed 10 February 2022).

<sup>96</sup> J. Ann Tickner and Laura Sjoberg, “Feminism,” in *International Relations Theories: Discipline and Diversity*, ed. Tim Dunne, Milja Kurki, and Steve Smith (Oxford: Oxford University Press, 2007): 228.

<sup>97</sup> Hesketh and Zhu, “Abnormal sex ratios in human populations;” Jiang and Sánchez-Barricarte, “Bride price in China.”

contribute to collective social normalization.<sup>98</sup> Forced childbearing encouraged by the “mother-in-law” stems from patriarchal expectations for men to continue the family line and relies upon gender-based violence and rape. Thus, socially constructed gender roles and pressures are active in encouraging women to exploit women within the bride-trafficking process.

Hierarchies of femininity also facilitate long-term control over the victim.

*“I ran away, leaving my daughter in that horrible place... it was freezing outside. I had no money... my daughter would either starve or freeze to death if she left with me.”<sup>99</sup>*

*“After we give birth, no one cares about us anymore... I did not give birth naturally, I had to have an operation. When I did this, the Chinese family told the doctor to cut a part of my womb so that I could not have any more children.”<sup>100</sup>*

By conflating freedom from forced marriage with the abandonment of a child, the “mother-in-law” ensures women are less likely to flee. By inflicting female genital mutilation (FGM) on the victim, the “mother-in-law” ensures the victim is unable to have any more children. These are both reliant upon the female gender and sex of the victim, which are therefore active in the exploitation of victims both within and beyond the forced marriage. In summary, the role of gender is more complex than a dichotomy that simply subordinates women and honours men.<sup>101</sup> Rather, socially constructed perceptions of gender operate on a continuum whereby hierarchies of femininity deem female brokers and “mothers-in-law” more powerful than victims. These hierarchies vary along the chronological stages as brokers operate in the short-term at migration and then leave, whereas “mothers-in-law” operate on a longer-term basis through the marriage and motherhood stages, maintaining exploitation in the long-term through childbirth and FGM. These hierarchies of femininity uphold patriarchal norms since they actively exploit – not empower – women.

## Structures Exploiting Women

Lastly, gender operates within and between the individual and structural levels of society.<sup>102</sup> Analysis so far has focused on the individual, but now turns to focus on how social

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<sup>98</sup> Hesketh and Zhu, “Abnormal sex ratios in human populations;” Hung, “Tortured between Two Hells,” 4; Jiang and Sánchez-Barricarte, “Bride price in China;” Qiu, Zhang and Liu, “Trafficking of Myanmar women for forced marriage in China;” Zhao, “Trafficking of women for marriage in China.”

<sup>99</sup> Sook Joo, North Korea, <http://antislavery.ac.uk/items/show/1863> (accessed 10 February 2022).

<sup>100</sup> Seng Ja Ban, Myanmar, <http://antislavery.ac.uk/items/show/2289> (accessed 10 February 2022).

<sup>101</sup> Tickner and Sjoberg, “Feminism,” 226.

<sup>102</sup> Barbara J. Risman, *Gender Vertigo* (New Haven: Yale University Press, 1998); Amy S Wharton, *The Sociology of Gender: An Introduction to Theory and Research*, 2<sup>nd</sup> Edition (West Sussex: John Wiley & Sons, 2012), 9.

constructions of gender are embedded into structural practices that play a key role in Chinese bride-trafficking.

The pressure to provide for one's family through marriage to a Chinese man is reported to be a push factor encouraging female migration to China.

*"I wanted to ensure my family's wellbeing, I had to marry a Chinese man. My family would live on the money they got from selling me."*<sup>103</sup>

*"My mother had no money and [I was told] I should help her by going to China and marrying a Chinese man."*<sup>104</sup>

The bride price also facilitates the forced marriage.

*"People would come to take a look at me... They would come and haggle over my price... I was eventually sold for 5,000 yuan."*<sup>105</sup>

*"The bride's price tag depends on her age and looks. The youngest and best-looking ones sell up to 20,000 yuan. A bride that's worth only 3,000 yuan is tough to sell."*<sup>106</sup>

Data did not include significant evidence of the structural exploitation of women in the latter chronological stage of *motherhood*.

Within migration there is a structural pressure for women to provide for their family through marriage to a Chinese man. This subversion of the male breadwinner model in favour of female provision perhaps demonstrates the contradictory nature of social constructs of gender.

Yet in both cases the female role is submissive to that of the male. In the traditional model, the female is submissive to the male breadwinner. In this model, the female provides through submission to a "husband" in a forced marriage in China. Therefore, the patriarchal belief of men as powerful over women is consistently upheld. This does not deem women passive. As earlier established, the extent to which women have agency in this decision to migrate is a key debate within literature, and this variation is mirrored in the data. However, women who decide to enter bride-trafficking to provide do so within the broader patriarchal context of submission.

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<sup>103</sup> Park Ji-hyun, North Korea, <http://antislavery.ac.uk/items/show/1714> (accessed 10 February 2022).

<sup>104</sup> Bopha B., Cambodia, <http://antislavery.ac.uk/items/show/1889> (accessed 10 February 2022).

<sup>105</sup> Park Ji-hyun, North Korea, <http://antislavery.ac.uk/items/show/1714> (accessed 10 February 2022).

<sup>106</sup> Chun Young-Hee, North Korea, <http://antislavery.ac.uk/items/show/1868> (accessed 10 February 2022).

The pressure for women to marry to provide is dependent on gendered assumptions. The structural commodification of women through the bride price is essential in ensuring the practice of is profitable for both traffickers and families of origin.

Moreover, the bride price also relies on socially constructed gendered expectations of marriage. Narratives show that expectations of femininity – namely, physical appearance, sexual history, and age – are utilised to determine the bride price. Yet the same expectations are not made of the men marrying these women.

*“Most of the men who buy their brides tend to be physically or mentally ill, extremely lazy, or the poorest men in the village... we were being sold to unmarriageable men”*.<sup>107</sup>

The bride price is further utilised to justify the exploitation of women within forced marriage

*“Last time my husband hit me, he even said: ‘You, do you have any idea how much I paid for you?’”*<sup>108</sup>

Thus, the bride price is a structural manifestation of social constructions of gender that facilitates and justifies the subordination of women before and during bride-trafficking.<sup>109</sup> In summary, social constructions of gender are embedded into structural practices that play a key and interdependent role in shaping power inequalities that perpetuate Chinese bride-trafficking.

### **A Multi-Level System of Gender**

To draw the three core themes together, it is evident that data paints a complex and nuanced picture of the dynamics of gender within Chinese bride-trafficking.

At the individual level, socially constructed perceptions of gender, and consequent power inequalities, operate on a continuum. Perceptions of masculinity and femininity sit at either extreme, forming a power imbalance between male perpetrators and female victims which facilitates and justifies the practice of Chinese bride-trafficking across the three chronological stages and beyond. Hierarchies of femininity also operate between these extremes, deeming female perpetrators (brokers and “mothers-in-law”) more powerful than female victims. At the structural level, constructions of gender are embedded into the structural pressure for women to provide through marriage to a Chinese man, and the bride price. These structural practices intersect with each other to support bride-trafficking.

To further develop this notion of intersectionality, it is argued that the three core themes of *men exploiting women*, *women exploiting women*, and *systems exploiting women* also operate

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<sup>107</sup> Sook Joo, North Korea, <http://antislavery.ac.uk/items/show/1863> (accessed 10 February 2022).

<sup>108</sup> Kang Sun-Mi, North Korea, <http://antislavery.ac.uk/items/show/1871> (accessed 10 February 2022).

<sup>109</sup> Stöckl *et al.*, “Trafficking of Vietnamese women and girls for marriage in China,” 1.

interdependently as they intersect to form a multi-level system of gender. This is illustrated across the three chronological stages in turn.

*“I believed her and thought I was so lucky... The broker told me there would be no need to use [my ID card] in China, and if someone found it, they would know we were illegal. So that’s why she took the ID card... Me and my friend tried to stay together... But the Chinese men got mad and dragged us apart.”<sup>110</sup>*

Within the migration process a female broker (*women exploiting women*) acts through deception and the confiscation of identity documents. She operates in collaboration with a male broker (*men exploiting women*) who physically controls the victim.

*“A woman from my village called and said that my mother had no money and I should help her by going to China and marrying a Chinese man. She herself had married her two daughters off to Chinese men and they sent her [money].”<sup>111</sup>*

Additionally, a female broker (*women exploiting women*) utilises the bride price and consequent female pressure to migrate to support their family (*systems exploiting women*) to coerce the victim’s migration to China.

*“Last time my husband hit me, he even said: ‘You, do you have any idea how much I paid for you?’”<sup>112</sup>*

Within the forced marriage, gender-based violence (*men exploiting women*) intersects with the bride price (*systems exploiting women*) to justify control over the victim within forced marriage

*“I don’t know why they beat me. One day they beat me a lot. Even the neighbour came to the house and tried to stop them. When the neighbour stopped the mother, then the son beat me again. When the neighbour stopped the son, then the mother beat me... I did not know what to do. I was bleeding from my nose and my mouth... No matter what, they beat me.”<sup>113</sup>*

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<sup>110</sup> Seng Ja Ban, Myanmar, <http://antislavery.ac.uk/items/show/2289> (accessed 10 February 2022).

<sup>111</sup> Bopha B, Cambodia, <http://antislavery.ac.uk/items/show/1889> (accessed 10 February 2022).

<sup>112</sup> Kang Sun-Mi, North Korea, <http://antislavery.ac.uk/items/show/1871> (accessed 10 February 2022).

<sup>113</sup> Ja Tsin Mai, Myanmar, <http://antislavery.ac.uk/items/show/2294> (accessed 10 February 2022).

Moreover, there he physical violence female victims suffer within forced marriage is inflicted by both the “husband” (*men exploiting women*) and “mother-in-law” (*women exploiting women*).

*“In the beginning they locked me in a room... the Chinese [boy] and I slept together but we never had sex, because we did not know about it. After two months, his parents took us and checked in the hospital to see if I was pregnant or not. They saw—no pregnancy. Then the mom complained. She talked to her son—my husband—and gave him some sex films to watch. Then... we started having sex.”<sup>114</sup>*

Lastly, within forced childbearing, the control of the “mother-in-law” (*women exploiting women*) is realised through the gender-based violence and rape inflicted by the “husband” (*men exploiting women*).

Therefore, the role of gender within Chinese bride-trafficking is most accurately understood as a multi-level system whereby multiple social constructions of gender operate both individually, and in collaboration with each other, to facilitate, justify, and perpetuate Chinese bride-trafficking. This multi-level system ultimately reflects broader patriarchal norms. This has been demonstrated across time (the three chronological stages of *migration, marriage, and motherhood*); across levels of society (individual and structural); and across different models of socially constructed gender relations (*men exploiting women, women exploiting women, and systems exploiting women*).

## Limitations

This study holds several limitations which invite further research to explore the role of gender in Chinese bride-trafficking. Firstly, data is bias towards victims from Myanmar and North Korea and is therefore not necessarily representative of the four nations. The field would benefit from further research assessing the discrepancies and similarities in the role of gender between different source countries. Secondly, data focuses on *survivor* narratives, and consequently does not account for women who may still be trapped in forced marriage. Thus, although perhaps practically unfeasible, further empirical research with a focus on women still in forced marriage would be highly valuable. Thirdly, there is an assumption of heteronormativity throughout this research, and this article does not fully consider the role of masculinity within Chinese bride-trafficking. Further research considering non-heteronormative and male perspectives, specifically those of Chinese “husbands”, would be useful in further understanding how varied femininities and masculinities operate in the social problem. Lastly, social constructs of gender likely intersect with other factors including age, nationality, language barriers, and cultural differences. The data analysed here does not speak to these factors, and further research specifically interested in this would be beneficial.

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<sup>114</sup> Nang Nang Tsawm, Myanmar, <http://antislavery.ac.uk/items/show/2291> (accessed 10 February 2022).

## Conclusion

Existing research concerning Chinese bride-trafficking acknowledges the role of gender in this social problem, contending that ‘bride-trafficking is, at its core, a profound expression of gender discrimination’.<sup>115</sup> However, understanding of *how* gender operates is limited by unconnected studies, a focus on causes, and limited consideration of survivor voices. Therefore, this research presents a unique contribution to literature by specifically analysing the role of gender throughout the process of Chinese bride-trafficking. Analysis is drawn directly from narratives, giving precedence to survivor voice.

Findings and analysis paint a complex and nuanced picture of how these socially constructed perceptions of gender form a multi-level system that operates throughout Chinese bride-trafficking to play a core role by dictating gendered imbalances of power which both facilitate and justify the practice. The detailed understanding of how gender operates in Chinese bride-trafficking presented in this article provides a comprehensive, survivor-informed framework that can be utilised in further research.

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<sup>115</sup> Stöckl *et al.*, “Trafficking of Vietnamese women and girls for marriage in China,” 8.

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# Human Rights Through the Eyes of Bonded Labourers in India

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## Abstract

Human rights are one of the most characteristic ideas of our time and human rights talk is widely used today to discuss various problems, including modern slavery. The human rights-based approaches to slavery are adopted by various development actors. This paper aims to examine how human rights are understood by Indian bonded labourers who participate in rights-based programs run by NGOs. The paper demonstrates the links between the concepts of human rights, human dignity and normality and argues that the discourse of human rights provides a powerful foundation for development of agency among bonded labourers.

**Keywords:** slavery, bonded labour, human rights, India, polyphony

## Introduction

Human rights are one the most characteristic ideas of our time. The references to human rights became a commonplace in many discussions, including the ones on transnational migration, international relations, human trafficking, and modern slavery. However academic literature on human rights contains lively debates on their nature and universality. Human rights are widely criticized for being western-centric ‘devices of exclusion’ of people in the Global South<sup>1,2</sup>. Several scholars argue that human rights are a product of an imperialist discourse of domination that operates in a top-down fashion and legitimizes Western powers to intervene in political and economic affairs in the Global South<sup>3,4</sup>. At the same time, there is a growing number of studies that discuss the role of human rights in social movements and resistance

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<sup>1</sup> Adamantia Pollis and Peter Schwab, *Human rights: new perspectives, new realities*. (Boulder, Lynne Rienner Publishers, 2000).

<sup>2</sup> Gayatri Chakravorty Spivak. ‘Righting wrongs’, *The South Atlantic Quarterly*, 103, 2, (2004), 523-581.

<sup>3</sup> Spivak, ‘Righting Wrongs’, 523-581.

<sup>4</sup> Slavoj Žižek, *Against Human Rights*. (Delhi, Routledge India, 2012).

against poverty and oppression<sup>5,6</sup>. These studies argue that the discourse of human rights is effectively adopted by grassroots groups for their purposes<sup>7,8,9</sup>.

Studies that examine the role of human rights in social movements argue that human rights should be understood in relation to the local contexts<sup>10</sup>. Human rights are constantly constructed and re-constructed through actual struggles and by people's understanding of "what they are justly entitled to"<sup>11</sup>. Using the words of Baxi the oppressed and suffering people remain "the primary authors of human rights"<sup>12</sup>. The roots of human rights can be found in experiences of injustice and suffering of people from all over the world. This approach sees rights as a political process "in which people translate their needs and aspirations for a better life into demands and enforceable commitments"<sup>13</sup> and in this way give "voice to human suffering"<sup>14</sup>. This means that human rights are rooted in ideas of the illegitimacy of suffering and cruelty and "demand for an end of domination and oppression"<sup>15</sup>, and therefore they implicitly challenge the structures of power and oppression.

While this perspective shows that human rights can be understood as a 'discursive formation'<sup>16</sup> that is born from the interplay between global and local realities and frameworks, it also opens up a discussion on possible interpretations of human rights and their role in social

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<sup>5</sup> Neil Stammers, 'Social movements and the social construction of human rights', *Human Rights Quarterly*, 21, 4, (1999), 980-1008.

<sup>6</sup> Sally E. Merry, 'Transnational Human Rights and Local Activism: Mapping the Middle', *American Anthropology*, 108, (2006), 38-51.

<sup>7</sup> Mark Goodale, 'The Power of Right(s): Tracking Empires of Law and New Modes of Social Resistance in Bolivia (and Elsewhere)', *The Practice of Human Rights: Tracking Law Between the Global and the Local*. (Cambridge, Cambridge University Press, 2007), 130 -162.

<sup>8</sup> Celestine Nyamu-Musembi, 'An Actor Oriented Approach to Rights in Development.' *IDS Bulletin*, 36, 1 (2005), 41 – 51.

<sup>9</sup> Ariadna Estévez 'Human rights in contemporary political sociology: The primacy of social subjects', *Human Rights Quarterly*, 33, (2011), 1142.

<sup>10</sup> Stammers 'Social movements and the social construction of human rights', 980-1008.

<sup>11</sup> Nyamu-Musembi 'An Actor Oriented Approach to Rights in Development'. 41-51.

<sup>12</sup> Upendra, Baxi, 'Voices of Suffering and the Future of Human Rights', *Transnational Law and Contemporary Problems*, 8, (1998), 125- 170.

<sup>13</sup> Lisa VeneKlasen; Valerie Miller; Cindy Clark, and Molly Reilly, *Rights-based approach and beyond: challenges of linking rights and participation*. (Brighton, Institute of Development Studies, 2004), 34.

<sup>14</sup> Baxi 'Voices of Suffering and the Future of Human Rights', 127.

<sup>15</sup> Michael Goodhart, 'Human Rights and the Politics of Contestation', Goodale M. (ed.). *Human Rights at the Crossroads*. (Oxford, Oxford University Press, 2013), 31.

