

**Saving the slaving child: domestic work, labor trafficking, and the politics of rescue in India**

(Manuscript in final revisions with *Humanity* journal, August 2018)

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Author Notes: 1. The ethnographic component of this article “happened” to me while conducting dissertation research on the way foreign-funded NGOs are working with the law enforcement and criminal justice systems in India to construct and respond to the issue of sex trafficking. One of the NGOs whose work I followed closely, as well as some of the law enforcement officers and judicial bodies I encountered, worked on both sex trafficking and labor trafficking, thus giving me a chance to understand a different (if related) dimension of their work apart from the focus of my dissertation. While the fieldwork this article draws upon (and the questions it pointed me towards) was thus not funded as a project on its own, it took place during research I did in India for Sally Merry’s project on indicators as a technology of global governance on which I was a research assistant and later, a Wenner Gren Foundation dissertation fieldwork grant.

2. When directly citing Indian legal texts, I have retained the original British English spelling and punctuation conventions.

## **Saving the slaving child: domestic work, labor trafficking and the politics of rescue in India**

Domestic labor has had a long, enduring history in India, vital to the homes and lives of the middle and upper classes, and persisting through changing expectations and structures of modernity, caste and class relations and domestic spaces.<sup>i</sup> In the past few years, anti-trafficking and child rights NGOs in New Delhi, working closely with state agencies, have been calling attention to the exploitative dimensions of domestic labor by rescuing impoverished young rural migrants (especially girls) brought by unregulated “placement agencies” to work in upwardly mobile urban households. These NGOs increasingly articulate concerns around labor exploitation in the language of human trafficking and “modern-day slavery” employed by their foreign donors (especially the U.S.) by weaving them into local concerns around forced labor and child labor addressed within the Indian legal framework. Their interventions, framed both by recent efforts by the U.S. State Department against “slavery” in the global South, and by progressive postcolonial legislation in India against exploitative labor practices, rub uneasily against socio-economic inequities and cultural hierarchies that have long perpetuated profoundly unequal relationships between household employers and domestic labor.

The concept of slavery has become central to anti-trafficking NGOs’ interactions with funding agencies, policy-makers and the media. However, as I will demonstrate, their rescue operations on the ground require close collaboration with the local police, who view and respond to domestic workers quite differently. Through glimpses into a rescue operation and subsequent legal procedures in August-September 2012 in New Delhi, this article illuminates multiple discursive constructions and contestations of what it means to save a slaving child from domestic

labor. It tracks the law in practice amidst the politics of rescue, to examine deeply varying assumptions about and articulations of slavery, trafficking, child labor, and childhood itself. The “slavery” framework has gained traction with an emergent global media and policy categorization of human trafficking as “modern-day slavery”.<sup>ii</sup> It is buoyed by instruments of global governance such as the State Department’s annual *Trafficking in Persons (TIP)* Report,<sup>iii</sup> which has repeatedly chastised India (among other countries in the global South) for not addressing human trafficking “adequately” per the minimum standards prescribed by a U.S. legislation, the Victims of Trafficking and Violence Protection Act (VTVPA) of 2000.<sup>iv</sup> This legislation mandates the production of *TIP* reports that rank other countries based on the State Department’s evaluations of their responses to human trafficking. The VTVPA’s stated purpose to “combat trafficking in persons” encompasses a wide net of concerns, including sex trafficking, labor trafficking, forced labor, child labor, and involuntary servitude.<sup>v</sup> The U.S. legal framework on trafficking thus brings together multiple concerns under one rubric, shaping the way the State Department approaches these issues in the anti-trafficking agenda it sets for the global South. It impacts how NGOs in the global South who receive U.S. funding conduct rescues and “sensitize” police, judges and prosecutors. Legal scholar Janie Chuang describes the way the U.S.-led anti-trafficking agenda rhetorically conflates the legally distinct concepts of trafficking, slavery and forced labor to galvanize public outrage, media coverage and donor support, as “exploitation creep.”<sup>vi</sup> As one human rights practitioner and researcher puts it,

There has been a recent trend in countries such as the US and the United Kingdom to revert to using the term ‘slavery’, for example by referring to “modern slavery” (such as a Bill proposed in the UK), while continuing to focus on the crime of human trafficking as defined by the UN Trafficking Protocol.

Unfortunately the word ‘slavery’ seems to be used mainly for its emotive effect, rather than its technical accuracy.<sup>vii</sup>

The VTVPA and *TIP* reports make frequent reference to “modern-day slavery” with a distinctly American referent. As Secretary of State, Hillary Clinton drew out the connection explicitly,

This annual Report embodies the United States’ continued dedication to fighting traffickers no matter where they may be, because fighting slavery and standing up for human rights is part of our national identity.<sup>viii</sup>

U.S. legislators and State Department officials concerned with trafficking invoke the transatlantic slave trade as a horrific and ever-haunting forbear to human trafficking.<sup>ix</sup> The U.S.’ political and legal deployment of the language of slavery to strengthen law enforcement and criminal justice mechanisms against human trafficking globally reflects a sense of self-righteousness at having acknowledged and addressed the past evils of human enslavement that it continues to condemn.<sup>x</sup> Spearheading concerns about “modern-day slavery,” the U.S. State Department “plays global sheriff”<sup>xi</sup> to strengthen state responses to human trafficking in countries like India where they are seen as weak.

This article explores the meanings the concepts of slavery, exploitation, trafficking and child labor acquire or resist in Indian anti-trafficking interventions, through an anthropological exploration of the socio-legal context in which they are embedded. It examines how the local law in practice is inflected by global forces, NGO intervention, and myriad socio-economic, cultural, and individual factors impacting work and migration. Anthropologists have shown how human rights ideas are appropriated, translated and remade across cultural contexts,<sup>xii</sup> and how translations of universalizing human rights language can only be partial, as they constantly engage with locally situated ethics, moral systems and priorities.<sup>xiii</sup> Anna Tsing proposes the lens of “friction” for an ethnographic study of global interconnections. Tsing uses the concept to

describe the awkward translations, messy negotiations, conjunctures and contingencies through which universal claims are “charged and enacted in the sticky materiality of practical encounters,” with those encounters frequently being unequal.<sup>xiv</sup> The article explores how anti-trafficking rescue operations in New Delhi are suffused with friction-ridden translations of the legal concepts of slavery and exploitation, both between the global and Indian contexts, and between progressive national labor legislation and its implementation in India. It tracks encounters between new U.S.-driven interventions against trafficking or “modern-day slavery” and the postcolonial Indian legal framework from a conceptual perspective, and between the use of both these approaches and the role of the local police from an ethnographic perspective.