<sup>16</sup> Ariadna Estévez, 'Human rights in contemporary political sociology: The primacy of social subjects', *Human Rights Quarterly*, 33, (2011), 1142.

mobilisation around local and global injustices. Many studies argue that human rights are utilized by various local movements, but only few studies focus on the way in which local people understand human rights<sup>17</sup>. This paper aims to examine local understandings of human rights by bonded labourers in India that participate in human rights-based programs organized by international and local NGOs.

Bonded labour defined as “the status arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt”<sup>18</sup> can be found in almost all sectors of economy in India from agriculture to mining and garment production<sup>19</sup>. This paper examines agricultural bonded labour among the Sahariya tribe. Drawing on extensive ethnographic research, this paper argues that bonded labourers understand human rights as closely linked with the ideas of equality and abnormality of enslavement and social segregation. The paper shows that this local understanding of human rights may provide a foundation for resistance ‘from below’<sup>20,21</sup> against bonded labour and everyday oppression of marginalized indigenous people.

### **Theoretical lens: multivocality of discourses**

Human rights draw on international law with its conventions, declarations and protocols as well as national legislation. The Indian Constitution provides a wide range of rights and freedoms, starting from the right to live in dignity to the right to social protection and support. Articles 21, 23, 29, 33, and 42 directly prohibit all forms of slavery, trafficking in person, and deprivation of personal liberty, and promote just conditions of work. Moreover, the Bonded Labour System Abolition Act 1976 explicitly declared that all forms of debt bondage are illegal. Additionally, there are several laws that aim to protect indigenous (Adivasi) people along with a full range of governmental schemes that should support the most vulnerable groups, including the Public Distribution Scheme, Mahatma Gandhi National Rural Employment Guarantee (MGNREGA), and National Old Pension Scheme.

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<sup>17</sup>Sally E. Merry; Peggy Levitt; Mihaela S. Rosen; & Diana H. Yoon, ‘Law from below: Women’s human rights and social movements in New York City’, *Law & Society Review*, 44, 1, (2010), 101-128.

<sup>18</sup> Supplementary Slavery Convention, Article 1a.

<sup>19</sup> Elena Samonova, *Modern Slavery and Bonded Labour in South Asia: The Human Rights-Based Approach* (London, Routledge, 2019).

<sup>20</sup>Santos, Boaventura de Sousa, and César A. Rodríguez-Garavito. “Counter-Hegemonic Globalization.” *Law and globalization from below: towards a cosmopolitan legality* (2005), 1.

<sup>21</sup> Sally E. Merry, Peggy Levitt; Mihaela S. Rosen; and Diana H. Yoon, ‘Law from below: Women's human rights and social movements in New York City.’ 101-128.

While human rights are universal, grassroots actors have to elicit the meaning of a “human” in each context and find ways to apply these global ideas to the local realities<sup>22</sup>. Merry calls this process vernacularization or adaptation of global ideas to local contexts and meanings<sup>23</sup>. To capture this process, I utilize the postmodern paradigm which understands social processes as the fluid field of multiple agencies and meanings. Human rights discourse from this perspective comprises a variety of meanings, experiences and perspectives of heterogeneous groups and actors. To navigate through this complex and sometimes contesting sea of voices I use the concept of polyphony first developed by a Russian philosopher Mikhail Bakhtin.

The term polyphony emerged in Bakhtin’s analysis of the novels of Dostoevsky that include a “multiplicity of independent and unmerged voices and consciousness each with equal rights and its own world”<sup>24</sup>. The narrative of the novel is presented through the eyes of multiple actors and its complexity arises through actors’ counter-looks on life. For Bakhtin, such a polyphonic narrative stays in direct opposition to the monologic discourse that “is a discourse where only one point of view is represented”<sup>25</sup> and which “denies the existence outside itself of another consciousness with equal rights”<sup>26</sup>. Polyphony, in turn, implies a dialogue with the world that is never finished but is always open to new voices, new interpretations, worldviews and positioning.

While this concept of polyphony emerged within the field of the literature studies, it was later applied by various authors to other fields<sup>27,28</sup>. It is often seen as a useful alternative to the traditional positivist discourse and is used in pedagogy, social sciences and gender studies as a way to challenge the dominant discourse by introducing voices of others into the narrative and destabilising the finalized stories by adding new viewpoints and meanings<sup>29</sup>.

If we look at human rights as a polyphonic discourse, we have to admit that there is no dominant and privileged interpretation, but rather a multiplicity of interpretations and meanings associated with it. This means that the perspective of bonded labourers on human rights contain

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<sup>22</sup>Sally E. Merry, ‘Transnational Human Rights and Local Activism: Mapping the Middle’, *American Anthropology*, 108, (2006), 38-51.

<sup>23</sup> Sally E. Merry ‘Transnational Human Rights and Local Activism: Mapping the Middle’, 38-51.

<sup>24</sup> Mikhail Bakhtin, *Problems of Dostoevsky’s poetics* (trans. C. Emerson). (Minneapolis, University of Minnesota Press, 1984), 208.

<sup>25</sup> *Ibid*, 290.

<sup>26</sup> *Ibid*, 292.

<sup>27</sup> Steven A Tyler, ‘Post-modern ethnography: From document of the occult to occult document’, *Writing culture: The poetics and politics of ethnography*. J. Clifford and G. E. Marcus (eds), (Berkeley, University of California Press, 1986), 122-140.

<sup>28</sup> Marshall M. Rhodes, *Orality, print and popular culture: Thomas Nashe and Marshall McLuhan*, (London, Routledge, 2016).

<sup>29</sup> C. Rhodes, ‘D’Oh: The Simpsons, popular culture, and organizational carnival’, *Journal of Management Inquiry*, 10/4, (2001), 374–383.

the same importance as an interpretation of a lawyer in Geneva. Moreover, these two interpretations may come into a dialogue with each other producing a vibrant interplay of meanings. Such a polyphonic perspective allows us to acknowledge the voices of marginalized people in human rights talk and capture their ways of making sense of global concepts.

## Methods

The paper draws on qualitative data collected during two rounds of fieldwork that took place between November 2015 and December 2016. Each field visit lasted 2 months. The fieldwork was conducted in six villages: two in Kishanganj block and one in Shahabad block of the Baran district in Rajasthan and as well as three in the Sheopur district in Madhya Pradesh. The villages were selected based on the number of Sahariya people living there (up to 60% of the whole village population), high level of Sahariya's involvement in the activity of the right-based NGOs in the area, and accessibility by car/bus.

The main method of inquiry were in-depth semi structured interviews and group discussions with bonded labourers and ex-bonded labourers who were liberated by NGOs in the recent past. In total, 15 individual interviews and 7 group discussions were conducted. The groups consisted of up to 10 people, an optimal sample size because it allows active participation of all group members and provides insights into a variety of experiences. To avoid gender bias, I conducted three types of group discussions with mixed groups, male groups, and female groups. The participants were landless agricultural labourers between 20 and 60 years old. Additionally, I conducted interviews with local activists and staff of NGOs that work in the field to gather a fuller picture of the policies and practices on bonded labour in the region.

Due to my yet limited knowledge of Hindi, which is the native language of the Sahariya tribe, local interpreters (male and female) translated and transcribed the interviews for me. To avoid possible biases and meaning losses in translations I conducted a training with the interpreters beforehand, explained the main purpose of the study and went through all interview questions to make sure that they understand the intentions of these questions. Interviews with NGO staff were conducted in English and transcribed by me.

I interpreted the data with the help of grounded theory in order to identify the links and connections between various sets of data<sup>30</sup>. In contrast to other research methods, in grounded theory analysis of data takes place directly during the process of data collection when a researcher develops categories and tests hypotheses through constant comparison with new data. I tried to conduct the first stages of analysis as soon as possible, usually directly after interviews and group discussions. To analyse the data, I applied the rules of circular deconstruction during which I broke my data down into meaningful segments to develop main categories and concepts. Later these codes were grouped in conceptual categories such as 'human-rights' 'de-humanisation' 'normality'.

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<sup>30</sup> Anselm Strauss and Juliet Corbin, *Basics of Qualitative Research: Grounded Theory Procedures and Techniques*, (London, SAGE, 1990).

As any ethnographic study, this research has its limitations. While the use of ethnographic methods allows to gain deeper insights into the lived experiences of participants, the small sample does not allow to generalize the findings. Additionally, the position of the qualitative researcher raises important questions related to power, accountability, and reciprocity. There is always a danger of misinterpretations and cultural bias that I tried to reduce through the extensive work with local interpreters and building trustful relationships with participants. Additionally, the use of qualitative methods made the issue of research ethics vital, that is why I always reassured the participants that their names would not be mentioned in any occasion and that they could withdraw from the study at any point. All names used in this paper are pseudonyms.

### **Agricultural bonded labour among Sahariya people**

The Sahariya tribe (also written as *Saharia*, *Sehariya*, and *Seheria*) belongs to the Adivasi group or indigenous inhabitants of India. Today, most Sahariyas live in three Indian states: Rajasthan, Madhya Pradesh and Uttar Pradesh. This study focuses only on the experiences of people living on the border between Rajasthan and Madhya Pradesh. The Sahariya people have traditionally lived deep in forest and were not included in the dominant Hindu and Muslim social systems. They formerly practiced shifting cultivation and collected minor forest produce such as tendu leaves, honey, and some medicinal herbs. For centuries the Sahariya had little, if any, contact with the outside world, but as in the case of other Adivasi groups in India, this traditional status quo was challenged in the 20th century.

New forest policies, non-recognition of traditional agricultural practices such as shifting cultivation and communal land ownership, as well as illiteracy and unawareness of the tribal people led to the inability of many Sahariyas to register the land they used as their legal property. The massive migration into the region also contributed significantly to the loss of land by the Sahariya tribe. The majority of migrants belong to a relatively wealthy group of Sikhs from the states of Punjab and Haryana, who moved to Rajasthan and Madhya Pradesh to find cheap and fertile land. Studies conducted by NGOs and activists show that not all the land used by these landlords was legally purchased<sup>31,32</sup>.

The practice of bonded labour among Sahariya people begins with a debt taken by a poor and often landless peasant. Labour in this case is a collateral to the loan, which means that theoretically bonded labourers can repay the loan and free themselves. However, the system functions in such a way that repayment of a loan is almost impossible, and debt bondage in the region has a long-term and often intergenerational character. The common opinion among bonded labourers was that once a person enters in this circle of exploitation it is almost

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<sup>31</sup> Doosra Dashak. *Women's Empowerment through Community Actions*. (Gwalior, Unpublished Report, 2016).

<sup>32</sup> Pamela, Philipose, *Tomorrow Will Not Be Like Yesterday. Sahariya Tribals Emerge from the Shadows*. (New Delhi, ActionAid. 2014).

impossible to leave it without external assistance. Ram, one of bonded labourers living in Kishanganj district of Rajasthan describes his situation as follows:

*I worked there for one year and in one year I got only Rs.<sup>33</sup> 300 per year and 40 kg grain for food and that's it. And at the end of the year after working I could not repay it [debt] because the interest was there, and it was added to my money. So, I have to work for this person till the debt is repaid.*

It is mostly a male head of family who makes such contracts with landlords; however, it does not mean that only men are bonded as contracts between landlords and debtors often deny the freedom of the whole family. In many cases wife and children of a bonded labourer are forced to work for the same landlord for long hours and with minimal payment (or without any payment at all). However, even in the cases when a landlord does not require the labour of the whole family, family members of a bonded labourer are not allowed to work elsewhere. As Aisha who is married to a bonded labourer explains:

*Like one is bonded, the whole family like the wife, sisters, daughters, whoever it is, they cannot work on someone's farm, in someone's house, in fact they cannot do anything for someone else. They just live with this person [bonded labourer] and when they have some problems in their life, they again will take the money from that landlord.*

This practice does not only significantly limit the family income but also enables the landlord to exercise total control over the whole family of his bonded labourer. Once Sahariyas take a loan and enter the bonded labour agreement, they lose not only the ability to change an employer and to choose the nature of the work they perform but also freedom of movement and even freedom to determine their social routines as most landlords clearly prohibit them from engaging in any community gatherings. While discussing their lives, most bonded labourers stress that this lack of control over their own lives is the most significant negative consequence of their loan. At the same time, most of the research participants did not see any other way to survive and access cash in times of crises other than taking a loan. As one of the female bonded labourers explained:

*We do not sit at home, we work every day, but the money is enough for food only. If a single problem comes to our life, like health [issue], we take money from the landlord and become bonded. We don't have anything like jobs, other sources of income, nothing and that's the major problem. Everybody works, and nobody is free.*

This narrative of work that is not enough to survive in crisis times is very common in interviews with bonded labourers. The destruction of their traditional way of life and alienation

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<sup>33</sup> Rs means Indian Rupee

of resources without provision of meaningful alternatives led to degradation of these groups to a pool of cheap labour that can be secured through exploitative labour agreements including debt bondage. Thus, debt can be seen as a by-product of the whole situation of multiple vulnerability, dispossession and chronic poverty in which Sahariyas live. This status-quo between Sahariyas and landlords is largely supported by violence/ threat of violence and internalized powerlessness. Fear of being beaten and abused is a constant theme in interviews with bonded labourers. Hemraj who lives in Sheopur district of Madhya Pradesh explains their situation as follows:

*Landlords are often cruel to us and they beat us. We cannot complain to the police because we are afraid of landlords. Every landlord has a gun.*

The other common narrative is the absence of any hope for a better life. Most bonded labourers who do not receive support from an NGO do not believe that they will ever have a chance to escape from this situation of constant exploitation. As Nardev, a young bonded labourer, says:

*I cannot come out of this because I don't have enough income. I will live like this my whole life. All other people in my village are in the same condition, so no one can help me. This is a lifelong process.*

Hemraj who lives in the same village agrees with Nardev, claiming that they are 'under landlords like slave' and cannot do anything to help themselves.

Following the tradition of Paulo Freire<sup>34</sup> this situation can be called 'de-humanization' meaning that through the denial of personal freedom, bonded labourers are denied their status of human beings as active subjects of their own will. Sahariya bonded labourers are seen as objects of possession and means of labour rather than subjects of their own agency. As interviews show this view is shared not only by landlords who are interested in constant supply of cheap labour but also by bonded labourers themselves who internalize this low position in the society.

### **Human rights-based approach and bonded labour**

The problem of bonded labour in the region has attracted attention of several national and international NGOs. These NGOs apply various approaches, including rights-based approaches to bonded labour, which draw on the broad understanding of rights as struggles for social justice. Such NGOs focus on the relationships between rights holders and duty bearers to empower rights holders to claim their rights, hold duty bearers accountable for rights violations, and to help duty-bearers fulfil their obligations towards rights holders and to develop their ability to protect and

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<sup>34</sup> Paulo Freire, *Pedagogy of the Oppressed*. (London, Penguin Books, 1970).

fulfil human rights<sup>35,36</sup>. Bonded labourers, in these approaches, are seen as active subjects of their own development that are able to act towards the transformation of the oppressive structures, which should happen from below, driven by the most oppressed and marginalized people<sup>37,38</sup>.

In Rajasthan and Madhya Pradesh, the right-based approach to bonded labour is actively implemented by several grassroots NGOs which are technically and financially supported by international rights-based organisations. The main focus of their interventions is collective empowerment, the mobilization of people, building of local leadership and support of the grassroots groups and organizations. These rights-based programs include such components as awareness raising, the establishment of links between marginalized people and their rights guaranteed by the national laws and international human rights law, as well as lobby and advocacy work on the level of local and national governments. In this way, the rights-based strategies focus on the development of people's capacities to challenge existing norms and accepted practices, as well as support peaceful protests in order to exert pressure on the government and achieve some changes in the legal system and practical implementation of this system.

As the phenomenon of bonded labour itself can be seen as an expression of deep power imbalance within the society and long-term marginalisation of the Sahariya people, the application of the rights-based approach to this issue seems to be a suitable answer to this problem because this approach focuses on the root causes of the violation of human rights and the underlying power structures through creation of new sources of power within the community and redistribution of existing power. Empowerment and participation of bonded labourers potentially can challenge internalized beliefs and practices of subordination and help to hold duty bearers accountable for the non-implementation of rights. That bonded labour is internationally and nationally seen as an illegal practice can provide a solid foundation for claim making processes, which allows making direct claims about basic rights without a fear that these claims will be seen as too general and not concrete.

At the same time, human rights are a foreign concept brought to the area by international NGOs that has no local parallels, which raises the question about the local interpretation of human rights. As Merry (2006) argues, middlemen such as NGO workers play a significant role in the translation of human rights discourses to local realities. Sahariya bonded labourers would hardly come across these ideas without an external assistance of rights-based NGOs. At the same

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<sup>35</sup>Elena Samonova, *Modern Slavery and Bonded Labour in South Asia: The Human Rights-Based Approach* (London, Routledge, 2019).

<sup>36</sup> Sam Hickey and Diana Mitlin, 'Introduction', Hickey S. & Mitlin, D. (eds). *Rights-based approaches to development*. (Sterling, Kumarian Press, 2009), 3-20.

<sup>37</sup> Chris Jochnick and Paulina Garzon, *Rights-Based Approach to Development. An Overview of the Field*. (New-York, CARE/Oxfam-America, 2002).

<sup>38</sup> Urban, Jonsson, *Human rights approach to development programming*. (Nairobi, UNICEF, 2003).

time, it is also important not to diminish the ability of local people to interpret concepts presented by NGO workers (and acknowledge the fact that these interpretations do not always reflect the position of NGO staff) and develop their own understandings of human rights, contributing to the multiplicity of the discourse.