Feminist scholars have offered robust critiques of rescues in the context of sex trafficking, as solutions that the U.S.-led global anti-trafficking agenda promotes without factoring in the complexities of trafficking and risky migration choices.<sup>xv</sup> Feminist critiques of anti-trafficking campaigns initiated in the global North offer useful accounts of the way the issue has been seen by NGOs from an unlikely mix of activist persuasions working closely with state actors (particularly law enforcement) to protect victims and prosecute traffickers.<sup>xvi</sup> I take a different direction from these critiques by exploring the complex socio-legal context in which rescues are conducted, both within and between the “law in books” and the “law in action.”<sup>xvii</sup> My ethnographic observations of the rescue of young girls from domestic work demonstrate the need to disaggregate the perspectives of NGO workers from those of the local police. While the former speak the language of global anti-trafficking discourse and Indian labor laws, the latter view the work situations of migrant labor through the lens of a “commonsense” knowledge<sup>xviii</sup> wherein the perceived ineluctability of cultural hierarchies and socio-economic marginalization rubs against both domestic laws and global anti-trafficking campaigns.

In the first section, I offer ethnographic insights into the messiness that is papered over in media and policy narratives about slavery and exploitation, yet always haunts moments of legal intervention against practices upon which those labels are precariously placed. The next two sections expand upon the socio-cultural, economic and legal contexts that resist and complicate the rescue of young domestic workers in India.

### **The Politics of Rescue**

*They took their time opening their front doors, taken aback at the unlikely set of people ringing the doorbell—two tall, strapping Jat<sup>xix</sup> police officers from one of Delhi Police’s top investigation units in plainclothes, a fresh and enthusiastic bunch of social work interns and two ‘salwar-kameez’ clad social worker-looking women—a young NGO worker and myself, the anthropologist-volunteer, from urban middle and upper-middle class backgrounds. The wealthy West Delhi business families whose homes were being raided were even more surprised when they heard that we were there to inquire about their maids. The policemen flashed their IDs to announce their arrival, asked for the maids to be summoned, and left us women to question and “counsel” the rather terrified-looking young girls who were tentatively brought before us by their equally anxious-looking employers. The policemen reassured the businessmen and their spouses, “You’ll see, it’s not that big a deal.” The employers objected loudly, insisting that they treated these girls “like their own daughters.” Within 10-15 minutes of our arrival at each home, the NGO staff urged the girls to pack their meager belongings, after which the girls (fearfully, sometimes reluctantly) piled into the police jeep with us and left their employers’ homes. While leaving, one of the policemen would give the employers a mildly voiced admonition, “Don’t employ them if they are below 18!” [Excerpt from my field notes, August-September 2012].*

In about a week, the police-NGO team had rescued eleven girls and one boy from homes across the city over a total of seven raids. The rescue operation was carried out on the order of a Child Welfare Committee—a judicial body mandated by a legislation called the Juvenile Justice Act to take decisions about the custody, well-being and rehabilitation of “children in need of care and protection.” The Committee had found the addresses of the employers on the roster of a “placement agent” apprehended in a different case. It directed the Delhi police to conduct the rescues with an NGO, per established procedure. The NGO had a U.S.-sponsored project to intervene in cases of labor trafficking, child trafficking, sex trafficking and “slavery-like” practices. It initiated and actively participated in rescues, bringing those rescued before the Child Welfare Committee. Those running the NGO were also heavily involved in advising policymakers on trafficking at the national level and in training state agents like police, prosecutors and judges on how to use Indian laws to respond to labor, child, and sex trafficking.

I had accompanied this NGO on raid and rescue operations on brothels in New Delhi’s red light area, in the context of my dissertation research on the intersections and tensions between the Indian law on prostitution and the discourse of sex trafficking. While spending time at the NGO office, I became acquainted with its work on labor and child trafficking and accompanied its staff on this type of rescue operation as well. For the NGO, sending me along was a way to help meet their staffing needs across the different interventions it was involved in. From my perspective, it was an opportunity to learn more about the breadth of the NGO’s work vis-à-vis the focus of my dissertation research. Observing this range of rescue operations helped me to develop a broader understanding of how NGOs and a global anti-trafficking agenda intervene in, and are also resisted by, the postcolonial Indian legal system with regard to multiple situations possibly involving exploitative labor practices.

The growth of “placement agencies” which source domestic workers through agents from villages in Jharkhand (a newly created state with a large indigenous and impoverished tribal population)<sup>xx</sup> was a cause of great concern among both anti-trafficking NGOs and Child Welfare Committees in New Delhi. Their growth is attributed both to employers’ demand for young workers who are cheaper to employ and easier to train, and to the dire poverty in Jharkhand, from where parents are often eager to send their children (mostly girls) to work in cities and send money back to make ends meet. Their modus operandi allegedly entails paying agents (who also get paid a commission by the girls’ parents) to bring the girls to work in the city, and recovering this money from the employer. The domestic workers themselves are often paid nothing. Some agencies tell them they will be paid after working for a year, others tell them that the money will be sent to their parents in the village. There is no mechanism to ensure that they follow through with these promises.<sup>xxi</sup> For these reasons, anti-trafficking NGOs describe the operations of placement agencies as labor trafficking.<sup>xxii</sup>

Placement agencies are currently unregulated in India, although a Bill to regulate their functioning and protect the rights of domestic workers has been drafted and is under revision in response to NGOs’ dissatisfaction with its loopholes.<sup>xxiii</sup> Drawing on NGO inputs, the U.S. State Department’s *Trafficking in Persons* Reports have expressed concern over the growth of placement agencies in their narratives about human trafficking in India in recent years, explicitly linking the modus operandi of placement agencies to forced labor and domestic servitude.<sup>xxiv</sup>

In the rescue operations I describe here, while the recruitment and work conditions of the rescued girls entailed many elements of exploitation, legal redress requires specificities that are not easy to establish. Were the girls trafficked? Were they exploited or treated like slaves? Were



they children? These questions had complex answers, depending on whose perspective on socio-economic realities, acceptable cultural practices and legal provisions was being considered.

The first question to consider is whether this was labor trafficking. The NGO framed the girls' recruitment into work and conditions thereafter in terms of both slavery and trafficking (deeming both the placement agency and employers as perpetrators). When we spoke to the girls—at their employers' homes and later, on the way to the Child Welfare Committee (CWC)—their stories revealed complex paths of entry into domestic work, often reflecting a thin line between trafficking and migration. Each girl had a different story about her entry into domestic work. One ran away from home to escape a marriage with a man she didn't like. Another had herself approached a placement agent so she could provide for the education of her younger siblings. A few broke down, saying they didn't want to work, but were forced to do so by their parents. Those supplying the girls to the placement agency were often their relatives, family friends or neighbors. The girls' narratives thus reflected some overlap between willing migration to work, being forced to work by their families, and deception by the placement agency.

Next arises the question of whether the girls were exploited in their work situations. The common thread in their stories was that none were paid wages. The employers claimed that they had been paying the placement agent, who in turn claimed to be sending the money to the girls' parents. Most of the girls did not even know whether this money had been paid to their families, with whom they were in touch only intermittently (some not at all, having lost the phone numbers they had brought with them from the village, scribbled on fugitive scraps of paper). Some were sure their families had not been paid. This non-payment of wages clearly made their employment exploitative, as did their day-long schedule with no rest, including cleaning, sweeping, cooking, washing clothes, and helping with childcare, eldercare and grocery shopping.

After being rescued, the girls were produced before<sup>xxv</sup> the CWC office, a dank, bureaucratic-looking office building where they were seated across from a bench of magistrates (two men and two women) who asked how they came to Delhi, how they were treated in the homes they worked in, and whether they were paid any money. In response, some of the girls spoke about being scolded harshly and even occasionally beaten by their employers. Many burst into tears as they spoke about missing their families in the village and about not being allowed to watch television in the homes of their employers. Their narratives were replete with examples of ill-treatment: “Those people used to keep asking me to clean the house. I would get so tired, running up and down,” or “actually, *bhabhiji* [term of fictive kinship for female employer] used to beat me, but I didn’t say anything that day when you all came because she told me not to.” At the CWC, where their employers couldn’t hear what they were saying, a couple of the girls mentioned incidents that they had not even told the police-NGO team at the time they were rescued. One of them, Alice,<sup>xxvi</sup> who had barely spoken a word at the time of her rescue other than insisting that her employers treated her very well, suddenly started to talk openly about her ill-treatment; “They didn’t feed me properly. Some days I wouldn’t get three meals in a day,” and “they would lock me in the house when they went out so I couldn’t ‘roam around.’”

These work conditions, the role of the placement agency and the non-payment of wages indicate elements of both labor trafficking per the UN’s Palermo Protocol against Trafficking in Persons (which India ratified in 2011),<sup>xxvii</sup> and forced labor per Indian law (see next section). However, some of the girls’ resistance to being rescued complicated the situation, reflecting a vexed set of experiences and perceptions. Their resistance summoned the need to acknowledge what Denise Brennan calls a “subjectivity of coercion,” i.e., that migrant workers may evaluate exploitative work conditions by different criteria than those provided in legal definitions.<sup>xxviii</sup>

Some girls, visually perceived by the police, NGO and CWC to be of “borderline age” (i.e., around eighteen), emphatically stated that they had been treated exceedingly well. One of them, Roopa, was furious because she wanted to continue working for her employers, but now they wouldn’t take her back. “What will you achieve by sending me back home? Can you get me a job?” she shouted. Another girl, Asha, was so attached to her employers that she seemed severely traumatized at the prospect of being separated from them. Outside the CWC, she refused to step into the police jeep to be taken to a shelter pending inquiry. Accusing all present at the CWC (the police and the NGO team) of ruining her life, she choked out her unwillingness to go anywhere without “aunty, who had kept her so well,” referring to her female employer, who stood nearby offering her words of comfort. A third girl, extremely reluctant to be rescued, kept worrying about how her “aunty, who was so old, would manage without her.” Some among the NGO staff chalked the girls’ expressions of affective attachment to their employers up to “Stockholm Syndrome;” a pop psychology diagnosis that reflected the way the NGO staff, following the “slavery” analogy, saw the employers as “captors.”

Whether the girls genuinely felt this affection towards their employers, or were pressured by them to express it, was hard to tell. Their use of fictive kinship terms for their employers resonates with the irony Rhacel Parrenas observes in the myth of being “like one of the family,” a phrase used by both employers and domestic workers to de-emphasize servitude, but which simultaneously works to mask inequalities and exploitation.<sup>xxix</sup> In an earlier study of the experiences of Chicana domestic workers in the United States, Mary Romero points out that employers’ description of domestic workers being “one of the family” carries with it a redefinition of work obligations as family obligations and of labor for pay as “labor for love.”<sup>xxx</sup>

Another crucial question suffusing the rescue operation and its aftermath was whether the rescued girls were children. Coming from impoverished villages where birth registration rates were low, none of the girls had any documentary proof of age. Visually, some looked younger than the others. I wondered how the rescue team would determine who was a child and who was legally a major (adult). During the rescues, the policemen used visual perceptions to gauge the girls' ages. Those who "appeared" to be eighteen or below (considered minors under Indian law—see next section) were whisked away to stay overnight at a shelter before being produced before the Child Welfare Committee the next day. There was often considerable disagreement between NGO staff who, given their agenda to rescue underage domestic workers, were more likely to perceive a girl as below eighteen, and the police, who were less likely to do so.

The girls' actual ages were established later through a bone ossification test at a government hospital (per established medical jurisprudence in India). This test indicates age within a two-year margin, rather than an exact estimation.<sup>xxx</sup> There are other reasons why the ossification test is not a foolproof mechanism. For example, Pooja was one of the youngest-looking girls we rescued. Her employer had asked her to tell us she was eighteen. When the bone test results came, her age was deemed to be eighteen to twenty, which would reduce the criminal liability of the employer and placement agent. The NGO team was surprised, as was I, because she certainly looked much younger. Then we remembered that her employer was a politician who had tried to ask for a "compromise"<sup>xxxii</sup> with the NGO and police at the time of her rescue. Perhaps that compromise was achieved later. My suggestion that this was an illicit settlement is based on suspicion rather than concrete proof. It is intended to convey one among several factors that render the determination of age neither easy nor reliable.

The rescues and CWC proceedings revealed a gamut of responses to child domestic labor, ranging from NGOs' firm belief in rescue as a solution, to varying and even conflicting attitudes towards rescue among different legal agents of the Indian state. The members of the Child Welfare Committee, a judicial agency of the state, had developed a close working relationship with NGOs. Both entities had come to depend upon each other, with NGOs being instrumental in carrying out rescues and the CWC often (but not always) ordering the rescues, holding the post-rescue hearings and deciding the fate of those rescued. On the other hand, the Delhi police, who were responsible for implementing the relevant laws and without whom rescues could not be legally conducted, evinced a strong skepticism about the concepts of labor exploitation and child labor, and of rescue as a solution.

Tensions between the police and the NGO staff became increasingly evident and often confrontational. NGO representatives frequently voiced concerns that the police did not take action in these cases, did not take exploitation seriously, or were not well versed in Indian labor laws. The police, for their part, voiced their dislike of NGOs, whom they described as money-making enterprises (In Hindi, *paise ka khel*) that received foreign donations based on how many children they rescued.<sup>xxxiii</sup>

When the girls were produced before the CWC, the Committee had asked for the NGO report, which they relied upon heavily in these cases. The police sub-inspector on our team handling the case fumbled around, saying he didn't have it, while the NGO representative insisted it was there. A CWC member finally asked for the file in the sub-inspector's hands, where the report was found. Whether or not the sub-inspector was deliberately hiding the report, I cannot say. This was certainly the belief in the NGO camp, in light of the rather heated discussion we had had in the police jeep on the way to the CWC. Reading the NGO's report, the sub-inspector had

asked why it said that the girls had been scolded and beaten. We replied that that was what the girls had told us. “*Kuch case nahin banega*,” he had said [“this won’t amount to a case”].

The sub-inspector took it upon himself to explain to me (new to the politics of rescue) the ulterior motives and inefficiencies of NGOs. Knowing that I was volunteering with the NGO for my research and was thus an external and temporary (and, as he frequently pointed out, unpaid) addition to their team, he never missed an opportunity to alert me to instances during the rescue and post-rescue procedures when the NGO could have been at fault, deftly dodging my questions about some of the police’s actions (or lack thereof).