### **Bonded labourers and the concept of human rights**

During the interviews the words ‘rights’ and ‘obligations’ were widely used by those bonded labourers who participated in rights-based programs of NGOs. The analysis of the data revealed two main connotations of the concept of right that are interconnected with each other. The first connotation refers to the national legislation and the duties of the government towards the citizens, which also includes social protection measures introduced by the government. Bonded labourers speak about the national legislation and their rights to food security and education. Interestingly, Sahariyas do not make a distinction between the national laws, state laws, and social welfare schemes, and call all of them “laws”. They claim that these “laws” provide the minimum security that is necessary for “normal life”:

*We know that there are laws that should support us. We know that we have rights to a lot of things. The government says that we should receive support and live like other people, the government promises us food and housing, so we could have a normal life like other people, like landlords...*

The narrative of ‘normal life’ is present in most interviews with Sahariya people. A ‘normal life’ for them means having such basic resources as adequate food, water and fuel, shelter, education for children, and access to government services, including ration cards and pensions. Sometimes, these entitlements are framed as ‘promises’ that the government makes under the framework of various social programs for the most vulnerable people. At the same time, it is clear from interviews that ‘to have rights’ in this context means to be able to access an entitlement rather than to know that it exists on paper. As one of the bonded labourers, Raj, puts in a group discussion on the access to social welfare services and MGNREGA scheme “we have all papers, so we can show it, but we have no rights”, meaning that despite having all required documentation they cannot access the service they are entitled to.

This concept of ‘normal life’ or ‘normality’ that should guarantee the fulfilment of rights is closely connected with the second connotation of rights, namely “humanity” of bonded labourers. For bonded labourers the fact that there are ‘rights’ (e.g., laws and social protection programs) designed for them means that they are “normal people”, equal to the landlords and the other people in the village. “Normal people”, in turn, should have equal access to food, labour market, and education. This link makes clear that the oppression and extreme poverty in which they live is not ‘normal’ and bonded labour is not a traditional agricultural practice as some of the landlords argue but rather something that should not take place.

As we have seen above, bonded labour can be described as a process of ‘de-humanisation’ which means that bonded labourers are denied their status of agents and human beings. The concept of ‘normality’ can be linked with the opposite process of re-humanisation or restoration of human dignity that is required for the deconstruction of oppressive relationships. The awareness of one’s own ‘normality’ and ‘equality’ supports the deconstruction of internalized oppression and positively influences self-image in the eyes of bonded labourers. Thus, the idea of rights reinforces the wish of bonded labourers to be treated like “normal people” and provides a powerful and legitimate foundation for their struggles against exploitation. As Saya, who is still bonded along with her husband, mentioned:

*There was a time 2 or 3 years ago when we were so suppressed that we were afraid to even report about our problems, because our owners live in the same villages as we, and if they came to know that someone is talking to a stranger it could be [not good]. Now we aren't afraid to talk to you. We are not afraid to criticize the state and the owners [landlords]. We know that we have some problems, and we have a hope that these problems will be solved in the future.*

This testimony demonstrates that the concept of rights helps people to regain the feeling of their “normality” and equality to others, as well as encourages them to resist the oppressive relations. As bonded labour is illegal, the protests against such practices are not the expression of discontent and rebellion against the government but rather social and political participation of citizens of the country in their attempts to hold the government accountable<sup>39</sup>. The inclusion of social welfare programs within the concept of ‘rights’, in turn, provides a basis for valid claims addressing the root causes of bonded labour, including the claims for implementation of the social welfare schemes and labour rights.

At this point, two connotations of human rights come together: on the one hand, the knowledge of rights promotes the ideas of equality and ‘normality’ that supports the ability to resist the oppression; and on the other hand, this knowledge provides the instruments to such resistance within the legal and political framework, which supports the development of peaceful protest strategies. In other words, the concept of rights supports both the empowerment of bonded labourers and their ability to claim their rights using existing legal ways of protests.

At the same time, bonded labourers remain very aware about the local power dynamics in their communities and do not believe that a simple submission of claims will solve their problems. They are also not able to leave their landlords unless the official document on their liberation is produced by the government, as otherwise the landlords require that they repay their debts and threaten them and their families. These official documents, in turn, are difficult to receive without the support of NGOs and the willingness of local authorities and the latter is hard to secure. Corruption and close local personal and family contacts between landlords and local

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<sup>39</sup>Elena Samonova, *Modern Slavery and Bonded Labour in South Asia: The Human Rights-Based Approach* (London, Routledge, 2019).

officials are often mentioned in interviews as main obstacles not only to the liberation from bonded labour but also to proper implementation of social welfare schemes. In one of the group discussions participants described their problems with the owner of a local shop with subsidized prices, claiming that in this shop they are often denied the access to goods they are entitled to under the government scheme:

*There is [his] family here, he is a member of a family from here. You can complain [about] this person, but you know that he won the tender, and he is the only supplier here, he knows everything and everyone. Who would you complain to, he is the government, you can't do anything about it...?*

However, participants of this group discussion agreed that now they at least know that what happens is wrong and that they have the right to access the amount of food and fuel that is defined by the government and not by the shop-owner. They reveal that they have less fear to criticize landlords and other important stakeholders in their areas knowing that there are some ways to oppose them or at least reduce the everyday burden of poverty through advocacy of proper implementation of social welfare programs.

## **Conclusions**

This paper examined local interpretation of human rights by bonded labourers in northern India. I argued that human rights is a multivocal discourse that should be understood as a polyphonic formation consisting of various meanings and interpretations. The paper has shown that for Sahariya bonded labourers human rights mean acknowledgement of their own 'normality' and the right to live free from oppression and extreme poverty. In the context of the structural oppression and systematic "de-humanisation" of bonded labourers, such interpretation of human rights can positively affect self-image, reduce fear to oppose the oppression and motivate bonded laborers to raise their voices against injustice and search for appropriate methods of resistance. While it remains unclear whether these changes in perceptions and practices will lead to the real liberation of bonded labourer, the analysis clearly shows that human rights discourse can serve as a tool for resistance against injustices at the grassroots level. While local interpretations of human rights can support the deconstruction of ideologies of dehumanization and open democratic spaces of resistance, they do not exist in vacuum but are rather linked to the global discourses of life in dignity and freedom from fear. Local narratives of violence, forced labour, minimum remuneration, and systematic ethnic-based discrimination easily fit into the broader discussion on social justice, and the local focus on rights as legitimation of human dignity and equality can be placed within the global debates on human rights as tools against poverty and discrimination. These links illustrate the polyphonic nature of human rights that comprise experiences of suffering from all over the world and create a complex picture of different voices talking about similar issues from different perspectives.

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# Campaigning Against Modern Slavery: Social Assets for Business Action

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## Abstract

One of the great challenges to campaigning against modern slavery is the availability of financial resources. Yet businesses have considerable social assets that can act as a major resource for meaningful anti-slavery campaigns. Inspired by social capital theory, this article reviews the Co-op's modern slavery campaign of 2017–2020 with the aim of identifying social assets that can be utilised by businesses in campaigning against modern slavery. It identifies four assets inherent in most businesses—identity, leadership, networks, and people, and discusses how these were leveraged by the Co-op to contribute to anti-slavery action.

**Keywords:** Modern slavery, business, campaigning, social capital, social assets

## Introduction

Modern slavery is an umbrella term used to describe a range of exploitative practices such as slavery<sup>1</sup>, forced labour<sup>2</sup>, human trafficking<sup>3</sup>, and related practices. It is estimated that 40.3 million people are enslaved worldwide.<sup>4</sup> Of these, 24.9 million are said to be exploited in

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<sup>1</sup> Slavery is defined by the 1926 Slavery Convention as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”

<sup>2</sup> Forced Labour is defined by the International Labour Organization's Forced Labour Convention 1930 (No. 29) as “all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily.”

<sup>3</sup> The United Nations Protocol to Prevent Suppress and Punish Trafficking in Persons 2000, defines human trafficking as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”

<sup>4</sup> “Global Estimates of Modern Slavery,” Global Slavery Index, accessed January 20, 2022, <https://www.globallslaveryindex.org/>.

forced labour, with 16 million in the private sector in high-risk industries such as construction, agriculture, and manufacturing. As part of the United Nations' 2030 sustainable development agenda, there is a global call for action to take immediate and effective measures to eradicate forced labour, and end modern slavery and human trafficking.<sup>5</sup> Whilst no country is immune to the problem of modern slavery, certain factors can increase the risk of slavery occurrence. This includes low worker protection stemming from inadequate laws and government accountability, limited employment opportunities, and widespread discrimination against certain groups and communities.<sup>6</sup>

Modern slavery is a multifarious issue, prevalent in most supply chains globally. The supply chain management practices and business operations may considerably increase modern slavery risk. These practices include the global sourcing of products, services, and materials from at-risk countries facing issues such as corruption and economic hardship, and the use of complex subcontracting arrangements and unethical recruitment practices occurring throughout supply chains. More recently, businesses have been brought into the heart of the anti-slavery agenda due to the adverse impacts caused or linked to the activities occurring throughout their operations and supply chains. Organisations are under increasing pressure and scrutiny to ensure that they undertake due diligence on modern slavery and there have been several factors driving corporate action such as legal, financial, reputational, and commercial drivers.<sup>7</sup>

At the time of writing, COVID-19 has demonstrated the need for more resilient and responsible supply chains as the pandemic has exacerbated the risk of modern slavery. Victims have faced increased vulnerabilities such as financial insecurity, lack of adequate welfare and support provisions, and threats to health and safety. This was brought about by measures adopted to respond to the pandemic such as national lockdowns, restriction of movement and relaxation in labour regulations and enforcement.<sup>8</sup> There have also been significant shocks and disruptions to supply chains such as the cancellation of contracts, the closure of work places and heightened

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<sup>5</sup> United Nations. "Transforming our World: The 2030 Agenda for Sustainable Development." 55 Geneva, 2015.

<sup>6</sup> Stefan Gold, Alexander Trautrim, and Zoe Trodd, "Modern Slavery Challenges to Supply Chain Management," *Supply Chain Management: An International Journal* 20, no. 5 (2018): 488-489.

<sup>7</sup> Stephen New, "Modern Slavery and the Supply Chain: the Limits of Corporate Social Responsibility?" *Supply Chain Management: An International Journal* 20, no.6 (2015): 697-707 ; Anthony Flynn, "Determinants of Corporate Compliance with Modern Slavery Reporting," *Supply Chain Management: An International Journal* 25, no.1 (2019) 1-16.

<sup>8</sup> Alexander Trautrim, Martin C. Schleper, M. Selim Cakir, and Stefan Gold, "Survival at the Expense of the Weakest? Managing Modern Slavery Risks in Supply Chains during COVID-19," *Journal of Risk Research* 23, no. 7-8 (2020): 1067-1072; Katherine Leanne Christ and Roger Leonard Burritt, "Accounting for Modern Slavery Risk in the Time of COVID-19: Challenges and Opportunities," *Accounting, Auditing & Accountability Journal* 34, no. 6 (2021): 1484-1501; Fergus Dowling, Mark Sumner, Matthew Davis, and Hinrich Voss, *The Impact of Covid-19 on Unethical Practices in Global Supply Chain* (University of Leeds and HEC Montreal, 2021) ; Hinrich Voss, "Implications of the COVID-19 Pandemic for Human Rights and Modern Slavery Vulnerabilities in Global Value Chains," *Transnational Corporations Journal* 27, no. 2 (2020): 113-125.

unemployment in some sectors, which have increased the risk of modern slavery.<sup>9</sup> In other sectors there have been shifts in the demands for products and services such as personal protective gear, leading to businesses using new suppliers.<sup>10</sup> Many organisations may have prioritised supply continuity and in the process have de-prioritised due diligence processes that are critical for addressing modern slavery risks in the supply chain.<sup>11</sup>

Business leaders are advised to address modern slavery in a holistic approach by using a variety of methods to respond to modern slavery risks. This includes utilising supply chain management approaches such as supply chain mapping and conducting modern slavery risk assessments. However, beyond these measures, there is a growing interest for businesses to extend their efforts to campaign in the area of modern slavery. It is important to note, that campaigning against modern slavery in itself, will not, and should never, replace due diligence which is critical for addressing this problem. However, campaigning allows businesses to raise awareness of modern slavery to the wider public, influence public policy, and engage with various stakeholders such as policymakers, non-governmental organisations (NGOs), and industry peers.<sup>12</sup> However, such campaigns can have strong financial constraints. The budget can be high and effectiveness of campaigns is usually difficult to ascertain, hence it can be challenging to justify it.

Inspired by social capital, this article reviews the Co-op's modern slavery campaign of 2017 – 2020 with the aim of identifying social assets that can be utilised by businesses in campaigning against modern slavery. It identifies four assets inherent in most businesses - identity, leadership, networks, and people, and discusses how these were leveraged by the Co-op to contribute to anti-slavery action. As will be discussed, social capital can be understood as the relationships and interactions between individuals with shared values, reciprocity and trust which enables cooperation and collective action.

This paper is structured as follows. The following section provides a general overview of the key arms of the Co-op's anti-slavery campaign. In the next section we explain our data collection methods. We then introduce the concept of social capital, drawing on existing literature in the field to explain the usefulness of the concept for business engagement in socially responsible behaviour. Drawing on social capital and data collected on the Co-op's anti-slavery activities, the following section then identifies and explains four social assets utilised by the Co-op to campaign against modern slavery.

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<sup>9</sup> Ibid

<sup>10</sup> Ibid

<sup>11</sup> Ibid

<sup>12</sup> Jen Birks and Alison Gardner, "Introducing the Slave Next Door," *Anti-trafficking Review* 13: (2019) 66-81.

## Overview of the Co-op's campaign on modern slavery

In 2017 at the Co-op's Annual General Meeting (AGM), its members voted for the group to campaign on modern slavery and better victim support.<sup>13</sup> The Co-op's campaign aimed to play a part in the global campaign to end modern slavery. At the heart of this goal was to ensure that survivors have the support and opportunity needed to aid their recovery and reintegration into society. Whilst its activities mutually reinforced each other, they can be viewed as three distinct activities: modern slavery awareness campaign, the Bright Future programme, and lobbying for better victim support.<sup>14</sup>

### *Modern slavery awareness campaign*

Public awareness of modern slavery is important for tackling this issue as it can help shine a light on practices that are often hidden in plain sight and can exert pressure on government, businesses, and other stakeholders to address this problem.. At the local and national levels in the UK, various bodies have worked to raise awareness of modern slavery. For instance, in 2014, the UK government allocated £2.18 million for a national public awareness campaign<sup>15</sup> that reached 93% of UK adults.<sup>16</sup> Several cities and communities have also committed to developing slavery-free communities - a place-based approach to addressing modern slavery in their local areas.<sup>17</sup> Throughout its anti-slavery work, the Co-op sought opportunities to increase public awareness of the problem of modern slavery and identify ways the public could engage in the anti-slavery agenda such as contacting their members of parliament and raising awareness of the problem through their own networks . Separately, the Co-op sought to engage the business community and encourage others to take action against modern slavery within their operations, supply chains and communities.

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<sup>13</sup> "Co-op Modern Slavery Campaign," Co-op, accessed January 18, 2022, <https://www.co-operative.coop/campaigning/modern-slavery-campaign>.

<sup>14</sup> "Lobbying the Government for Better Victim Support," Co-op, accessed January 18, 2022, <https://www.co-operative.coop/campaigning/lobbying-the-government-for-better-victim-support>.

<sup>15</sup> The campaign aimed to increase public awareness of modern slavery in the UK, including the different types of slavery, signs of exploitation, and encourage reporting of suspicions.

<sup>16</sup> "Modern Slavery Marketing Campaign: Evaluation Report," Home Office, accessed 18th January, <https://www.gov.uk/government/publications/modern-slavery-marketing-campaign-evaluation-report>.

<sup>17</sup> Alison Gardner, Phil Northall, and Ben Brewster, "Building Slavery-free Communities: A Resilience Framework," *Journal of Human Trafficking* (2020): 1-16 Alison Gardner, *Local Approaches to Modern Slavery* (United Nations University, 2019).

### *The Bright Future Programme*

In March 2017, the Co-op launched the Bright Future programme to support survivors of modern slavery with paid work placements and employment opportunities in its food business. As part of the programme, survivors are offered a four-week placement with the possibility of securing a permanent position. The programme was designed to address the key barriers faced by survivors in securing employment such as lack of qualifications, employment references and confidence. The Co-op collaborated with anti-slavery charity City Hearts to identify survivors to join the programme. It also encouraged other charities and businesses to join to ensure wider availability of employment opportunities for survivors.

As of May 2021, Bright Future has transformed into an independent co-operative with 28 charities and 23 businesses working together. Seventy-five survivors have been offered paid work experience with 40 offered full-time employment at the end of their placement. Candidates reported that Bright Future helped them to acquire new skills, increased their confidence, and expanded their professional networks. These skills and experience are valuable to the reintegration of survivors back into communities and supporting them in securing paid and sustainable employment.

### *Lobbying for Lord McColl's Modern Slavery (Victim Support) Bill*

Bright Future proved that survivor support was a key space in which businesses could have anti-slavery impact. The programme also gave the Co-op the ability to advocate with data and experience on behalf of a new bill before Parliament. Bright Future had highlighted to the Co-op a significant barrier for survivors in the UK: that only survivors with residency rights could benefit from the programme or access vital long-term support. In 2017 and again in 2020, House of Lords member Lord McColl of Dulwich tabled a Private Members' Modern Slavery Victim Support Bill ('the Bill') that, if enacted, would provide for confirmed adult victims of modern slavery to receive a grant of leave to remain for 12 months, together with assistance and support during this period. Due to the insights that it gained from working with City Hearts and other charities on the Bright Future programme, the Co-op recognised the significance of Lord McColl's Bill in supporting victims of modern slavery. The Co-op, therefore, embarked on several activities to raise awareness of the importance of the Bill, such as providing evidence on the value of paid work for victims and the difficulties of providing paid work opportunities as part of the Bright Future programme—including restrictive immigration laws which may contribute to the vulnerability of people to modern slavery and victims' access to support.