On a different day, when girls rescued by another team were taken to the CWC, I managed to make it there only towards the end of the proceedings. Shaking his head in amusement, the sub-inspector informed me that I had “missed the climax.” I learned that the CWC was upset with the NGO because of a discrepancy between its report and the account one of the girls was giving. The girl had apparently told the CWC that she did not wish to go back home to her village as her father was abusive, while the NGO report based on what she said during her rescue stated that the girl wanted to return to her parents. I reached in time to overhear frenzied phone conversations between the NGO representative and its head office as they tried to figure out whether this was a clerical error, or whether the girl had changed her mind. “Please mention this in your study,” the sub-inspector told me with a gleeful smile, and I do so (as I did the incident of the missing NGO report) to illustrate the vexed politics of a police-NGO intervention, rather than to evaluate what actually happened or to attribute fault.

Besides their dislike of NGOs, the police often articulated their disapproval of the conceptual framework of labor exploitation that was the premise behind rescues. The police on the rescue team I was on talked about domestic labor, even by children, as an accepted fact of urban living

and rural poverty. On the first day of the raids, the sub-inspector turned around in the police jeep and said, “*Ek baat bataoon, madam, aap inki exploitation badha rahe hain*” [Let me tell you, madam, you are *increasing* [these children’s] exploitation]. “By working in these homes, at least they have a roof above their heads,” he continued. Another policeman added, “I just hope *mujhe in bachchon ki baddua na lag jaaye*” [I just hope these children won’t curse me for doing this”]. The police seemed to take the girls’ narratives about being scolded or slapped by their employers quite lightly, quipping, “Oh come on, even one’s mother would scold that much.” They did not view these instances as exploitative, while the NGO and CWC did.

In response, after reminding him that the raid was initiated on the order of the Child Welfare Committee, a determined young NGO employee, fresh out of social work school, went on to say that the girls had been treated like slaves, and asked the police why they couldn’t see that.

“‘Slavery?’ ‘Slavery’ *kya hai? Uski koi definition hai Indian law mein?*” [‘Slavery?’ What is ‘Slavery’? Is it defined in Indian law?] was the sub-inspector’s response. Opening the copy of the IPC (Indian Penal Code) that I (as a novice still learning these laws) was carrying with me, we pointed out the relevant sections. The colonial-era Code specified criminal penalties against the following acts associated with slavery: “Buying or disposing of any person as a slave” (Section 370) and “Habitual dealing in slaves” (Section 371). “I know these sections,” he said, “But do they *define* what a slave is? How can you call this slavery when there is no definition?” For the NGO, the treatment of the girls amounted to slavery. But slavery was not, as the police pointed out, defined in the Indian criminal law that could have been applied to the situation, making it difficult to enforce.

We then drew the police’s attention to the fact that the girls had not been paid anything. The sub-inspector conceded (albeit grudgingly) that the non-payment of wages was the only

“crime” that the employers and placement agent could be prosecuted for. In the First Information Report<sup>xxxiv</sup> of the case against the placement agency, the police applied the Juvenile Justice Act, penalizing the exploitation of a child employee, and the Child Labour Act, penalizing the employment of children in hazardous occupations. NGO workers also urged them to add on relevant sections of the Bonded Labour Act, a progressive postcolonial legislation that criminalizes the non-payment of minimum wage and prescribes the release and rehabilitation of bonded labor and the payment of restitution (see next section).

In response, the policeman scoffed, “We are all bonded labor, then—me, you,” implying that none of us were adequately compensated for our labor. The enforcement of the Bonded Labour Act has been weak, its progressive intent muffled by state indifference and a lack of punitive action against offenders.<sup>xxxv</sup> This was reflected in the policeman’s levity at the suggestion that the rescued girls were bonded labor. “You are a volunteer, yet you have been working on these raids with us. Are you paid anything? Is that not exploitation?” he asked me, dismissing my counter-arguments about the privileged position from which I was doing my research, and the non-monetary benefits I was deriving from my participation. “Yes, madam, why doesn’t the NGO pay you, after all they get so many dollars from abroad,” his colleague chimed in. I did not initially read the policemen’s comments beyond the registers of humor and sarcasm, and perhaps even some genuine concern at my “exploitation.” Later, as I listened to the sub-inspector talk more about his own unremitting work hours and unending paperwork, I realized that he was also alluding to the state undervaluing police work *as labor*.<sup>xxxvi</sup>

The police’s reluctance to conduct rescues stemmed in part from the long hours of work involved, which in their view did not merit going beyond the bare minimum required of them. An especially telling example of the acrimony between the NGO and the police in this regard



was the rescue of those young domestic workers whose names were not on the list provided by the Child Welfare Committee. In some of the homes we raided, the girls the placement agency had sent no longer worked there and had been replaced by another domestic worker sent by another placement agency or the kin of other part-time domestic help the household had. These “replacements” also appeared very young and the NGO representatives were keen to rescue them. However, the police we were with were most hesitant to do so. They wanted to complete the quota of work that had been allotted to them from the list, rather than pursue cases that could potentially entail similar exploitative conditions, but were not on the list. Rescuing the “replacements” entailed coordinating with the local police for that neighborhood (the police we were with belonged to an elite investigation unit) and would thus take longer. “You can come back and rescue them later,” they suggested jocularly to the NGO. When assigned to a different police team during this rescue operation, the young NGO worker who had argued with the police about “slavery” in the jeep had encountered a “replacement” domestic worker who had reported being sexually abused by her employer. The feisty and tenacious young woman had managed to rescue this domestic worker through the local police after heated arguments with the police from the investigation unit.

The time taken up by post-rescue procedures was another cause of complaint amongst the police. After the girls were produced before the Child Welfare Committee, they had to be taken to a government hospital for a mandatory medical examination, and then to a shelter where they would stay until their parents could come to Delhi and apply to the CWC for their custody. The police had to submit and fill out a considerable amount of paperwork at the hospital and shelter, which took a great deal of time. The NGO representatives also accompanied them and waited alongside, updating their supervisors about the developments and delays over their cellphones.

The medical examination was an especially lengthy process, more because of the bureaucracy involved and less because of the duration of the actual examination. Our team usually spent entire evenings after rescues waiting around at government hospitals. It took hours to locate the relevant medical officers and doctors to order and conduct the examination, which usually entailed a perfunctory visual examination to check for signs of physical injury, but sometimes (depending on the doctor) entailed asking the girls detailed questions about their menstrual cycles and having them take pregnancy tests. “I don’t mind rescuing boys, it’s so much easier, make me rescue any number of them and I won’t complain,” remarked the sub-inspector, “but with girls—look how much time we have to spend!”

The young NGO workers’ determination to carry out the rescues, in sharp contrast to the police’s reluctance, stemmed in part from the job description (such as “Intervention officer”) the NGO had assigned to them, and in part from their own class and educational backgrounds and personal commitments to social justice. These young women (and a small percentage of men) were between eighteen and twenty-five years old. They were either recent graduates of colleges offering social work majors, or interns pursuing undergraduate degrees in social work. The junior NGO workers were, despite the police’s assumptions of the NGO benefitting from foreign donations, earning very modest salaries. The interns were unpaid, and would receive certificates from the NGO as one of the requisites for their college degrees. Had the police known what the young NGO workers were paid (or that some were unpaid interns), they would have likely bracketed these NGO workers in the same category as what they perceived as my own “exploited” labor. These young women were from mostly middle and occasionally upper middle class backgrounds.<sup>xxxvii</sup> Most lived with their parents in Delhi and a small percentage were from other states in India, who were pursuing their education in Delhi and staying in “paying guest”

accommodations (rented rooms). Because of their young age and family backgrounds, they were not the sole or main bread-winners for their families. They were just starting out as professional social workers who were mainly earning for themselves and would no doubt eventually go on to comparatively better-paid positions at other foreign-funded NGO's, UN agencies, and so on. Whether or not they bought into the global “slavery” discourse was unclear, nor had most of them known much about or worked on the issue of human trafficking before joining the NGO, but they shared a commitment to social justice issues, especially related to women and children. From my conversations with these young women, I gleaned that they viewed participating in rescue operations as a way to do something to help impoverished children. Their own childhoods had not been spent working, but rather at school or at play, and they felt deeply concerned for those whose childhoods lacked these opportunities. These backgrounds and motivations set the young NGO workers apart from the police in the way they viewed the role of the placement agency, the culture of servitude, and the exploitative possibilities of domestic work.

To complete the story, ultimately, the CWC “restored” nine of the rescued girls (whom the bone ossification test deemed to be eighteen or younger) to their natal families, and allowed those deemed above eighteen to work. The “restoration” involved the girls’ parents or elder sibling having to make a long, expensive, and inconvenient trip to Delhi from their villages to claim custody. Talking to the girls’ relatives at the CWC, we learnt that it was ironically the placement agent, Bansilal, out on bail after his arrest, who arranged for their arrival and stay in Delhi to take custody of the girls. Bansilal was a short, thin man wearing a gold chain around his neck and a confused smile on his face as he stood next to his wife, who also worked with him in the placement agency. One of the NGO interns and I spoke to the couple as they mingled with the girls’ parents outside the CWC office. The intern asked why they had brought the girls (and

one boy-who turned out to be Bansi's own nephew) to work in Delhi. "I don't know what I did wrong," Bansi Lal replied. "They are so poor, the parents send them to me, we find them jobs. They get food to eat." He insisted that he paid their families, who had given him a commission.

The CWC asked the girls' parents whether they had received any money from the placement agency as their daughters' work wages. To this question, nearly all of them, some of whom spoke only broken Hindi, responded they had *just* been paid Rs. 25,000 (approximately \$405) recently. Having seen Bansi Lal hobnobbing with both the parents and the employers outside the CWC office, the CWC members chose to treat this acknowledgement of payment as a lie. A member of the committee bellowed angrily at the police for allowing Bansi Lal to interact with the girls' families. "Why have you brought this man here today? And why have you not separated him from the families? He has influenced and tutored everyone! It seems that the police are in cahoots with him! [In Hindi, *lagta hai police mili hui hai iske saath!*]" The CWC and the NGO were both convinced of the police's complicity with the placement agent as well as the employers. Whether this was so, and whether the parents had been tutored or influenced by the police, Bansi Lal or the employers, it was hard to tell. The CWC hearings were suffused with these forms of uncertainty and suspicion.

The members of the CWC, one middle-aged man in particular, took the exploitation of the girls very seriously and loudly scolded the employers of those who looked especially young. Pooja's employer was one of them, before her age was deemed to be above eighteen (see p. 12-13). "You didn't see her and figure out how young she is? You will send your own son to Oxford or Cambridge I am sure. Did you educate this girl?" the CWC member shouted. He severely rebuked another employer, a woman who said she was a counselor specializing in child development, for employing child labor when she should have known better. The woman replied

that she thought the girl was eighteen (based on the contract the placement agency had signed with employers which declared each of the rescued girls to be eighteen or above).

The CWC decided to make the employers pay a restitution amount towards the girls' rehabilitation, calculated at the minimum wage in Delhi based on how long the girls had worked for them. The employers protested, claiming that they had already paid the salary due to the girls to the placement agent, per the contract. With no immediate proof available of such payment, the CWC directed the police to investigate the matter and have Bansi Lal return the amount to the employers if this claim were found to be true. The criminal case against Bansi Lal was a separate procedure, to be investigated by the police and tried in a criminal court. This was outside the jurisdiction of the CWC, which was responsible for the rehabilitation of exploited children (as part of which it ordered restitution payment). The police were displeased with the CWC's decision to make the employers pay up and sympathized with the employers, pointing out that they had, after all, paid the placement agency; why must they have to pay up again? They did not ultimately proceed with a criminal case against the employers.

The employers brought bank drafts that they gave the girls' families in the presence of the CWC. The families were in turn instructed to deposit these drafts in bank accounts in their daughters' names. They were also made to sign undertakings that they would admit the girls to school once they took them back to the village, and would not "re-employ" them. Ironically, an NGO representative saw one girl's family hand the bank draft back to the employer outside the gates of the CWC. Perhaps they settled for less money or for a deferred payment. One can only surmise. As with the age determination test and the parents' claim that they were paid, it was clear that some negotiations or "compromise" (see p. 12) took place outside the realm of the law, or perhaps, were unwittingly enabled by it, undermining the efficacy of rescue.

Another aspect of the post-rescue procedures that called the rescue model of intervention against exploited labor into question was the girls' being placed at a shelter run by a local women's group until their age was determined and their parents came to take their custody. The time lapse between their rescue and "restoration" (the legal term for returning them to their parents) was over a month and a half. The age determination process would have taken even longer, had the CWC not intervened to pressure the government hospital to speed up the tests. When our team visited the girls at the shelter, they would beg us to have them "released" to their parents or even to send them back to work, to prevent their having to while away their days at the shelter. Alice, the girl who had described how her employers made her clean the house, repeatedly voiced her frustrations at the legal process by calling it a *museebat* [calamity] that was worse than working at her employers' house. "See this is why we don't like to do these rescues," the police said. "Is anyone benefiting from them?" [*Isse kisi ka faayda ho raha hai kya?*"]

The politics of the rescue operation evince both the glaring differences between NGO and police approaches to exploitative labor practices, and the problematic aspects of rescue as an effective solution to young migrant labor doing domestic work for no wages. In the next section, I examine the laws against labor exploitation in the Indian context, to highlight their disjuncture from the perspectives of the police enforcing these laws, and to explain their frictional engagement with the Euro-American referent of slavery used by NGOs and their donors.