### **Methods**

This paper draws on an evaluation conducted on the Co-op's 2017–2020 anti-slavery campaign. The Co-op is the world's oldest and the UK's largest consumer co-operative, with

over 4 million members and over 60,000 employees, with a history of fair trading that dates to its founding in the 19th century.<sup>18</sup> Over the last four years, the Co-op has actively engaged in working on tackling modern slavery in a variety of ways: through its Bright Future programme, lobbying for better victim support, and raising awareness of the hidden issue of modern slavery amongst its members, colleagues, and the public, both nationally and globally.

Qualitative data was collected from three sources: document review consisting of publicly accessible documents plus internal documents supplied by the Co-op, including strategy documents, campaign documents, and emails; eight semi-structured interviews; and an online questionnaire collecting 26 responses. Participants comprised of internal and external stakeholders such as businesses, NGOs, and Co-op representatives who were involved in various parts of its anti-slavery campaign work.

Following the analysis of the data collected, the authors identified key social assets that were leveraged by the Co-op to campaign in the area of modern slavery. We explore how these assets were utilised to contribute to anti-slavery efforts.

## **Social Capital**

Social capital theory and its application has been explored across different disciplines such as economics, sociology, political science, and more recently in management studies.<sup>19</sup> Putnam, a notable proponent of social capital, defines it as the “features of social organization, such as networks, norms, and trust, that facilitate coordination and cooperation for mutual benefit.”<sup>20</sup> Differentiating between physical capital he notes: “Whereas physical capital refers to physical objects and human capital refers to properties of individuals, social capital refers to connections among individuals – social networks and the norms of reciprocity and trustworthiness that arise from them.”<sup>21</sup> He conceptualises social capital as a public good, however, for Putnam, social capital is closely associated with civic engagement and collective action. He argues communities with high stocks of social capital greatly enriches societies:

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<sup>18</sup> “Co-op History,” Co-op, accessed January 18, 2022, <https://www.co-operative.coop/about-us/history>

<sup>19</sup> Chun Keung Hoi, Qiang Wu, and Hao Zhang, "Community Social Capital and Corporate Social Responsibility," *Journal of Business Ethics* 152, no. 3 (2018): 647-665 ; Laura J. Spence, René Schmidpeter, and André Habisch, "Assessing Social Capital: Small and Medium Sized Enterprises in Germany and the UK," *Journal of Business ethics* 47, no. 1 (2003): 17-29.

<sup>20</sup> Robert D. Putnam, "Social Capital and Public Affairs." *Bulletin of the American Academy of Arts and Sciences* (1994): 5.

<sup>21</sup> Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000), 19.

“Networks of civic engagement foster sturdy norms of generalized reciprocity and encourage the emergence of social trust. Such networks facilitate coordination and communication, amplify reputations, and allow dilemmas of collective action to be resolved.”<sup>22</sup>

Ostrom and Ahn acknowledge that growing attention to the role of social capital “lie in part in the limit of the standard approaches to the problem of economic development order” arguing that current debates view social capital “as an attribute of individuals and other relationships that enhance their ability to solve collective-action problems.”<sup>23</sup> They suggest that while the rule of law and governments are valuable social capital attributes for society, there is a need for people to develop their own “working rules” to fill lacunas in governance and regulation. As Habisch and Moon note, “the experiences of the late twentieth century show that even in developed countries many problems – unemployment, a decline in public education, infrastructure and health care, family dissolution and so on – can no longer be satisfactorily addressed by twentieth century means.”<sup>24</sup> Commenting on the historical roots of civic engagement in regions in Italy, Putnam notes “these communities did not become civic simply because they were rich...they have become rich because they were civic. The social capital embodied in norms and networks of civic engagement seems to be a precondition for economic development, as well as effective government.”<sup>25</sup> Rupasingha and Goetz’s research on the structural determinants of poverty in the United States found that social capital reduces social and economic problems such as poverty.<sup>26</sup> However, scholars have noted a decline in social capital in and between Western and developing societies particularly as a result of lack of trust, cooperation and civic engagement.<sup>27</sup>

According to Adler and Kwon, definitions of social capital have varied depending on whether they focus on the substance, sources or the effects of social capital.<sup>28</sup> Additionally,

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<sup>22</sup> Robert D. Putnam, "Bowling Alone: America's Declining Social Capital," in *The City Reader*, eds Richard T. LeGates and Frederic Stout (New York: Routledge, 2015), 154-162.

<sup>23</sup> Elinor Ostrom, and Toh-Kyeong Ahn. "The Meaning of Social Capital and its Link to Collective Action," in *Handbook of Social Capital: The Troika of Sociology, Political Science and Economics*, eds. Gert Tinggaard Svendsen and Gunnar Lind Haase Svendsen (Northampton, MA: Edward Elgar, 2009), 17-35.

<sup>24</sup> André Habisch and Jeremy Moon, "Social Capital and Corporate Social Responsibility," in *The Challenge of Organizing and Implementing Corporate Social Responsibility*, eds. Jan Jonker and Marco De Witte (London: Palgrave Macmillan, 2006), 65

<sup>25</sup> Putnam, "Social Capital and Public Affairs," 9.

<sup>26</sup> Anil Rupasingha and Stephan J. Goetz, "Social and Political Forces as Determinants of Poverty: A Spatial Analysis," *The Journal of Socio-Economics* 36, no. 4 (2007): 650-671.

<sup>27</sup> André Habisch and Jeremy Moon, "Social capital and corporate social responsibility," 65.

<sup>28</sup> Paul S. Adler and Seok-Woo Kwon, "Social Capital: Prospects for a New Concept," *Academy of Management Review* 27, no. 1 (2002): 17-40.

research on the concept tends to adopt an external or internal viewpoint.<sup>29</sup> External capital, otherwise known as bridging, is used to describe connections between people from different backgrounds or communities.<sup>30</sup> Contrarily, internal or bonding capital relates to connections among individuals within homogenous groups that are mobilised to reinforce feelings of solidarity. In recent times, a third type of social capital – linking capital – has emerged. Szreter and Woolcock define linking capital as “norms of respect and networks of trusting relationships between people who are interacting across explicit, formal or institutionalized power or authority gradients in society.”<sup>31</sup> Linking capital, therefore, describes a vertical relationship between representatives of formal institutions that are responsible for delivering key services. Writing on the efficacy of social capital in public health, Szreter and Woolcock articulate:

[J]ust as health outcomes can be improved by expanding the quality and quantity of bonding social capital (among friends, family and neighbours) and bridging social capital (trusting relations between those from different demographic and spatial groups), so, too, is it crucial to facilitate the building of linking social capital across power differentials, especially to representatives of institutions responsible for delivering those key services that necessarily entail on-gong discretionary face-to-face interaction.<sup>32</sup>

In the context of business engagement in socially responsible behaviour, social capital could be a useful tool for shaping appropriate norms of behaviours and establishing trusting relationships amongst diverse stakeholders. Habisch and Moon note that businesses rely on “functioning societies” to ensure their survival and therefore maintaining trust between businesses and society is vital.<sup>33</sup> Similarly, Spence and Schmidpeter note that “business organisations need to engage in the development of the society in which they want to do business, since business is influential by the society in which it operates, and societal problems often affect the efficiency and effectiveness of business activity.”<sup>34</sup> Like other forms of capital, social capital is another critical resource for businesses.<sup>35</sup> Razalan, Bickle, Park and Brodahl acknowledge three dimensions of social capital: structural capital, relational capital and cognitive

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<sup>29</sup> Ibid

<sup>30</sup> Ibid; Laura J. Spence, René Schmidpeter, and André Habisch, "Assessing Social Capital," 17-29; Elinor Ostrom and Toh-Kyeong Ahn, "The Meaning of Social Capital," 17-35.

<sup>31</sup> Simon Szreter and Michael Woolcock. "Health by Association? Social Capital, Social Theory, and the Political Economy of Public Health," *International Journal of Epidemiology* 33, no. 4 (2004): 655.

<sup>32</sup> Ibid

<sup>33</sup> André Habisch and Jeremy Moon, "Social capital and corporate social responsibility," 64.

<sup>34</sup> Laura J. Spence and René Schmidpeter. "SMEs, Social Capital and the Common Good," *Journal of Business Ethics* 45, no. 1 (2003): 94

<sup>35</sup> André Habisch and Jeremy Moon, "Social capital and corporate social responsibility," 64.

capital.<sup>36</sup> Structural capital relates to information benefits as a result of connecting and networking with others. The authors articulate that business professionals rely heavily on networking and building strong relationships which encourage knowledge exchange and information-sharing. Relational capital refers to qualities arising from personal relations and interactions with members of the community, such as respect, trust, and reciprocity. Cognitive capital captures shared values, attitudes and beliefs and facilitates sharing of resources and responsibilities. High stocks of social capital may facilitate individual change which in turn can foster collective action. Within the context of structural capital, Smith proposes that trusting and supportive relationships are central to the individual change process.<sup>37</sup> He suggests that close networks of contacts and trusting relationships between individuals who share similar ties (bonding capital), and networks of diverse contacts and relationships (bridging capital) can provide individuals with a safe environment for exploring new behaviours. Separately, the relational dimension of social capital may encourage normative behaviour as a result of respect, trust and reciprocity embedded within networks, while cognitive social capital may influence individual change by providing individuals with a mutual understanding of appropriate norms of behaviour.

Inspired by the concept of social capital, we explored the Co-op's campaign activities against modern slavery to identify key social assets utilised. The following section discusses these assets with illustrative examples of how they were utilised by the Co-op.

## **Social assets for campaigning against modern slavery**

### ***Identity***

Identity is an important facet in social capital as it can foster a sense of belonging, shared values, obligations and expectations between people having a shared sense of identity or amongst diverse individuals and groups. Consequently, behaviours, values and norms can be shaped by common association with a group and be a determining factor for individual behaviour and responsibility to foster collective action.<sup>38</sup> In line with the International Co-operative Alliance<sup>39</sup>, a federation representing co-operatives worldwide, the Co-op's identity is based on six core values: Self-help—uniting members to help make a difference in society; Self-responsibility –

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<sup>36</sup> Danielle Marie Razalan, Marianne C. Bickle, Joohyung Park, and Deborah Brodahl, "Local Retailers' Perspectives on Social Responsibility," *International Journal of Retail & Distribution Management*. 45, no.2 (2017):211-226.

<sup>37</sup> Melvin L. Smith, "Social Capital and Intentional Change: Exploring the Role of Social Networks on Individual Change Efforts," *Journal of Management Development* 25, no.7 (2006): 718-731.

<sup>38</sup> Paul S. Adler and Seok-Woo Kwon, "Social Capital," 21.

<sup>39</sup> "About Us," International Cooperative Alliance, accessed January 18, 2022, <https://www.ica.coop/en>.

empowering members to take responsibility individually by supporting its activities<sup>40</sup>; Democracy – ensuring that all members have a say in how the organisation is run; Equality – ensuring that all members are able to get involved in activities; Equity – promoting and upholding fairness; and Solidarity – leveraging the collective identity of its members to strengthen the organisation and its activities. Given its identity and roots as a co-operative, the Co-op has a long history of leveraging its position to advocate on issues such as worker’ rights and climate change. Additionally, it has embarked on several time-bound specific campaigns to address issues such as the use of neonicotinoids, reducing inequalities, promoting safer communities, and tackling loneliness. As aforementioned, in 2017 at the Co-op’s AGM, its members collectively voted for the group to campaign on modern slavery and better victim support. It realised its position as a key business leader in the community, and its commitments, values and principles placed it in a critical position to address these issues both in its supply chains and communities. Inherent to the Co-op’s identity is that no person should be left behind, and following this principle, it embarked on several activities with a key purpose—give survivors the opportunity to take back control of their lives, such as supporting them in securing regular and sustainable employment. The Co-op aligned its objective closely with its core identity, drawing on its history and values to campaign for change. As one survey respondent stated: “I think it’s clear that it’s part of their ethos, in terms of that’s what they want to do... they’re demonstrating those credentials on a daily basis.” The Co-op’s choice to tackle modern slavery and support survivors is therefore deeply rooted in its values. In addition, the Co-op’s identity as a business meant that it could credibly and authoritatively make a crucial point in support of the Bill: that the benefits of longer-term support for survivors of modern slavery could outweigh the initial costs.

The Co-op’s campaigning activities demonstrate that in campaigning against modern slavery, a coherent campaign should be rooted in a company’s identity, its vision, and its values. An integrity-based approach can help organisations to communicate their aims effectively, leveraging the brand’s identity for change and generating greater brand loyalty.

### ***Leadership***

A key social asset utilised in the Co-op’s campaign activities is its ability to exert and share leadership, which contributes to the development of social capital. A review of the Co-op’s anti-slavery campaign highlighted several ways they were able to exert influence and leverage through leadership. For instance, on his first day as CEO of the Co-op, Steve Murrells’ first press release was not about corporate plans, but about the Bright Future programme.<sup>41</sup> This put a spotlight on the Co-op’s modern slavery work and gave a bigger platform to the issue of survivor

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<sup>40</sup> “Principles More Valuable than Profits,” Co-op, accessed January 18, 2022, <https://www.co-operative.coop/about-us/values>.

<sup>41</sup> “Co-op Provides Bright Future for UK Victims of Modern Slavery,” Co-op, accessed January 20, 2022, <https://www.co-operative.coop/media/news-releases/co-op-provides-brighter-future-for-uk-victims-of-modern-slavery>.

support. Separately, the Co-op's used its influence and leverage to engage with a variety of stakeholders. Businesses can have a considerable influence when engaging with policymakers compared to other organisations, which might find it more challenging to be heard. As one NGO interviewed stated: "I think it's really great to have a different voice outside of just the NGO sector and be able to reach into different spaces and speak to different people."

Separately, the Co-op demonstrated leadership by engaging in lobbying for better victim support. For instance, it supported other groups such as Free for Good<sup>42</sup> in collecting and delivering thousands of messages to the UK Government urging them to back the Bill, submitted numerous briefings to parliamentarians in advance of debates on modern slavery and the Bill, met with policymakers, and hosted and presented at numerous events. For instance, in August 2017, the Co-op provided a briefing to support the second reading of the Bill. It highlighted its Bright Future programme as an opportunity for victims of modern slavery to get paid work. It referred to the current immigration rules that affect the right to work in the UK for victims,<sup>43</sup> and expressed its backing of the Bill to support victims for 12 months. The Co-op emphasised the importance of the Bill's provisions for tackling some of the difficulties in offering permanent work for victims after completing their four weeks paid placement via Bright Future, especially as some require adequate support to improve their language skills and work readiness. The Co-op stressed that the section of the Bill covering the "meaning of assistance and support" does not currently specifically reference the provision of support to ensure "work readiness" and briefed Lord McColl to consider the inclusion of pre-employment training/work readiness in this, if appropriate to the individual.<sup>44</sup>

It also sought opportunities to engage with its peers and other businesses and galvanise action from the business community through business networks, establishing its own local business network, and contacting hundreds of businesses to take action against modern slavery such as supporting anti-slavery campaigns. A survey respondent from the business community expressed:

The Co-op is particularly effective at engaging peer companies and are highly respected among those working towards similar goals... The Co-op comes across as leading by example and committing their business to addressing modern slavery, not simply raising awareness. This makes their campaigning much more effective.

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<sup>42</sup> Free for Good Coalition is a collaborative campaign of anti-trafficking organisations supporting supporting Lord McColl's Victim Support Bill. See: Free for Good, accessed January 18, 2022, <https://www.freeforgood.org.uk/>.

<sup>43</sup> For instance, according to victims must have the right in the UK to be offered the paid placement via Bright Future

<sup>44</sup> Internal document reviewed by the authors. Public reference is available at: HL Deb 8 September 2017, vol 783, col 8

Another stated:

The campaign has led the field amongst retailers in tackling and supporting victims directly of Modern Slavery, leading by example and driving an agenda that is sometimes hidden. [The Co-op] gave us the practical solutions to enable us to help and support victims better and understand their point of view [and] also raise awareness in our own operations.

The Co-op's campaign work demonstrates that effective campaigning requires senior-level commitment and that businesses can have a leadership role in influencing their peers and decision-makers. While leadership can be viewed as an isolated social asset, it is a driving force that affects other assets by translating values into action and bringing the attention of causes to a variety of stakeholders. Leadership is critical for enabling cooperative undertaking and can help drive collective efforts and facilitate resource allocation to unitedly create opportunities for successful campaigns.

### *Networks*

As aforementioned, a key aspect of social capital is networks and relationships between people which foster opportunities to access information, engage in knowledge-sharing, collaboration, and collective action. The Co-op recognised that one of its biggest assets is that it is a business: this meant it could lead by example, collaborate, and be a powerful messenger to other businesses. It actively sought ways to engage in knowledge exchange with other businesses, encourage collaboration, and motivate organisations to do more. For instance, in 2018, it joined the Business Against Slavery Forum – a “spearhead pioneering industry action to drive out slavery from supply chains.”<sup>45</sup> Separately, in January 2018, Co-op established the Greater Manchester Modern Slavery Business Network with a similar aim to help address modern slavery. The Network brings together businesses, law enforcement, academics, local authorities, charities, and other agencies to strengthen business response. Through this network, they sought ways to increase awareness of modern slavery amongst the business community, share insights and learnings and identify ways for businesses to contribute to anti-slavery efforts. Following an independent review of the UK's Modern Slavery Act 2015<sup>46</sup> by Frank Field MP,

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<sup>45</sup> Home Office, “Leading Businesses Unite to Tackle Modern Slavery,” 10 October, 2017, <https://www.gov.uk/government/news/leading-businesses-unite-to-tackle-slavery>.

<sup>46</sup> The Modern Slavery Act 2015 is a UK legislation focused on addressing the problem of modern slavery. It brought about a number of changes such as consolidating previous slavery and human trafficking offences, introduced the role of the Independent Anti-Slavery Commissioner, brought about new preventative measures, and established new responsibilities for certain businesses. It was the first legislation of its kind to support the UN SDGs on modern slavery.

Maria Miller MP, and Baroness Elizabeth Butler-Sloss, the Home Office<sup>47</sup> launched a public consultation in July 2019 to collect views on proposed measures to increase transparency, compliance, the quality of modern slavery reports, and the scope of the legislation.<sup>48</sup> To contribute to the consultation, the Co-op invited the Home Office to host a focus group with its business network. This allowed over 20 other organisations<sup>49</sup> to learn more about the proposals being considered and to discuss and share their own experience of modern slavery reporting and contribute to the revised legislation. In September 2020, the government responded to the findings of the consultation and announced changes to the legislation including establishing a government-run reporting repository for modern slavery statements, mandating that modern slavery statements must cover a single reporting deadline, and extending section 54<sup>50</sup> to cover the public sector.<sup>51</sup> These changes cannot be solely attributed to the Co-op's work as there were numerous organisations and stakeholders who provided evidence and support to the review and consultation; nevertheless, the Co-op utilised its networks to collaborate with its peers to engage in activities that seek to improve business compliance and transparency.

Separately, the Co-op engaged in networking and collaborative work as part of its campaign activities. For instance, it partnered with Global Citizen – a US-based non-profit Global Poverty Project - to bring modern slavery to the public attention. At a music festival in 2018 hosted by Global Citizen, Steve Murrells gave a speech on the problem of modern slavery and the significance of the Bill. Key points made by Murrells' acknowledgement of the limited period of support for victims and survivors. More than 4,000 Global Citizens, three heads of government, key representatives from eight governments, business leaders, non-profit organisations and socially conscious artists attended that music festival in London. Its partnership with Global Citizen resulted in over 9,000 emails and 5,000 tweets to MPs and over 4,000 emails and 800 tweets to then Prime Minister Theresa May.

The Co-op also collaborated with the Co-operative Party, and in July 2019, it met with stakeholders to discuss what role local authorities can and should play in the future in supporting victims. The discussion focused on the issues of both supply chains and victim support. In an interview conducted with Lord McColl of Dulwich, he stated:

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<sup>47</sup> The Home Office is the chief government department responsible for immigration and security in the UK.

<sup>48</sup> Home Office, Independent Review of the Modern Slavery Act: Final Report (UK, 2019), <https://www.gov.uk/government/publications/independent-review-of-the-modern-slavery-act-final-report>; Home Office, Transparency in Supply Chain Consultation (UK, 2020), <https://www.gov.uk/government/consultations/transparency-in-supply-chains>.

<sup>49</sup> The network included representatives from local police, anti-slavery organisations, academics, and businesses of different sizes operating in variety of sectors.

<sup>50</sup> Section 54 Modern Slavery Act 2015 requires organisations with an annual turnover of £36 million or more to publish a modern slavery and human trafficking statement every year reporting on actions taken to address modern slavery.

<sup>51</sup> Home Office, Transparency in Supply Chain Consultation.

I believe that the relationship between the Co-op business with the Co-op political party underpins this support and the lobbying of the party by the business helped to bring about the strong support for my Bill expressed by a number of Labour/Co-op MPs during two debates in Westminster Hall in the House of Commons. All of which have helped to keep these issues and by Bill on the Government's agenda.

The Co-op's ability to collaborate with diverse actors demonstrates the assets that occur within and from networks, which have opened opportunities for forms of cooperation and collective action. Networks as a social asset demonstrate that businesses can make significant strides in campaigns by pooling together their knowledge, resources, influence, and reach. While collaboration is central to anti-slavery efforts, research has shown that engagement by multi-agency partnerships with businesses has been very limited.<sup>52</sup> However, the Co-op's work demonstrates that businesses can help contribute to anti-slavery efforts through its networks both in the business community and with other stakeholders. Collaborating with other organisations that have specialist expertise can facilitate better knowledge exchange and complement a campaign's activities and reach. As one private business stated:

[The Co-op] have made us think more deeply about how Modern Slavery might manifest itself within our supply chains. Initially the response would be 'it doesn't exist;' however, as more examples and organisations share their experience it makes you want to dive deeper to ensure that all aspects are covered and that the initial response was simply a cursory glance, skimming the top.

### *People*

Social networks comprise of trusting relationships between people within a particular group or community, between groups who may have weaker ties, and vertically between people and those in power and authority.<sup>53</sup> As well as building and leveraging relationships with diverse stakeholders, a key social asset the Co-op utilised is with its consumers/members and employees which it leveraged to promote awareness and activity. In addition to members collectively coming together to vote for the group to campaign on modern slavery, the Co-op sought ways to leverage its relationship with its consumers and employees. For instance, it sent over 600,000 emails to its employees encouraging them to take actions such as fundraising, contacting politicians, and learning more about the issue. The emails encouraged employees to take certain actions against slavery such as starting discussions in teams, running a half-marathon to raise

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<sup>52</sup> Alison Gardner, *Collaborating for Freedom: Anti-Slavery Partnerships in the UK* (Office of the Independent Anti-Slavery Commissioner and the University of Nottingham's Rights Lab, 2018). [https://www.antislaverycommissioner.co.uk/media/1186/collaborating-for-freedom\\_anti-slavery-partnerships-in-the-uk.pdf](https://www.antislaverycommissioner.co.uk/media/1186/collaborating-for-freedom_anti-slavery-partnerships-in-the-uk.pdf).

<sup>53</sup> Ann Dale and Lenore Newman, "Social Capital: a Necessary and Sufficient Condition for Sustainable Community Development?" *Community Development Journal* 45, no. 1 (2010): 5.

funds for Anti-Slavery International (an international human rights NGO), or sharing stories with colleagues on Yammer.<sup>54</sup> The Co-op also asked its members to support the Free for Good campaign that is working to pass the Bill. This resulted in over 5,000 emails to MPs. A survey conducted by the Co-op of 254 members found that 63% were encouraged to find out more about the issue because of the Co-op's messages to its membership.

Additionally, the Co-op designed, printed, and distributed posters to bring the issue of modern slavery to the attention of its consumers, members, and the public. For example, in 2018; a "Know the Signs" poster was designed and displayed at all the Co-op's 2,700 food stores across the UK to raise awareness of the indicators of modern slavery. Also in 2018, a second poster was designed by Kalayaan, a charity based in London advocating for the rights of migrant domestic workers and providing victim support. The Co-op distributed Kalayaan's posters to 125 of its food stores. This poster targeted domestic workers and provided details of Kalayaan's services such as providing advocacy and support. Separately, in November 2018, the Co-op collaborated with the anti-slavery organisation Stop the Traffik to raise awareness of modern slavery via a poster and promoted the Stop the Traffik mobile application on selected sandwich packages. The Co-op distributed the poster at Christmas, a time of high footfall for supermarkets, and contributed donations from the sandwich sales to Stop the Traffik.



Figure 1: Kalayaan poster

<sup>54</sup> Yammer is an event management, networking, and communication platform.



Figure 2: Co-op poster



Figure 3: Co-op and Stop the Traffik campaign

To further raise awareness of modern slavery the Co-op used its customary #thecoopway hashtags on its social media platforms such as twitter to draw attention to modern slavery and the Bill. The hashtag promotion aimed to raise awareness of modern slavery and demonstrate how the Co-op champions critical issues such as supporting survivors of modern slavery. It also targeted its social media followers with a one-minute call-to-action video detailing how they can help survivors of modern slavery, including advocating for better victim support. Other activities included seeking opportunities to promote its modern slavery activities by engaging with the media. For instance, it placed a full-page advert in the national press to mark Anti-Slavery Day in 2018 and supported a six-week media campaign, “Stamp Out Slavery” with a British newspaper with a monthly print reach of almost seven million people and digital reach of over 35 million.

It can be challenging to assess the impact of awareness campaigns. This is because while we can quantify the predefined measures for each initiative, it is nearly impossible to measure the broader contribution or impact of the awareness campaign. This is due to the challenge of collecting evidence on how information was utilised by the public, for instance, if reports of suspicions of modern slavery were attributed to a campaign. Nevertheless, the Co-op’s campaign activities demonstrate that businesses can increase their reach to different audiences and increase support for campaign causes by using multiple communication channels. The Co-op’s use of a mixed-channel communication methods involving social media, emails, and press releases enabled them to connect with people within and outside its organisation.

## **Conclusion**

There is growing momentum worldwide for businesses to respond to grave human rights issues, such as modern slavery, and be held responsible and accountable for their actions. While businesses have a significant role to play in economic growth and technological advancements, they also have a vital role in addressing social issues. This requires organisations to abide by the relevant rules and regulations, but also to go beyond legal compliance by leveraging resources and influence to fill lacunae in regulatory frameworks and help societal actors address human rights challenges such as modern slavery. This can be done by engaging in activities that foster collaborative action and developing innovative solutions to address the causes and consequences of exploitative practices within their operations and the communities they serve.

This paper set out to identify social assets that businesses can utilise to campaign in the area of modern slavery. In reviewing the Co-op’s campaign work, we identified four social assets that were leveraged, building a campaign that mobilised its identity, leadership, networks, and people. This approach demonstrated the Co-op’s ability to tap into the different dimensions of social capital and establish and utilise its values, relationships and networks with diverse stakeholders including their employees, customers, the public, industry peers, civil society, and government. This meant that the Co-op could create a series of mutually reinforcing campaign activities. This approach to campaigning, where it brought together its existing assets, enabled the Co-op to create what a survey respondent described as a “greater than the sum of their parts.”

By taking an asset-based approach, the Co-op could use its internal expertise and member interests without needing costly investment in external campaign resources, instead, leveraging its existing available social assets. The assets demonstrate the value of social capital in contributing to socially responsible business behaviour and can be utilised collectively by businesses irrelevant of their size, sector, and nature of activity. These assets can be tapped into and employed to make a meaningful contribution in the area of modern slavery and other social justice issues facing our society.

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# Global Patterns of Forced Labor in Island Southeast Asia

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## Abstract

Island Southeast Asia has long been a site of cross-border slavery and migration. Utilizing archival sources, ethnographic data, and news reports, the article considers patterns of forced labor in the case studies of domestic servitude and household work from the *ata* of Indonesia, the *alipin* of the Philippines, and foreign domestic workers from both countries. From a critical review of historical slavery to contemporary transnational migration, the article analyzes the sociocultural, economic, linguistic, geographical, and political dynamics at play and reorients the focus of slavery scholarship from the Atlantic context to include the wider implications of intra-Asia slavery.

**Key Words:** Slavery, migration, forced labor, domestic work, Southeast Asia

## Introduction: Revisiting the Phantasm of Slavery

“There is no such slavery in the Philippines,” declared an editorial written on 29 October 1912 in the middle of two debates on both sides of the Pacific.<sup>1</sup> In the United States, Congress was arguing the Jones bill that posed the question of whether or not the Philippines should be granted independence. In Manila, the Philippine Assembly was considering an antislavery bill, which would create mechanisms enabling the criminal prosecution of taking or having slaves. Yet, far from a statement of fact, the editorial team’s pronouncement in *La Vanguardia*, a local Manila newspaper, had far-reaching political implications.

With the end of the American colonial period at stake, the editorial captured the sentiments of Filipino nationalists, who refuted, and even ridiculed, the assertion that slavery existed in the Philippines: “... it would be the height of humor, not to say of evil intention, to

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<sup>1</sup> Dean C. Worcester, *Slavery and Peonage in the Philippine Islands* (Manila: Government of the Philippine Islands, Department of the Interior, Bureau of Printing, 1913), 35.

affirm the present existence of slavery in the Archipelago, much less in the Christian provinces.”<sup>2</sup> In guarding against any criticism that would question Filipino fitness for independence and self-governance,<sup>3</sup> the writers reasoned that if “[slavery] should be understood, by the lowest social class, debased and despised” as it was created by the ancient Romans “to give a useful application to their human booty of war, and by the American planters of the United States who cracked their whips upon [those]... who worked on their plantations,” the answer to whether slavery existed at present in the Christian provinces of the Archipelago “must be in the negative.”<sup>4</sup>

While *La Vanguardia* explicitly and instrumentally denied its existence, slavery in the Philippines as in other parts of Southeast Asia “is but one of the disabilities... found to occur in similar patterns throughout history.”<sup>5</sup> From pre-colonial to post-colonial Southeast Asia, Bruno Lasker found that there were “five main ways in which individuals might become enslaved: (1) capture in warfare, including intertribal feuds; (2) condemnation for crimes; (3) raids, both by pirates and by professional traders, and subsequent sale; (4) sale of dependents, usually of children by their parents – or in the case of orphans by the head of the family – but sometimes of whole tribes and village communities by their lords; [and] (5) indebtedness,” of which the latter “is by far the most potent in recent times” due to its attachment to private property.<sup>6</sup> Modern slavery is then a “residuum of even more primitive conditions,” although similarities have not been readily acknowledgeable.<sup>7</sup>

Thus, despite the intentional comparison of slavery made across three continents and historical periods, the *La Vanguardia* writers did not fully recognize or acknowledge its presence in their own nation. Rather, they sought to make a distinction between the Christian and non-Christian, southern areas of the Philippines, where Muslim Moro leaders of the latter openly defended slavery as a practice legitimized by authority of custom and religion.<sup>8</sup> By asserting that Philippine “civilization was quite advanced” before the arrival of the Americans and that “humanitarian ideas regulated... social existence,” the editorial contends: “As slavery does not exist here at present, only a madman or a visionary can fear its existence in the future. To do so would be equivalent to affirming that the Filipinos, instead of progressing, think of lapsing back

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<sup>2</sup> Ibid., 36.

<sup>3</sup> Michael Salman, *The Embarrassment of Slavery: Controversies Over Bondage and Nationalism in the American Colonial Philippines* (Berkeley: University of California Press, 2001), 181.

<sup>4</sup> Worcester, *Slavery and Peonage*, 36.

<sup>5</sup> Bruno Lasker, *Human Bondage in Southeast Asia* (Chapel Hill: University of North Carolina Press, 1950), 16.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid., 17.

<sup>8</sup> Salman, *The Embarrassment of Slavery*, 180.

into the barbarism of primitive life... there is no fear that the phantasm of slavery will disturb the peace of our civilized society to-morrow [sic].”<sup>9</sup>

With the very public problem of slavery circulating between the Philippines and the U.S., a systematic, yet ethnographically shallow, investigation of unfree labor and involuntary servitude ensued,<sup>10</sup> led by the controversial Secretary of the Interior for the Philippine Islands, Dean C. Worcester.<sup>11</sup> Findings from the report<sup>12</sup> disputed the aforementioned claims of the Filipino nationalists and exposed the commonality and long-standing practice of the sale of human beings, largely for household service and labor, even in territories occupied by non-Christian Filipinos.<sup>13</sup> Nevertheless, at the same time that *La Vanguardia* depicted slavery as colonialism; repudiated it for its “contradistinction to Christianity, civilization, and progress;” and objected to the word’s usage in the antislavery bill, the newspaper supported laws against forced labor or involuntary servitude.<sup>14</sup>

In revisiting the construction of slavery in the Philippines as a phantasm, the *La Vanguardia* editorial lays bare the enduring contention over the nature, language, and discourse of human bondage. The invocation of prior forms of slavery, connecting the Philippines to the United States and Rome, demonstrates the need to attend to the geographical connections, structural developments, and social conditions that underlie systems of unfree labor. As Richard B. Allen argues, the “conceptual apartheid” that separates “discussions about the slave, indentured, and cognate labor trades that flourished during the eighteenth, nineteenth, and early twentieth centuries” is “no longer sustainable, and that a deeper understanding of these migrant labor systems is contingent upon situating them in more fully developed historical and comparative contexts.”<sup>15</sup>

Following Allen’s lead, the first section of the article explores Island Southeast Asia as a site of long-term international maritime slavery in which transnational labor migration of today now plies nearly the same routes. The exploration of forced labor across and beyond Island Southeast Asia allows for a more comprehensive understanding of the legacies of historical slavery in contemporary regional and global contexts. In situating patterns of forced labor within a global perspective, the article then considers in the second section how the field of anthropology has conceptualized slavery and calls for an understanding of the lived experience of forced laborers through a study of the broader sociocultural, economic, linguistic,

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<sup>9</sup> Worcester, *Slavery and Peonage*, 36.

<sup>10</sup> Salman, *The Embarrassment of Slavery*, 201.

<sup>11</sup> Bruno Lasker, “The Shadow of Unfreedom,” *The Far Eastern Quarterly* 4, no. 2 (February 1945): 129.

<sup>12</sup> Worcester, *Slavery and Peonage*.

<sup>13</sup> Salman, *The Embarrassment of Slavery*, 180, 192.

<sup>14</sup> *Ibid.*, 187-189.