### **The Indian Legal Framework on Labor**

The work of donor-driven anti-trafficking NGOs in India is framed both by the contemporary “modern-day slavery” discourse emerging from the global North (especially the U.S.) and by postcolonial Indian laws against child labor and exploitation (one of which, the Juvenile Justice Act, brought the CWC into being). Indian laws dealing with labor rights are comprehensive, though their implementation has seen sharp criticism, both by the U.S. *TIP Report*, and by a UN-sponsored and USAID-funded human rights report in India.<sup>xxxviii</sup> I will outline in brief those provisions most directly relevant to the rescues I described, to situate the disagreements between the NGO and the police, and some of the uncertainties marking the rescues.

The Indian Constitution, enacted after independence from British rule, prohibits “traffic in human beings and *begar*<sup>xxxix</sup> and other forms of forced labour” (Article 23). It also prohibits the employment of children (below age fourteen) “to work in any factory or mine or engage in any other hazardous employment” (Article 24). These provisions are intended to protect citizens from violations of their fundamental right against exploitation. The Constitution does not specify the meanings of “traffic” or “forced labour.” The debates of the Constituent Assembly (the lawmakers who drafted the Constitution) on this question reflect concerns about involuntary servitude, slavery “as it was practised in olden countries, and, until recent times, even in the so-called civilized countries of Europe or America” and the “large-scale commercialized vice” of “white slave traffic” that “compels women to a life of prostitution.”<sup>xl</sup> As for criminal law, the colonial-era Indian Penal Code (IPC) of 1860 (still in force after several amendments), as the police on the rescue team rightly pointed out, criminalizes “buying or disposing of any person as a slave” and “habitual dealing in slaves,” but does not define slavery.

At the time of my fieldwork in 2012, Indian law did not address “trafficking in persons,” except in the context of “commercial sexual exploitation” in a separate statute.<sup>xli</sup> Thus, in the case I discussed, the possibility of redress for labor exploitation under a law on “trafficking” did not exist. In the wake of demands for criminal law reform after the public furor over the Delhi gang-rape incident of December 2012 and the wide-ranging recommendations of the Justice Verma Committee, the Indian Parliament amended Section 370 of the Indian Penal Code in 2013. The provision, which until then had criminalized “buying or disposing of any person as a slave,” now largely reflects the definition of trafficking in persons in the UN Protocol (which India ratified in 2011), and makes it an offense.<sup>xlii</sup> The colonial-era criminalization of slavery has thus been substituted by a post-UN Protocol criminalization of trafficking, with a definition produced through global deliberations. The replacement of the language of “slavery” with that of trafficking in this provision of Indian law reflects the epistemological closeness between the two concepts in the eyes of those drafting the law, as well as the political purchase of the new global dispensation against human trafficking echoing the pervasive influence the abolition of slavery has had on late colonial and early postcolonial law-making.

Legal provisions against forced labor have been much more explicit. Postcolonial legislation in India has largely perceived the issue through the lens of “bonded labor” or debt-bondage penalized under the Bonded Labour System (Abolition) Act of 1976.<sup>xliii</sup> In the 1980s, the Supreme Court of India delivered two landmark judgments in petitions filed on behalf of exploited labor by local organizations committed to civil liberties and social justice. The Court interpreted forced and bonded labor in relation to each other, with the non-payment of minimum wage deemed a sufficient condition to seek redress. In its 1982 judgment in *People’s Union for Democratic Rights v. Union of India*, the Court ruled that a worker who was not being paid



minimum wages would be presumed to be bonded labor (regardless of age). The following observations of the Court are especially pertinent here,

The word ‘force’ must therefore be constructed to include not only physical or legal force but also force arising from the compulsion of economic circumstance which leaves no choice of alternatives to a person in want and compels him to provide labour or service even though the remuneration received for it is less than the minimum wage.<sup>xliv</sup>

The Court expanded the definition of “bonded labor” in the 1984 case of *Bandhua Mukti Morcha v. Union of India*, stating that the spirit of the Bonded Labour Act was against the continuation of *any* form of forced labor and not just debt bondage.<sup>xlv</sup> Some excerpts from the judgment are especially worth reproducing,

A bonded labourer *truly becomes a slave* and the freedom of a bonded labourer in the matter of his employment and movement is more or less completely taken away and forced labour is thrust upon him (emphasis added).

Even if the workers are not bonded in the strict sense of the term as defined in the Bonded Labour System (Abolition) Act 1976 but they are made to provide forced labour or are consigned to a life of utter deprivation and degradation, such a situation can be set right by the State Government.

This brief sketch instantiates how the specter of “slavery” hovers over the legal interpretations of forced labor in India. The term remains undefined and nebulous, yet is recognized as a deplorable practice that India, as a progressive postcolonial nation, must obliterate.

Historians argue that in the South Asian context, actual practices that can be construed as akin to “slavery” are historically varied, and tied to locally specific usages, relationships, terms, institutions and processes shifting in time rather than an overarching master narrative.<sup>xlvi</sup> Yet the use of the term in Indian law bears the imprint of Western narratives. Historian Gyan Prakash observes that the framing of the issue of bonded labor in postcolonial law echoes the colonial government’s denouncement of “unfreedom” in its narrative of progress<sup>xlvi</sup> and suggests that it is, at least in part, a legacy of colonial knowledge production. Overall, the language of the legal provisions I have discussed suggests that in comparing local practices such as *begar* or bonded labor to slavery, Indian law-makers and jurists clearly saw resonances with the image of slavery embedded in colonial-era law and postcolonial global outlooks. In this image, the referent is implicitly a Euro-American concept, to which certain practices in India are *likened*. It is important to note, however, that this likening does not mean that Indian law conflates the concepts of bonded labor and slavery or considers them to represent the same problem. Instead, I suggest that postcolonial Indian law recognizes slavery as a global referent, one to which certain exploitative practices in India bear some resonance, rather than either a stand-alone crime or an umbrella term in the way U.S. law sees “trafficking in persons” or “modern day slavery.”

While the philosophical foundations of Indian law on slavery and bonded labor and the U.S. law on trafficking partially share a common referent, the concepts’ translations into actionable legal provisions are quite different in the two distinct socio-legal contexts. The U.S.-led anti-trafficking campaign comes close to conflating bonded labor in India with slavery, with the 2010 *TIP* report juxtaposing images of an 1819 bill of sale of a slave in Virginia with a 2007 release certificate of a bonded laborer in India under the heading “Bought and Released: Documents of Slavery.”<sup>xlvi</sup> However, Indian law has taken on exploitative work conditions in the context of

forced labor explicitly, as compared to its nebulous treatment of the idea of slavery, which fortified the police’s reluctance to intervene (see p. 15-16). In the case I described, of course, the police did not want to implement the comparatively well-defined provisions of the Bonded Labor Act either (see p. 16). To situate their annoyance at the presumptions of NGOs and their donors, their sense of exploitation of their own underpaid labor and their sympathy, and possible “compromise” with the girls’ employers, the next section will explore labor exploitation beyond gaps in the implementation of laws, by framing domestic work within socio-economic vulnerabilities and negotiations that exceed the possibilities of rescue.