<sup>15</sup> Richard B. Allen, “Human Trafficking in Asia Before 1900: A Preliminary Census,” *The Newsletter* 87 (Autumn 2020): 32, [https://www.ias.asia/sites/default/files/nwl\\_article/2020-10/IIAS\\_NL87\\_3233.pdf](https://www.ias.asia/sites/default/files/nwl_article/2020-10/IIAS_NL87_3233.pdf).

geographical, and political dynamics that support and shape conditions of bondage. Turning to cases of historical and contemporary domestic work and servitude in Indonesia and the Philippines in the third section, the article reorients the focus of slavery scholarship from the Atlantic context to consider the wider implications of intra-Asia slavery through an examination of forced labor under debt bondage, violence, and crises. The article concludes with a return to the discourses that enable, legitimize, and recognize unfree household and migratory labor, illustrating that the lived realities of the *ata*, *alipin*, and domestic workers in Indonesia, the Philippines, and beyond the borders of Island Southeast Asia dispels the view that slavery is a phantasm in the region.

### Southeast Asia as a Site of Slavery

While *La Vanguardia* explicitly denied the existence of slavery, studies of human bondage in Southeast Asia confirmed its enduring presence,<sup>16</sup> and general pattern across this region, albeit with distinctive local variations.<sup>17</sup> However, similar to Allen's finding of the lack of attention to the exportation of slaves in the literature on South Asian trade, commerce, slavery, and bondage,<sup>18</sup> major studies of these themes in Southeast Asia also makes little reference to the export dynamics of chattel labor.<sup>19</sup> Instead, they were largely focused on describing slavery domestically within national borders,<sup>20</sup> or comparatively.<sup>21</sup> For instance, in the latter, Anthony Reid utilizes evidence from the sixteenth and seventeenth centuries to review patterns of James L. Watson's "closed" and "open" systems of slavery,<sup>22</sup> noting that "the transfer of labour was undoubtedly unusually marked" during this period of rapid commercial expansion and urban growth, low population growth, and a relatively dispersed and pluralistic political system.<sup>23</sup>

Here, he defines a "closed" system as "one oriented primarily towards retaining the labour of slaves by reinforcing their distinctiveness from the dominant population," a pattern that

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<sup>16</sup> Lasker, *Human Bondage*.

<sup>17</sup> Kerry Ward, "Slavery in Southeast Asia, 1420-1804," in *The Cambridge World History of Slavery: Volume 3, AD 1420-AD 1804*, eds. David Eltis and Stanley L. Engerman (Cambridge: Cambridge University Press, 2011), 163, <https://doi.org/10.1017/CHOL9780521840682.009>.

<sup>18</sup> Richard B. Allen, "Carrying Away the Unfortunate from India and Southeast Asia, 1500-1800," in *Critical Readings on Global Slavery*, eds. Damian Alan Pargas and Felicia Roşu (Leiden: Brill, 2018), 1422-1423, [https://doi.org/10.1163/9789004346611\\_046](https://doi.org/10.1163/9789004346611_046).

<sup>19</sup> Lasker, *Human Bondage*.

<sup>20</sup> Lasker, "The Shadow of Unfreedom."

<sup>21</sup> Reid, "'Closed' and 'Open' Slave Systems in Pre-Colonial Southeast Asia." In *Critical Readings on Global Slavery*, eds. Damian Alan Pargas and Felicia Roşu. Leiden: Brill, 2018. [https://doi.org/10.1163/9789004346611\\_047](https://doi.org/10.1163/9789004346611_047).

<sup>22</sup> James L. Watson, ed., *Asian and African Systems of Slavery* (Berkeley: University of California Press, 1980).

<sup>23</sup> Reid, "'Closed' and 'Open' Slave Systems," 1463.

“occurs typically in relatively static and self-contained communities practising labour-intensive wet-rice agriculture, where commercial exchange and the money economy have made little impact.”<sup>24</sup> In contrast, an “open” system was “one which is acquiring labour through the capture or purchase of slaves, and gradually assimilating them into the dominant group,” a pattern more readily seen in “the wealthy mercantile cities and a few other labour-deficient areas.”<sup>25</sup> These two systems, however, are not absolute or static with Reid stating that “the constant flow of slaves from the ‘closed’ to the ‘open’ systems makes it necessary to retain the insistence... that we are dealing here with the one phenomenon, ‘slave’, even though the forms that phenomenon takes are naturally very varied.”<sup>26</sup>

Indeed, it is only in recent decades that literature has begun to refer to and detail the lesser known international and intra-Asian movement of slaves into and out of the region. Specifically, the emerging work exploring the exportation of unfree laborers from India and Southeast Asia into the wider Indian Ocean has uncovered the Southeast Asian region as a thriving site of slavery.<sup>27</sup> These scholars found that Asian traders, particularly indigenous Hindu and Muslim traders between the fifteenth and seventeenth centuries,<sup>28</sup> and Europeans in the second half of the sixteenth century,<sup>29</sup> began to traffic slaves, captives, and fugitives from the Indian subcontinent to Southeast Asian states on a large scale. It is estimated that Asian traders imported an average of 2,000 South Asian slaves to Southeast Asia.<sup>30</sup>

In comparison, Portuguese ships carried some 400 Indian slaves to Aceh, Indonesia in 1646,<sup>31</sup> and transported several hundred slave laborers each year from 1580 to 1640 from southern India, China, Burma (Myanmar), Malaya (present-day Malaysia), Java, and other parts of Asia to the Philippines with Malacca frequently serving as a collection point before they were brought to Manila.<sup>32</sup> Additionally, Spanish colonists in the Philippines preferred Asian slaves,

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<sup>24</sup> Ibid., 1462.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid., 1463.

<sup>27</sup> Allen, “Carrying Away the Unfortunate;” Gwyn Campbell, “Slavery in the Indian Ocean World,” in *The Routledge History of Slavery*, eds. Gad Heuman and Trevor Burnard (London: Routledge, 2011); Titas Chakraborty and Matthias van Rossum, “Slave Trade and Slavery in Asia – New Perspectives,” *Journal of Social History* 54, no. 1 (2020): 4, <https://doi.org/10.1093/jsh/shaa004>.

<sup>28</sup> Daniel Perret, “From Slave to King: The Role of South Asians in Maritime Southeast Asia (From the Late 13<sup>th</sup> to the Late 17<sup>th</sup> Century),” *Archipel* 82 (2011): 164, <https://doi.org/10.3406/arch.2011.4261>.

<sup>29</sup> Kuzhippalli Skaria Mathew, *Portuguese Trade with India in the Sixteenth Century* (New Delhi: Manohar, 1983), 137–38.

<sup>30</sup> Allen, “Carrying Away the Unfortunate,” 1427.

<sup>31</sup> William Foster, *The English Factories in India, 1646–1650: A Calendar of Documents in the Indian Office, Westminster* (Oxford: Clarendon Press, 1914), 54, n. 2.

<sup>32</sup> Allen, “Carrying Away the Unfortunate,” 1424.

shipping some to Mexico,<sup>33</sup> where they comprised a significant proportion of the immigrant population in the late sixteenth and seventeenth centuries.<sup>34</sup> In the colonial Dutch East Indies, or what is now Indonesia, slavery was largely driven by the demand for labor in Batavia (contemporary Jakarta) and the possessions of the *Vereenigde Oostindische Compagnie* (VOC).<sup>35</sup> While forced migration in the commercial empire of the VOC has been well-documented,<sup>36</sup> there remains a need to examine and situate the legacies of historical slavery in contemporary regional and global contexts.<sup>37</sup>

The pre-colonial and colonial movements of labor within and beyond Southeast Asia demonstrates how those enslaved “experienced slavery as both a *global* and a *globalizing* phenomenon – global in the sense that it existed in diverse settings around the world... and globalizing in the sense that it connected world societies (emphasis in original).”<sup>38</sup> As Damian Alan Pargas and Felicia Roşu argue, a global perspective must “view slave systems across time and space as both ubiquitous and interconnected.”<sup>39</sup> This is firstly an effort to “dislodg[e] antebellum southern slavery from its pedestal as the quintessential slavery” in world history,<sup>40</sup> and to depart from viewing the Atlantic experience of slavery as a normative “model for understanding various forms of unfreedom.”<sup>41</sup> Secondly, this perspective means incorporating the global into comparative analyses much like Campbell, who seeks to place the history of slavery within an “authentic” Indian Ocean World dimension by articulating its location as the first “global economy.”<sup>42</sup> The next section, therefore, aims to situate the meaning and historical significance of different forms of forced labor and servitude within the contemporary context of a global and globalizing Southeast Asian region and through the lens of anthropology.

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<sup>33</sup> Scott, William Henry, *Slavery in the Spanish Philippines* (Manila: De La Salle University Press, 1991), 27-28, 31.

<sup>34</sup> Edward R. Slack, Jr. “The *Chinos* in New Spain: A Corrective Lens for a Distorted Image,” *Journal of World History* 20, no. 1 (2009): 37, 41-42.

<sup>35</sup> Allen, “Carrying Away the Unfortunate,” 1424.

<sup>36</sup> Ward, Kerry, *Networks of Empire: Forced Migration in the Dutch East India Company* (Cambridge: Cambridge University Press, 2009, <https://doi.org/10.1017/CHOL9780521840682.009>).

<sup>37</sup> Allen, “Carrying Away the Unfortunate,” 1423.

<sup>38</sup> Damian Alan Pargas and Felicia Roşu, eds., “Introduction: Global Perspectives on Slavery,” in *Critical Readings on Global Slavery* (Leiden: Brill, 2018), 3, [https://doi.org/10.1163/9789004346611\\_002](https://doi.org/10.1163/9789004346611_002).

<sup>39</sup> Ibid.

<sup>40</sup> Christine E. Sears, “‘In Algiers, the City of Bondage’: Urban Slavery in Comparative Context,” in *New Directions in Slavery Studies: Commodification, Community, and Comparison*, eds. Jeff Forret and Christine E. Sears (Baton Rouge: Louisiana State University Press, 2015), 202-203.

<sup>41</sup> Pargas and Felicia Roşu, eds., “Introduction,” 7.

<sup>42</sup> Campbell, “Slavery in the Indian Ocean World,” 52.

## Framing the Lived Experience of Forced Laborers

According to global estimates, Asia and the Pacific accounted for almost two-thirds of all modern slavery victims globally with 25 million victims on any given day in 2016.<sup>43</sup> Defined by the International Labour Organization (ILO) as “a set of specific legal concepts including forced labour, debt bondage, forced marriage, slavery and slavery-like practices, and human trafficking,” modern slavery essentially “refers to situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power.”<sup>44</sup> In Asia and the Pacific region, forced labor is prevalent. The ILO Forced Labour Convention, 1930 (No. 29) defines forced labor as “all work of service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”<sup>45</sup> This definition encompasses “traditional practices of forced labor such as vestiges of slavery or slave-like practices, and various forms of debt bondage,”<sup>46</sup> like bonded labor and peonage. Debt bondage is defined as “being forced to work to repay a debt and not being able to leave, or being forced to work and not being able to leave because of a debt.”<sup>47</sup> Additionally, new forms of forced labor, like human trafficking, is included in this definition.<sup>48</sup> Thus, of those in modern slavery, the largest share at 66 percent were forced labor victims, of which over half were in debt bondage and over two-thirds were women and young girls.<sup>49</sup>

Despite these numbers, Kevin Bales argues that comparatively slavery occupies a much smaller component of the global economy than the past: “Pushed to the illicit margins of most societies, it nevertheless contributes, though in small ways, to a large number of commodities, products, and services that might be consumed locally or exported globally.”<sup>50</sup> As a result of the vulnerability brought upon by poverty and not having access to resources, protection of the law,

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<sup>43</sup> International Labour Organization, *2017 Global Estimates of Modern Slavery and Child Labour: Regional Brief for Asia and The Pacific* (Geneva: International Labour Office, 2017a), 5, [https://ilo.primo.exlibrisgroup.com/permalink/41ILO\\_INST/1jaulmn/alma995073593102676](https://ilo.primo.exlibrisgroup.com/permalink/41ILO_INST/1jaulmn/alma995073593102676).

<sup>44</sup> International Labour Organization, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Geneva: International Labour Office and Walk Free Foundation, 2017b), 16, [https://ilo.primo.exlibrisgroup.com/permalink/41ILO\\_INST/j3q9on/alma994967593002676](https://ilo.primo.exlibrisgroup.com/permalink/41ILO_INST/j3q9on/alma994967593002676).

<sup>45</sup> Ibid.

<sup>46</sup> International Labour Organization, *2017 Global Estimates*, 7.

<sup>47</sup> Ibid.

<sup>48</sup> International Labour Organization, *General Survey on the Fundamental Conventions Concerning Rights at Work in Light of the ILO Declaration on Social Justice for a Fair Globalization, 2008* (Geneva: International Labour Office, 2012), 128, [https://labordoc.ilo.org/permalink/41ILO\\_INST/j3q9on/alma994688153402676](https://labordoc.ilo.org/permalink/41ILO_INST/j3q9on/alma994688153402676).

<sup>49</sup> International Labour Organization, *2017 Global Estimates*, 6.

<sup>50</sup> Kevin Bales, “Slavery in its Contemporary Manifestations,” in *Critical Readings on Global Slavery*, eds. Damian Alan Pargas and Felicia Roşu (Leiden: Brill, 2018), 1686, [https://doi.org/10.1163/9789004346611\\_054](https://doi.org/10.1163/9789004346611_054).

or to social and legal citizenship,<sup>51</sup> Bales suggest that “the flow of slaves from place to place mirrors the migration of opportunity seekers from poorer countries to richer countries,” where they largely engage “in simple, non-technological and traditional work that feeds into local economies.”<sup>52</sup> Labor migrants and victims of forced labor, thereby, share similar work, such as in domestic service, agriculture and fishing, manufacturing, mining, and construction. Beyond this shared commonality of work, scholars of Southeast Asia have noted a correspondence or continuance between past and present slavery due to impoverished conditions that keep the poor in debt bondage in Cambodia,<sup>53</sup> or of cultural indebtedness that keep the filial in debt bondage in Vietnam.<sup>54</sup>

Nicolas Lainez, however, critiques these analogies between old and new forms of debt bondage in Southeast Asia, noting that its utility is limited to the hiring of service where the creditor employs the debtor and is tenuous in illuminating other current debt practices.<sup>55</sup> For example, he notes that not all indebted families resort to debt bondage to cope with economic adversity.<sup>56</sup> Instead, most families tend to expect financial support from their children in the form of remittances by migrant or overseas family members whether invoked through such terms as *utang na loob* (literally, “debt of the inside”) in the Philippines,<sup>57</sup> or *luk katanyu* (loosely translated as “grateful children repaying their eternal debt to their parents”) in Thailand.<sup>58</sup> Thus, while some anthropologists emphasize the role of kinship in shaping indebtedness and

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<sup>51</sup> Nicola Piper, “A Problem by a Different Name? A Review of Research on Trafficking in South-East Asia and Oceania,” *International Migration* 43 (2005).

<sup>52</sup> Bales, “Slavery in its Contemporary Manifestations,” 1668, 1686.

<sup>53</sup> Trude Jacobsen, *Sex Trafficking in Southeast Asia: The Context of Desire, Duty, and Debt* (New York: Routledge, 2017).

<sup>54</sup> Daniel Silverstone and Claire Brickell, *Combatting Modern Slavery Experienced by Vietnamese Nationals en Route to, and Within, the UK* (London: Independent Anti-Slavery Commissioner, 2017). <https://www.antislaverycommissioner.co.uk/media/1160/combating-modern-slavery-experienced-by-vietnamese-nationals-en-route-to-and-within-the-uk.pdf>.

<sup>55</sup> Nicolas Lainez, “The Contested Legacies of Indigenous Debt Bondage in Southeast Asia: Indebtedness in the Vietnamese Sex Sector,” *American Anthropologist* 120, no. 4 (2018): 680, <https://doi.org/10.1111/aman.13105>.

<sup>56</sup> *Ibid.*, 676.

<sup>57</sup> Cheryll Alipio, “Money, Maturity, and Migrant Aspirations: “Morality-in-Motion” Among Young People in the Philippines,” in *Money and Moralities in Contemporary Asia*, eds. Lan Anh Hoang and Cheryll Alipio (Amsterdam: Amsterdam University Press, 2019); Cheryll Alipio, “Filipino Children and the Affective Economy of Saving and Being Saved: Remittances and Debts in Transnational Migrant Families,” in *Transnational Labour Migration, Remittances, and the Changing Family in Asia*, eds. Lan Anh Hoang and Brenda S. A. Yeoh (Basingstoke: Palgrave Macmillan, 2015).

<sup>58</sup> Leonora C. Angeles and Sirijit Sunanta, “Demanding Daughter Duty: Gender, Community, Village transformation, and Transnational Marriages in Northeast Thailand,” *Critical Asian Studies* 41, no. 4 (2009): 555.

bondage,<sup>59</sup> others stress its antithesis in defining slavery,<sup>60</sup> or its study in relation to the political economy of labor and migration, wherein social, economic, and political structures – rather than indigenous forms of debt bondage alone – must be considered in the analysis of debt, indebtedness, and dependency relations.<sup>61</sup>

Lainez further argues that these transhistorical reproductions of debt bondage “continue to construct simplistic narratives in which slavery and traditions from the past continue to disempower and enslave present-day disadvantaged populations.”<sup>62</sup> To mitigate these aforementioned limitations, the next section examines case studies of forced labor “both in terms of the individual lived experience of enslavement and in terms of the broader social and economic factors that support contemporary slavery.”<sup>63</sup> This approach also allows for a recognition of the role of states, their various policies on migration, and the labor market “in producing the context and legitimization of situations of forced labor.”<sup>64</sup> From a critical review of historical slavery to contemporary transnational migration, these case studies explore competing understandings and discourses of forced labor, demonstrating that an analysis of the sociocultural, economic, linguistic, geographical, and political dynamics at play must take not only a cross-border approach but also a global perspective.