Like forced labor, Indian law deals with the issue of child labor comprehensively, and in doing so, recognizes the need to use different age standards than more “developed” countries. Significantly, the ILO recognizes India not only as one of the countries with the highest incidence of child labor, but also one with among the strongest civil society movements against child labor,<sup>xlix</sup> with the work of child rights activists like 2014 Nobel Laureate Kailash Satyarthi preceding the current crop of U.S.-funded anti-trafficking NGOs (to which Satyarthi’s NGO also now belongs).<sup>l</sup> The ILO Convention on the Minimum Age for Admission to Employment and Work recognizes the need for different standards for “developing” countries with regard to the minimum age at which children can start work.<sup>li</sup> Like other South Asian countries, Indian law treats any worker below the age of fourteen as child labor, reflecting specific cultural and economic understandings of childhood and labor.<sup>lii</sup> The Child Labour (Prohibition and Regulation) Act of 1986 prohibits the employment of children below fourteen in certain “hazardous” occupations and processes, and regulates the conditions of other kinds of work in which children can be employed. It defines a child as a “person who has not yet completed fourteen years of age.” A 2006 amendment to this legislation includes domestic work in the list

of hazardous industries in which children below fourteen cannot be employed. Most recently, a proposal to amend the Act to ban *all* forms of work (including domestic work) for children under fourteen, while continuing to permit “adolescents” between fourteen and eighteen to work in non-hazardous occupations, was approved<sup>liii</sup> in late August 2012, a week before the rescues I described, but had not yet come into force.

NGOs in Delhi often voiced their frustrations about the Child Labour Act being “weak and ineffective,” due to its recognition of fourteen as the minimum age for entry into work, its relatively weak punitive provisions, and absence of rehabilitation provisions. They placed greater reliance on the more recent Juvenile Justice Act (2000), which they considered stronger and more effective.<sup>liv</sup> It prescribes punishment for “whoever ostensibly procures a juvenile or child for the purpose of any hazardous employment, keeps him in bondage and withholds his earnings or uses such earning for his own purposes.” The “JJ Act,” as it was called in everyday NGO and police parlance, defines a child as a person who has not completed eighteen years of age, establishing the age standard higher than the Child Labour Act does. It thereby expands the possibilities of who could be a child in need of rescue, hence its popularity with NGOs.

The co-existence of two different statutes using different age standards further complicates the matter of determining who is or is not “child labor” (see p. 12). When we talked to the placement agent and his wife at the Child Welfare Committee, they expressed confusion at what “child labor” meant, based on the contrasting explanations they heard. A magistrate presiding over a criminal case against them in another Delhi court had apparently told them that “young children can do *jhadoo-poncha* (household sweeping and cleaning) but not factory work,” and that the law treated those *fourteen* or below as “young children.” This explanation reflects an awareness of the provisions of the Child Labour Act before, but not after its most recent amendments. “So

where did this business of eighteen years come from, we don't understand," Bansilal and his wife pondered aloud, pleading ignorance of the Juvenile Justice Act.

The ignorance they professed was somewhat suspect, given that Bansilal had had the girls sign contracts saying they were eighteen years old. However, even if his confusion was mere pretense, the NGO often reported confusion amongst police and judicial officers handling child labor cases about the multiplicity of Indian legislations on labor exploitation, and low awareness about their amendments.<sup>lv</sup> These thorny aspects of both the "law in books" and the "law in action" thus shaped rescues and their aftermath, complicating the NGOs U.S.-driven anti-trafficking agenda and the CWC's concern about the care and protection of children.

Lastly, despite the vast prevalence of domestic labor in India, there is no federal legal framework yet in place regulating domestic work or protecting domestic workers, increasing their vulnerability to abuse.<sup>lvi</sup> Anti-trafficking NGOs, trade unions, labor and child rights activists and church-affiliated organizations have been pushing for this to change. There is now a draft National Policy which suggests fixing minimum wages for domestic workers and regulated work hours, among other measures,<sup>lvii</sup> but its fate remains uncertain.

### **Domestic Work and Child Labor in India: Contextualizing Exploitation and Agency**

The surprise of the employers, and the reluctance and resistance of the police and some of the rescued girls themselves at being removed from exploitative work conditions summon the need to understand domestic work, child labor and trafficking in terms of the alternative systems of meaning that rescue operations are seeking to destabilize. My intention is not to condone labor exploitation, but to explain the socio-economic conditions and cultural practices that framed resistance to rescue, and underscore its limitations as a solution.

Hiring domestic workers has helped to ease the double burden of work inside and outside the home that middle and upper middle class women in many upwardly mobile urban households in India face. In heterosexual marriages and partnerships across the globe, housework still largely falls to women. With the ample availability of impoverished migrant women and children to do the housework, hiring a domestic worker is often an upwardly mobile career woman's only ticket to a less burdensome life. U.S. feminist Barbara Ehrenreich explains how men's continued abdication from domestic responsibilities in the U.S. in the '60s and '70s (as more women joined the white collar workforce) resulted in the employment of poor immigrant women of color as housemaids.<sup>lviii</sup> Feminist scholars of globalization have argued that global cities are built "on the backs" of immigrant women domestic workers<sup>lix</sup> who do the "dirty work."<sup>lx</sup> In Indian cities, Nivedita Menon points out, increased access to education and employment for many women from the higher socio-economic strata has not changed the sexual division of labor within the home.<sup>lxi</sup> These households address the problem by hiring (frequently ill-paid or unpaid) rural migrant women and children from lower castes and classes for domestic work.

The export-led growth of the Indian economy in the past two decades has led to the expansion of an upwardly mobile middle class, and concomitantly deepened income inequality within the country. The rural working poor who have not benefited from the liberalization of the Indian economy post-1990 are faced with a loss of livelihood, job insecurity and welfare cutbacks, migrating to cities in search of employment.<sup>lxii</sup> Domestic work is one among few employment opportunities for "unskilled" female labor from impoverished and patriarchal rural families that depend on their labor, but do not expend resources on educating them.<sup>lxiii</sup>

When the households of the privileged become the workplaces of less privileged women and children, living and working conditions depend on employers' personal whims, and remain

unregulated in a context where unionization is difficult (with the place of work and residence being the same for full-time domestic workers). Low wages, heavy and incessant workloads and long and unspecified work hours are common. Domestic work is marked both by socio-economic marginalization and deep-rooted cultural practices that have normalized the hierarchies of the employer-“servant” relationship.

Sociologists Ray and Qayum describe as an ingrained “culture of servitude” so essential to urban Indian life that its practices are taken for granted.<sup>lxiv</sup> This culture of servitude perpetuates gender, class and caste inequalities and forms of discrimination that even those who feel they treat domestic workers reasonably well might not question. In her documentary *Lakshmi and Me*, Mumbai-based filmmaker Nishtha Jain provides a deeply self-critical engagement with the intrinsically unequal relationship that privileged women like herself have with the domestic workers they employ.<sup>lxv</sup> In metropolitan Indian cities, though caste politics are not absent from public places, caste hierarchies are enacted in the private realm of the household in ways that are less publicly acceptable in offices and other workplaces. Everyday practices of segregation—be it where the domestic worker eats, sleeps or sits, or which dishes and entrances she uses—are unquestioned manifestations of caste taboos, often masked in the name of hygiene. The employer-“servant” relationship thus retains vestiges of historical practices of discrimination.