Drawing upon archival sources, ethnographic data gathered from the authors’ long-term fieldwork in Indonesia and the Philippines, and news reports drawn from the first author’s larger study on determinants of migrant health in Hong Kong, the following section compares how transnational migrants, like the enslaved peoples and indentured laborers that came before them, such as the *ata* of Indonesia and the *alipin* of the Philippines, face a range of oppressive conditions and precarity from lack of legal protections and labor rights to basic human rights and social connections that place them in extreme power asymmetries indicative of earlier forms of exploitation. In considering how various forms of forced labor persists in the region as a result of social and structural conditions that foster debt bondage, violence, and crises, the article argues for a need to reorient the dominant focus of slavery scholarship from the Atlantic context to a renewed focus on the wider implications of slavery from within Asia.

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<sup>59</sup> Charles Kaut, “Utang na Loob: A System of Contractual Obligation Among Tagalogs,” *Southwestern Journal of Anthropology* 17, no. 3 (1961).

<sup>60</sup> Claude Meillassoux, *The Anthropology of Slavery: The Womb of Iron and Gold* (Chicago: University of Chicago Press, 1991).

<sup>61</sup> Annuska Derks, “Bonded Labour in Southeast Asia: Introduction,” *Asian Journal of Social Science* 38 (2010): 849; Lainez, “The Contested Legacies,” 672, 674.

<sup>62</sup> *Ibid.*, 679.

<sup>63</sup> Bales, “Slavery in its Contemporary Manifestations,” 1660.

<sup>64</sup> Danièle Bélanger, “Labor Migration and Trafficking among Vietnamese Migrants in Asia,” *The Annals of the American Academy of Political and Social Science* 653 (May 2014): 90, <https://www.jstor.org/stable/24541776>.

## Historical and Modern Slavery in Indonesia

The region of Nusa Tenggara Timur (NTT) in southeastern Indonesia shows congruencies between historical slavery and contemporary unfree labor. Much of this similarity is found in the existence of both inherited and acquired slaves as well as the geographic characteristics of unfree labor. The population of these islands faced enslavement before the colonial period by fellow inhabitants of NTT and other parts of Indonesia.<sup>65</sup> Large areas around the coast remain depopulated today from both the abduction of communities and the movement of villages to safer locations in the highlands away from maritime slave raiding.<sup>66</sup> Unlike Atlantic slavery, European colonialists, such as the Dutch, English, and Portuguese, did not export slave systems but adopted the characteristics of slavery in Southeast Asia while, at times, preventing slave raiding on allies in the region.<sup>67</sup>

During the precolonial and colonial period, slave raiding focused on catchments in the non-Islamic regions of eastern Indonesia. Enslaved peoples would be transported to regional centers, such as Bali or Makassar, to work in domestic servitude or plantation slavery. Others were further trafficked to the larger metropolises, such as Batavia and China.<sup>68</sup> Slaves from NTT were recorded as arriving in areas as far as South Africa (see Figure 1). These larger cities were not simply a location for enslaved peoples but qualify as “slave societies.” Historical records demonstrate that large portions of the populations were enslaved people. Slaves were 56.93 percent of Batavia, 66.55 percent of Makassar, and 40.07 percent of Malacca’s population in the seventeenth century.<sup>69</sup> Slave raiding in NTT came from several sources. At different periods over several centuries, the local kingdom of Ende, regional powers of Makassar and Ternate, and the Dutch and Portuguese took slaves from NTT.<sup>70</sup> Not unlike the Atlantic system, enslaved people would often be transmitted between local and international sources at collection points.

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<sup>65</sup> Hans Hägerdal, “Slaves and Slave Trade in the Timor Area: Between Indigenous Structures and External Impact,” *Journal of Social History* 54, no. 1 (2020).

<sup>66</sup> Rodney Needham, *Sumba and the Slave Trade* (Monash Asia Institute: Centre of Southeast Asian Studies Working Papers, 1983).

<sup>67</sup> Hägerdal, “Slaves and Slave Trade in the Timor Area.”

<sup>68</sup> Reid, “‘Closed’ and ‘Open’ Slave Systems,” 1471.

<sup>69</sup> Markus Vink, “‘The World’s Oldest Trade’: Dutch Slavery and Slave Trade in the Indian Ocean in the Seventeenth Century,” *Journal of World History* 14, no. 2 (2003): 148.

<sup>70</sup> Hägerdal, “Slaves and Slave Trade in the Timor Area.”

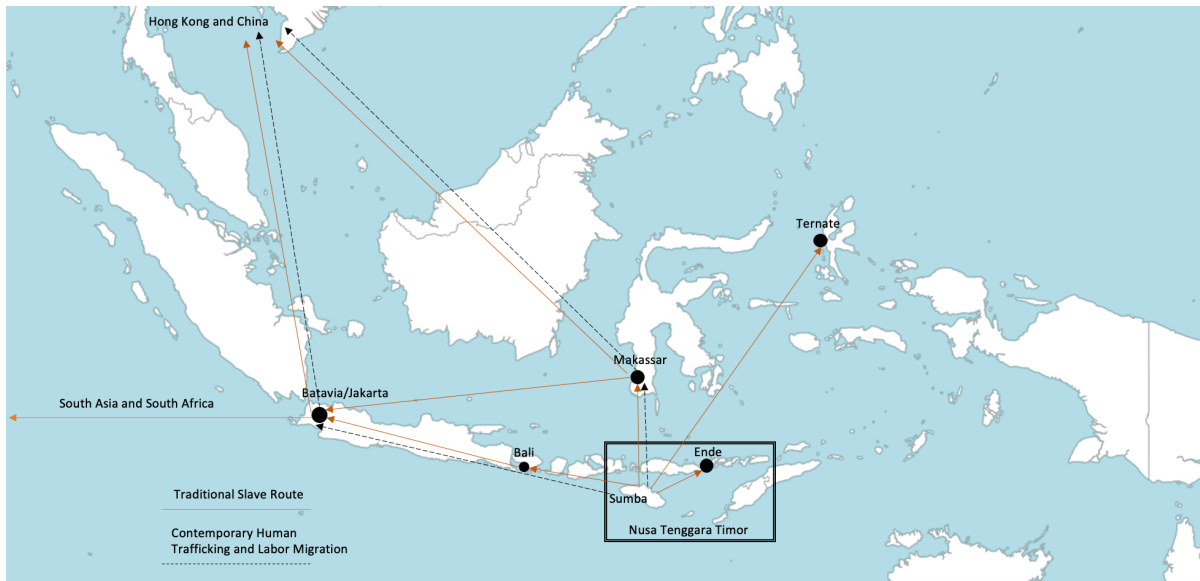


Figure 1: Historical Slavery and Contemporary Human Trafficking and Labor Migration Routes in Indonesia

What similarities exist between the historical and contemporary slavery in NTT? Because NTT comprises several islands and ethnic groups, this case study will focus on the island of Sumba as greater ethnographic detail exists regarding slavery. Sumba has continued to have both the traditional hereditary slavery within communities,<sup>71</sup> as well as unfree labor through labor migration<sup>72</sup> and kidnapping.<sup>73</sup> As was the case during historical periods, ethnic groups from Makassar on the island of Sulawesi have been identified as kidnapping and enslaving Sumbanese, according to Indonesian National Police detectives.<sup>74</sup> The means by which individuals became slaves is recorded in the Bugis law code, a sixteenth century pre-Islamic source that stated: “A person is called a slave (*ata*) when the four following circumstances arise: first, a person is peddled for sale and bought; second, the person sold says ‘buy me’ and you buy him; third, a person is seized in war and sold; fourth, a person has transgressed the customary law (*ade*) or the state (*kerajaan*), he is sold and you buy him;” or in a fifth case, a man can be

<sup>71</sup> Janet Hoskins, “Slaves, Brides and Other ‘Gifts’: Resistance, Marriage and Rank in Eastern Indonesia,” *Slavery & Abolition: A Journal of Slave and Post-Slave Studies* 25, no. 2 (2004).

<sup>72</sup> Aisyah Llewellyn, “‘It is Modern-day Slavery’: Migrant Workers from Indonesia’s East Nusa Tenggara Face Trafficking, Abuse,” *South China Morning Post*, January 17, 2021, [https://www.scmp.com/week-asia/people/article/3117956/it-modern-day-slavery-migrant-workers-indonesias-east-nusa?module=perpetual\\_scroll&pgtype=article&campaign=3117956](https://www.scmp.com/week-asia/people/article/3117956/it-modern-day-slavery-migrant-workers-indonesias-east-nusa?module=perpetual_scroll&pgtype=article&campaign=3117956).

<sup>73</sup> Indonesian National Police Investigator, Personal communication to co-author, 2010.

<sup>74</sup> *Ibid.*

sold to make good his inability to pay his or his parents' debts.<sup>75</sup> Similarly, the Sumbanese language also recognizes the distinction between one who is forced through violence into slavery and one who is born into slavery: *Ata mema* ("original slaves") are based on heredity and are typically autochthonous within communities while *ata pa kahi* ("bought slaves") are from outside of the community and acquire their designation through violence or a financial transaction.<sup>76</sup>

Ethnographic accounts over the last 30 years are unclear about the degree to which slavery has dwindled on the island. This is, in part, a reflection of the difficulty in defining slavery; the existences of bridewealth payments in which women are "paid for" by their husbands and his kin; and the ways in which symbolic, legal, and structural conditions hide unfree labor. The instances in which slavery has been reported to remain in Sumba are the following: Some *ata* tend livestock, work fields, and labor in households with only subsistence as compensation.<sup>77</sup> *Ata* have also been reported to carry brands and tattoos of the noble families to whom they are said to belong.<sup>78</sup> Extending at least until the 1990s, Indonesian National Police attended the funerals of nobles to prevent the sacrifice of *ata* to their deceased masters.<sup>79</sup> The continuation from traditional slavery to contemporary domestic servitude is captured in the language change used to describe this institution. The descendants of *ata* are now a caste euphemistically referred to as *orang dalam rumah* (literally, "people of the house") in which their domestic service connotes but hides their status as enslaved people.<sup>80</sup> *Ata*, nevertheless, have been found to use marriage to outsiders as one of the only ways to shed their status as slaves,<sup>81</sup> while some escape from the island with the help of missionaries to the inner islands of Bali and Java.<sup>82</sup> Others, however, are returned to their "homes" by the police when they flee.<sup>83</sup>

Today, Nusa Tenggara Timur is one of the most impoverished areas of Indonesia. Such economic conditions have led to a new type of *ata* – *ata pa kahi*, or bought slaves – who migrate outside the region, but often to unfree labor situations. In addition to being a location of

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<sup>75</sup> Mattulada, "Latoa: Satu Lukisan Analitis terhadap Antropologi-Politik Orang Bugis" (PhD diss., University of Indonesia 1976), 278-281, quoted in Reid, "'Closed' and 'Open' Slave Systems," 1464.

<sup>76</sup> Hoskins, "Slaves, Brides and Other 'Gifts.'"

<sup>77</sup> Chris Lundry, "Sympathy for the Devil," *Inside Indonesia*, June 6, 2010, <https://www.insideindonesia.org/sympathy-for-the-devil>.

<sup>78</sup> Indonesian National Police Investigator, Personal communication to co-author, 2010.

<sup>79</sup> Hoskins, "Slaves, Brides and Other 'Gifts.'"

<sup>80</sup> Siti Barokah, *An Ethnographic Investigation of Master-Slave Relation in Sumba, Indonesia* (The Hague: MA Thesis, 2016).

<sup>81</sup> *Ibid.*, 30.

<sup>82</sup> Indonesian National Police Investigator, Personal communication to co-author, 2010

<sup>83</sup> Hoskins, "Slaves, Brides and Other 'Gifts.'"

traditional domestic servitude within communities, Sumba is a source of unfree laborers, who are moved to Java and other areas in western Indonesia.<sup>84</sup> Traditional chattel slavery is often associated with large-scale production systems and, in Southeast Asia, there have been enslaved people who work the fields. Compared to the Atlantic slave systems, Southeast Asian chattel slavery is more closely related to domestic labor except in extreme instances where human trafficking has been reported to involve the abduction of young women from Sumba by the ethnic groups near Makassar,<sup>85</sup> who are also known for their historical slave raiding of the region.<sup>86</sup> Although only a minority of people leaving Sumba and NTT do so against their will, contemporary migrant workers from the region often face abuse and lack of access to legal protection.

### Historical and Modern Slavery in the Philippines

Like the *ata* of Indonesia, the pre-Hispanic Philippines had a clear distinction between the bonded and “freeman” classes with the former known as *alipin* in Tagalog or *oripun* in the Visayan language, and the latter as *maharlika* and *timagua*, respectively. Individuals became an *alipin* through inheritance, sale, capture, judicial punishment, and debt; and based on their degree of dependence and obligation were further divided into subclasses: *Alipin sa gigilid*, or household slaves, were completely dependent and obligated to their master while *alipin namamahay*, or field slaves or serfs, had their own house, usually on the property of their masters and would assist them when called upon.<sup>87</sup> In a document dated 21 October 1589, Juan de Plasencia, one of the first Franciscan missionaries to arrive in the Philippines, detailed the customs of the Tagalogs, an ethnolinguistic group, in the province of Laguna and described the practices and rights of the aforementioned classes of slavery.<sup>88</sup> He noted that there have been confusion of the two *alipin* terms, leading to some *alipin namamahay* being taken away, used, and sold as *alipin sa gigilid*, which he notes is illegal.<sup>89</sup> Plasencia, then suggests that the *alcaldes-mayor*, or regional magistrate, “should be instructed to ascertain, when anyone asks for his *alipin*, to which class he belongs, and to have the answer put in the document that they give

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<sup>84</sup> Barokah, *An Ethnographic Investigation of Master-Slave Relation*, 14.

<sup>85</sup> Utami Dewi Anggia and Rezasyah Teuku, “Indonesian Migrant Domestic Workers and Sustainable Development Goals: Feasible Policy and Practices,” *E3S Web of Conferences* 73, no. 09017 (2018): 2-4, <https://doi.org/10.1051/e3sconf/20187309017>.

<sup>86</sup> Llewellyn, “‘It is Modern-day Slavery.’”

<sup>87</sup> Reid, “‘Closed’ and ‘Open’ Slave Systems,” 1470.

<sup>88</sup> Juan de Plasencia, “Customs of the Tagalogs (Two Relations by Juan de Plasencia, O. S. F.),” in *The Philippine Islands 1493-1898, V7, 1588-1591*, eds. Emma Helen Blair and James Alexander Robertson, accessed October 1, 2021, <https://www.gutenberg.org/files/13701/13701-h/13701-h.htm#d0e1500>.

<sup>89</sup> *Ibid.*

him.”<sup>90</sup> While Reid describes Plasencia as concerned over “what he sees as the terrible abuse of trading in slaves,” the former points out that in practice there was great fluidity due to commercial demand and “[i]f there was a customary distinction between saleable and non-saleable bondsmen, it had little real force either in ideology or legal institutions.”<sup>91</sup>

This sentiment can be found in an early account made on 7 July 1569, during one of the last years of Spanish explorer Miguel López de Legazpi’s administration as Governor-General of the Philippines. Here, he relayed “a summary relation on the nature of this country and of the natives” to the viceroy of New Spain, Gastón de Peralta, 3rd Marqués de Falce:

The inhabitants of these islands are not subjected to any law, king, or lord... the people do not act in concert or obey any ruling body; but each man does whatever he pleases, and takes care only of himself and of his slaves. He who owns most slaves, and the strongest, can obtain anything he pleases. No law binds relative to relative, parents to children, or brother to brother. No person favors another, unless it is for his own interest; on the other hand, if a man in some time of need, shelters a relative or a brother in his house, supports him, and provides him with food for a few days, he will consider that relative as his slave from that time on, and is served by him. They recognize neither lord nor rule; and even their slaves are not under great subjection to their masters and lords, serving them only under certain conditions, and when and how they please. Should the master be not satisfied with his slave, he is at liberty to sell him. When these people give or lend anything to one another, the favor must be repaid double, even if between parents and children, or between brothers. At times they sell their own children, when there is little need or necessity of doing so.<sup>92</sup>

On the one hand, Legazpi documents the looseness of the ideologies, institutions, and practices of slavery; and, on the other hand, captures the relative ease in which people are contracted and bonded into labor, particularly in a political and economic system that mirrored that of precolonial and colonial Indonesia.

In classifying the weak state, money economy of sixteenth century Philippine society as “transitional” between the “closed” and “open” systems of slavery, Reid suggests that this allowed for movement in and out of the slave category as slaves were increasingly seen as property, who could be exchanged for other goods or cash.<sup>93</sup> In this society, the Philippines had

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<sup>90</sup> Ibid.

<sup>91</sup> Reid, “‘Closed’ and ‘Open’ Slave Systems,” 1470-1471.

<sup>92</sup> Miguel López de Legazpi, “Relation of the Filipinas Islands and of the Character and Conditions of their Inhabitants,” in *The Philippine Islands, 1493-1803, Volume III, 1569-1576*, eds. Emma Helen Blair and James Alexander Robertson, accessed October 1, 2021, <https://www.gutenberg.org/files/13616/13616-h/13616-h.htm#d0e529>.

<sup>93</sup> Reid, “‘Closed’ and ‘Open’ Slave Systems,” 1469.

nearly identical pathways into slavery as Indonesia. In a letter written on 3 July 1584 to King Felipe II, Melchor Davalos, an auditor, testifies to the commercial and industrial status of the Spanish colony and notes:

Concerning slavery... we have here many kinds of slaves: some are slaves because their fathers and grandfathers were such; others sold themselves... either to make use of the money or to pay their debts; others were captured in war; others became slaves because, being orphans, they were held in that condition for food and expenses; others were sold in times of famine by their fathers, mothers, or brothers; others bear that name because of loans, for interest multiples rapidly among the [Indios (indigenous peoples of the Philippines)] and the Moros [(native Muslim inhabitants)], and thus a poor man becomes a slave. There are men who become slaves on account of crimes, and failure to pay fines and penalties; and others for not having paid the tribute or tributes of their lords.<sup>94</sup>

While Davalos explains that he “chose to mention these details because it is proper” to notify the King and his council, he also states that, “Each of these reasons is an argument for justifying slavery.”<sup>95</sup>

Reid, however, finds that debt and failure to pay fines appears to be a distinguishing feature in the Malay Archipelago and in defining bondage,<sup>96</sup> arguing that debt is “the most fundamental source of Southeast Asian slavery.”<sup>97</sup> In an official report written by Governor Francisco de Sande on 7 June 1576, he remarks:

They are all usurers, lending money for interest and go even to the point of making slaves of their debtors, which is the usual method of obtaining slaves. Another way is through their wars, whether just or unjust. Those who are driven on their coat by storms are made slaves by the inhabitants of that land. They are so mercenary that they even make slaves of their own brothers, through usury... They are all a miserable race.<sup>98</sup>

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<sup>94</sup> Melchior Davalos, “Letter from Melchior Davalos to Felipe II,” in *The Philippine Islands 1493-1898, Volume VI, 1583-1588*, eds. Emma Helen Blair and James Alexander Robertson, accessed October 1, 2021, <https://www.gutenberg.org/cache/epub/13120/pg13120-images.html>.

<sup>95</sup> Ibid.

<sup>96</sup> Herman Jeremias Nieboer, *Slavery as an Industrial System: Ethnological Researches* (The Hague: Martinus Nijhof, 1900), 38-39.

<sup>97</sup> Reid, “‘Closed’ and ‘Open’ Slave Systems,” 1465.

<sup>98</sup> Francisco de Sande, “Relation of the Filipinas Islands,” in *The Philippine Islands 1493-1898, Volume IV, 1576-1582*, eds. Emma Helen Blair and James Alexander Robertson, accessed October 1, 2021, <http://www.dominiopublico.gov.br/download/texto/gu012635.pdf>.

Sande's report reveals the ubiquity of slaves and perhaps the uneasiness of its prevalence throughout Philippine society. But, as the global economy expanded and the practice of slavery extended beyond Christian and non-Christian inhabitants (as mentioned in the introduction and administratively documented by Worcester) to European and Asian slaveholders and traders (as mentioned in the first section of the article), "the 'open' system of slavery tended to give way to one marked by racial distinctiveness,"<sup>99</sup> which is also a feature of post-colonial bondage and forced labor, especially that of domestic work and servitude (see Figure 2).



Figure 2: Historical Slavery and Contemporary Labor Migration Routes in the Philippines

### Foreign Domestic Workers and Forced Labor in East Asia

Forced labor in relation to domestic work has long been a part of the histories of Indonesia and the Philippines as variously described above by historians, anthropologists, missionaries, explorers, and government officials. While the export of Indonesian slaves to China in the sixteenth and seventeenth centuries from cities, such as Makassar, Malacca, Aceh, and Banten, has been documented, less is known about the specific export of Indonesian domestic

<sup>99</sup> Reid, "'Closed' and 'Open' Slave Systems," 1480.

servitude to East Asia during this time. In contrast, Worcester's controversial government report collected case reports, detailing not only the sale and transfer of young domestic slaves from indigenous tribal groups of the Cordillera Mountain Range and of Christian Filipinos from the Visayan Islands to Manila and the surrounding provinces of Luzon, but also of those exported from around the Philippines to China. For instance, a Bureau of Customs employee made the following report on 1 July 1913:

... relative to the existence of slavery in this country... a Chinese merchant from... Negros [Occidental (in the Western Visayas region)], was about to embark for China and sought to establish his status as a merchant... In the course of the examination the information was developed that he owned a girl 17 years old.... having purchased her from his [business] partner... three years ago for the sum of ₱20.00... According to his testimony, [the partner] had been made a present of the girl by her sister... I am led to believe, however, that in the case of Chinese slave owners the ulterior motive in many instance, especially if the slaves are females is to take them to China where they are sold as servants to wealthy Chinese... a theory, as evidenced by a talk yesterday with a very prominent English-speaking Chinaman who went so far as to acknowledge [it].<sup>100</sup>

This customs employee further noted that “the ownership of household slaves who are regularly bought and sold is so common in Negros... that it excited no special interest among foreigners who are familiar with such forms of servitude.”<sup>101</sup>

Yet, in another immigration inspection case of a Chinese laborer failing to disclose the taking and shipping of two Filipino girls (aged four and 17) out of the country, the employee suspected that “young Filipino girls are being taken to China for other than legitimate purposes.”<sup>102</sup> Despite what Worcester calls “proven facts,” he asserts that “[w]hile there has been much noise about slavery, there has been profound silence relative to peonage, which, in the Philippines, is by far the greater evil of the two, because of the very large number of persons who suffers from its prevalence.”<sup>103</sup> As previously noted in the second section, debt bondage, peonage, and bonded labor falls under ILO's umbrella term of forced labor; and continues to be a transhistorical issue in Southeast Asian countries, such as Indonesia and the Philippines, especially in times of financial and humanitarian crises. For instance, the current pandemic due to the coronavirus disease 2019 (COVID-19) has exacerbated the working conditions and

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<sup>100</sup> Worcester, *Slavery and Peonage*, 20.

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid., 81.

financial burden of foreign domestic workers (FDWs) from these countries,<sup>104</sup> and has had an adverse impact on their health and well-being.<sup>105</sup> While transnational labor migration provides an alternative to these countries' stagnant labor markets, domestic workers currently face rising debt bondage and emergency expenses "because the... situation is far worse back home."<sup>106</sup>

It is due to these poor socioeconomic conditions that the Philippines and Indonesia have become top sending countries of FDWs, particularly to East and Southeast Asian countries such as Hong Kong, Taiwan, Singapore, and Malaysia, with the latter being a preferred destination for Indonesians.<sup>107</sup> In the Philippines, impoverished living conditions, intertwined with social mobility aspirations and a state infrastructure to support overseas employment, help to perpetuate the constant, and oftentimes intergenerational, family chain migration flows of FDWs to these countries, as evidenced by the lead author's fieldwork in Laguna province.<sup>108</sup> At the end of 2020, Hong Kong had nearly 374,000 FDWs with the majority being female and Filipino at over 207,400 and Indonesian at almost 158,000.<sup>109</sup> With one in seven households employing a domestic worker, this number points to the high reliance on and recruitment of FDWs to fill in gaps in care needs and provide domestic services for households, children, and the elderly.<sup>110</sup>

Their employment, however, requires them to live-in with their employers, increasing their vulnerability to labor exploitation, gender-based violence, and mental and physical health

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<sup>104</sup> Kathleen Magramo, "Paying More for Domestic Helpers: Hong Kong's Supply of Such Workers Shrinks, Forcing Desperate Employers Into 'Bidding War,'" *South China Morning Post*, September 25, 2021, <https://www.scmp.com/news/hong-kong/hong-kong-economy/article/3150029/paying-more-domestic-helpers-hong-kongs-supply>; Kathleen Magramo, "Hong Kong Freezes Domestic Helper Wages for Second Straight Year, Officials Point to Coronavirus-hit Economy as Factor for Denying Pay Rise," *South China Morning Post*, September 30, 2021, <https://www.scmp.com/news/hong-kong/society/article/3150735/hong-kong-freezes-domestic-helper-wages-second-straight-year>.

<sup>105</sup> Ingrid D. Lui et al., "'We Also Deserve Help During the Pandemic': The Effect of the COVID-19 Pandemic on Foreign Domestic Workers in Hong Kong," *Journal of Migration and Health* 3, no. 100037 (2021): 1-7, <https://doi.org/10.1016/j.jmh.2021.100037>.

<sup>106</sup> Raquel Carvalho, "Hong Kong Domestic Workers 'Angry' at Exclusion from Coronavirus Relief Measures," *South China Morning Post*, April 9, 2020, <https://www.scmp.com/week-asia/politics/article/3079281/hong-kong-domestic-workers-angry-exclusion-coronavirus-relief>.

<sup>107</sup> Tim F. Liao and Rebecca Yiqing Gan, "Filipino and Indonesian Migrant Domestic Workers in Hong Kong: Their Life Courses in Migration," *American Behavioral Scientist* 64, no. 6 (2020). <https://doi.org/10.1177%2F0002764220910229>.

<sup>108</sup> Alipio, "Money, Maturity, and Migrant Aspirations;" Alipio, "Filipino Children."

<sup>109</sup> Immigration Department, "Statistics on the Number of Foreign Domestic Helpers in Hong Kong (English)," The Government of the Hong Kong Special Administrative Region of the People's Republic of China, last updated February 25, 2021, <https://data.gov.hk/en-data/dataset/hk-imm-d-set4-statistics-fdh/resource/b983aa1d-2617-4051-9ec1-dc5ca281b117>.

<sup>110</sup> Kok Xinghui, "Could a Singapore Scheme for Domestic Workers be a Model for Changing Hong Kong's Live-in Rule for Helpers?" *South China Morning Post*, September 19, 2021, [https://www.scmp.com/week-asia/people/article/3149038/could-singapore-scheme-domestic-workers-be-model-changing-hong?tpcc=enlz-lunar&module=tc\\_1](https://www.scmp.com/week-asia/people/article/3149038/could-singapore-scheme-domestic-workers-be-model-changing-hong?tpcc=enlz-lunar&module=tc_1).

issues, including death in which one Filipino domestic worker passed away after her employer denied her request to seek healthcare treatment out of fear of contracting COVID-19.<sup>111</sup> Appeals made to overturn this policy point to the 2014 case of Erwiana Sulistyaningsih, an Indonesian domestic worker who was tortured,<sup>112</sup> as well as to a surge of abuse cases since the pandemic in which the Asian Migrants' Coordinating Body (AMCB) has found that seven out of 10 domestic workers have experienced ill-treatment, one in five encountered physical abuse, and six percent of workers reported rape cases or sexual harassment.<sup>113</sup> Coupled with the government's stay-at-home guidance during the pandemic, FDWs have reported feeling pressured to stay home during their rest days, which is an employment right they are entitled to,<sup>114</sup> while others are threatened with having their visas cancelled or their jobs terminated.<sup>115</sup>

FDWs have also faced increased workloads at the same time that they are excluded from government relief measures due to their non-resident status. Eman Villanueva, a Filipino domestic worker and spokesman for AMCB, stated that, "The government treats us as if we are not affected by the [COVID-19 pandemic] at all," adding that "[i]n the past, most foreign domestic helpers only needed to prepare breakfast and dinner for their employers. But [now]... children stay more at home, parents also work from home, that means more work for their helpers... They also have to go to the market to buy food more, and do more cleaning."<sup>116</sup> Consequently, at the same time that FDWs are both overworked and in shortage due to public health measures, such as travel bans and quotas, Hong Kong immigration officials have restricted workers from "job-hopping," meaning that a worker cannot prematurely terminate their employment contract in order to change employers.

This policy led Villanueva to argue that even if some domestic workers had switched to higher paying employers, there was nothing wrong in pursuing better pay as many Hongkongers routinely did: "Why are domestic workers being punished for this? Our message... is that [the

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<sup>111</sup> Raquel Carvalho, "Coronavirus: Death of Filipino Domestic Helper in Hong Kong Underlines Stark Health Care Gap Amid Pandemic," *South China Morning Post*, October 11, 2020, <https://www.scmp.com/week-asia/people/article/3104923/coronavirus-death-filipino-domestic-helper-hong-kong-underlines>.

<sup>112</sup> Chris Lau, "Hong Kong's 'Live-in' Rule for Domestic Workers Leads to Working on Rest Day, Appeal of Government Policy Argues," *South China Morning Post*, March 17, 2020, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3075631/hong-kongs-live-rule-domestic-workers-leads-working>.

<sup>113</sup> Fiona Sun, "Slapped, Kicked, Scratched, No Days Off: Domestic Helper Group in Hong Kong Reveals Alleged Abuse Filipino Woman Suffered in 14 Months Amid Covid-19 Pandemic," *South China Morning Post*, June 11, 2021, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3136995/slapped-kicked-scratched-no-days-domestic-helper-group>; Cannix Yau, "Hong Kong Helpers Allege Sexual, Physical Abuse by Employers During Covid-19 Pandemic," *South China Morning Post*, June 29, 2021, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3139211/hong-kong-helpers-allege-sexual-physical-abuse>.

<sup>114</sup> Lau, "Hong Kong's 'Live-in' Rule."

<sup>115</sup> Raquel Carvalho, "Coronavirus: Death of Filipino Domestic Helper."

<sup>116</sup> Ng Kang-chung, "No Pay Rise for Hong Kong's Domestic Workers in Coming Year, Government Says, as Covid-19 Hammers Economy," *South China Morning Post*, September 29, 2020, <https://www.scmp.com/news/hong-kong/society/article/3103573/no-pay-rise-hong-kongs-domestic-helpers-coming-year>.

lawmakers] have the mentality of slave masters. One cannot leave his or her employer? That's slavery."<sup>117</sup> Moreover, during the pandemic, newly arrived FDWs to the city have been found to experience vulnerable situations even before the start of their domestic labor with some reporting poor living conditions and the failure of employers to cover costs in compulsory quarantine, while others are reluctant to complain out of fear of getting fired.<sup>118</sup> A member of the public responded to this news, stating: "This is the ugly side of the foreign domestic helper business. This is just [a] slightly cleaner version of [the] slave trade."<sup>119</sup>

## Conclusion

In 1912, when *La Vanguardia* declared that there were no slaves in the Philippines, its editors did so in an environment where slavery was highly politicized as a moral justification for colonialization. Thus, to refute the ostensive logic of colonialism that slavery should not exist, they tried to make it conceptually disappear through rhetoric. Contemporary Southeast Asian countries, such as Indonesia and the Philippines, no longer require an absence of slavery to legitimize their independence or sovereignty. Recent cases show that such governments celebrate their role in liberating enslaved people within their borders,<sup>120</sup> while others increasingly acknowledge and are critical of the modern slavery practices and forced labor conditions that their nationals endure. When governments fail to protect the rights of those in forced labor, the case studies indicate that civil society and the public are willing to respond and intervene. Such manumissions and recognition also mean that slavery and forced labor remains a part of societies.

Rather than speaking slavery out of existence, contemporary unfree household and migratory labor is negated through not speaking about it.<sup>121</sup> The *ata* of Sumba are there. They escape to other islands, marry outsiders to gain the protection of Indonesian law, and are returned by police after they have run away. The geographic patterns of this unfree labor and abduction mirror much of the colonial slave trade, where individuals from peripheral areas of island

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<sup>117</sup> Phila Siu, "Hong Kong Immigration Department Rejects 319 Visa Applications From 'Job-hopping' Domestic Helpers," *South China Morning Press*, February 3, 2021, <https://www.scmp.com/news/hong-kong/society/article/3120409/hong-kong-immigration-department-rejects-319-visa>.

<sup>118</sup> Raquel Carvalho, "'Limited Food, No Wages,': Domestic Workers Struggle Amid Quarantine in Hong Kong," *South China Morning Post*, June 21, 2020, <https://www.scmp.com/week-asia/economics/article/3089837/limited-food-no-wages-domestic-workers-struggle-amid-quarantine>.

<sup>119</sup> Ibid.

<sup>120</sup> Abby Phillip, "Nearly 550 Modern-day Slaves Were Rescued From Indonesia's Fish Trade. And That's Just the Beginning," *The Washington Post*, April 10, 2015, <https://www.washingtonpost.com/news/morning-mix/wp/2015/04/10/nearly-550-modern-day-slaves-were-rescued-from-indonesias-fish-trade-and-thats-just-the-beginning/>.

<sup>121</sup> Savira Dhanika Hardianti, "Modern Slavery in Indonesia: Between Norms and Implementation," *Brawijaya Law Journal: Contemporary Issues in South-East Asia Countries* 2, no. 1 (S) (2015), <http://dx.doi.org/10.21776/ub.blj.2015.002.01.06>.

archipelagoes were taken to metropolitan areas. Similarly, the *alipin* were also there in the Philippines. However, while this bonded class and its terminology are no longer in usage in comparison to the *ata*, domestic slavery and servitude is still present in society.

Yet, this is rarely spoken about in the Philippines or Indonesia and very few ethnographies mention the *ata* or the relevance of the *alipin* in understanding modern forms of unfree and forced labor. Rather, public and scholarly attention has been redirected towards overseas foreign domestic work. This is due in part to the demand for this labor, to the indispensable care and household services they provide in Hong Kong and other countries of destination, and to their contributions to the wealth and economic sustainability of Indonesia and the Philippines. At the same time, these domestic workers attract attention as a result of the unequal and unfree conditions they face. As the case studies have shown, patterns of poverty, debt, and bondage, arising from social and structural conditions, has engendered Southeast Asians into global slave and migrant labor systems, where vulnerabilities as a result of their race, ethnicity, class, and gender can lead to exploitation and violations of their human and labor rights.

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