This culture of servitude, combined with the lack of regulation of domestic work which remains part of the informal, “unorganized sector” in India, has meant that despite employers’ increased affluence, domestic workers are paid far below the minimum wage. In conducting rescues, NGOs and Child Welfare Committees come up against practices and relationships that are taken for granted (even by the police) as a way for employers to cope with middle-income life and for poor rural migrants to fend for themselves and their families. While ridden with

exploitation, this “culture of servitude” is more complicated in its economic, historical and cultural specificities than presumptive appellations of “modern-day slavery” accommodate.<sup>lxvi</sup>

At the time of my research, the urgency amongst the CWC and NGOs working on child labor and trafficking to rescue domestic workers was driven by two intersecting developments that were seen to render the long-standing exploitative possibilities of the employer-“servant” relationship especially egregious. One was the growth of placement agencies profiting from the vulnerabilities of poor rural families through deceptive means (see p. 8-9). The second development, which was evident during my fieldwork but intensified thereafter, was the increasing number of reports in the Delhi media about the grave abuse (economic, physical and sexual) of young domestic workers by middle-class employers. A disturbing example in 2012 was a doctor couple who went away on holiday leaving a thirteen-year-old maid locked in the house with only scraps to eat.<sup>lxvii</sup> More cases came to light later, including a multinational executive who physically assaulted her teenage domestic help and kept her semi-naked to prevent her escape,<sup>lxviii</sup> a flight attendant who allegedly assaulted and frequently locked her underage maid in her apartment,<sup>lxix</sup> and the brutal abuse and murder of a domestic worker, allegedly at the hands of her employers.<sup>lxx</sup> In almost all these cases, the domestic workers (often, but not always, teenagers) were brought from villages by a placement agency.

Grievous physical abuse had indeed been reported by some of the rescued girls in other recent rescues the NGO I worked with had conducted. Sexual abuse was also reported by a girl found by another team during the rescue operations I described, though not in the rescues I observed. The rise in such incidents of abuse and the growth of placement agencies generated great concern among anti-trafficking NGOs and child rights and labor activists in India about the



exploitative possibilities of a form of employment already embedded in deep-seated socio-economic hierarchies and inequities.

As for child labor, its high prevalence in varied sectors of the Indian economy is recognized by both government and NGO sources. The official census of 2001 estimates the number of child laborers (across all forms of employment) at 12.59 million in 2001,<sup>lxxi</sup> with NGOs citing a figure closer to 60 million.<sup>lxxii</sup> The ILO estimates that 20 percent of all Indian children under fourteen years of age working outside their family home do domestic work.<sup>lxxiii</sup> Sending children to work is a survival strategy impoverished families adopt to cope with subsistence living, low wages, job insecurity, high unemployment and inadequate welfare provisions. Indian social scientists argue that poverty, combined with weak educational infrastructure and quality in rural areas, and the government's neoliberal export-led economic growth model where welfare has taken a backseat, pushes children to work.<sup>lxxiv</sup> The lines between voluntary migration, migration to help one's family survive, and trafficking are often blurred, as the girls' narratives in the case I described illustrated.

To understand why rescues ultimately serve as short-sighted solutions to such cases, one must expand a critique of the irreconcilable global discourse of "modern-day slavery" in a local context. It is well worth examining the universalized (or rather, Eurocentric modernist) conceptions of childhood<sup>lxxv</sup> at the core of rescues, the paternalist legal response of the Indian state to female migrants that presumes their movement to be coerced<sup>lxxvi</sup> and seeks to "reinsert" women and children back into the family,<sup>lxxvii</sup> and the question of a child's consent that factors in what Brennan persuasively terms the "subjectivity of coercion."<sup>lxxviii</sup>

In this endeavor, I owe a debt to Mariana Valverde's call to socio-legal scholars to pay attention to the way all legal actors ascertain and negotiate "truths."<sup>lxxix</sup> For Valverde, this

involves taking seriously not only expert knowledge, but also the “commonsense, job-based knowledge” of “lowly” officials, and to recognize the porous boundary between the two. The perspectives offered by the police are therefore crucial.

I do not consider the police’s “common sense” to be somehow more truthful than the NGO’s or Child Welfare Committee’s concerns. I recognize both humor and self-indulgence in the sub-inspector’s comments, and view his reluctance to participate in rescues as partly the indifference of someone who himself felt underpaid for his labor. However, these reasons are precisely why it is important to pay heed to the police’s perception that the labor practices the CWC and NGO saw as exploitative were the inevitable lot of poor rural migrant domestic workers, better than their lives in the village, and reflective of a systemic malaise of unfair pay structures and labor practices that lower-level police also bore the brunt of.<sup>lxxx</sup> I encountered different shades of this attitude towards labor exploitation among police personnel across other cases I observed in Delhi. Two of these were situations involving (visibly) very young children whose exploitative employment was reported to the NGO by concerned neighbors. The police personnel the NGO approached at local police stations conducted the rescues only after much cajoling by NGO staff.

I do not endorse the police’s acceptance of the conditions the girls worked in, but consider it worth taking into account why merely rescuing the poor from exploitative labor situations made little sense to them. The police, more so than the NGO or the CWC, seemed to recognize the agency, both in poverty and in childhood, that drives people to migrate to work in cities in order to survive. An example from a different fieldwork moment illustrates this point further.

*When I went to interview an anti-trafficking police officer at a bustling police station in the heart of Kolkata, she was trying to console a woman who sat sobbing loudly on the floor of her office. The police officer explained to me that the woman had been (wrongly,*

*she added) arrested as a suspected trafficker. The woman and her husband were intercepted at the railway station as they were about to take a group of girls (some underage) to work as maids in Delhi. The couple and the girls came from a cyclone-affected region in West Bengal. The police officer had sent a team to Delhi to investigate, and learned that the couple was working with a maids placement agency, and had placed the girls in “good homes.” Sensing my barely-masked surprise at her evident sympathy for the alleged traffickers, she went on to say, “Come on, you are Indian, you can understand—these people are poor and illiterate, they have been affected by Cyclone Aila...after all, they are helping the girls get jobs. Poverty is the cause for all this, until you generate employment, no rules or Acts can stop this.” She emphasized that this situation was different from “immoral” trafficking where girls were forced into prostitution and should be rescued. “You have to be a little open-minded,” she told me [Excerpt from author’s field notes, July 2010].*

Indeed, in the rescues I described in the first section, the Delhi police sub-inspector who was annoyed at being sent to rescue the girls from domestic work had also pointed out that their situation was better than “those girls in G.B. Road (New Delhi’s red light area).” “*Aapko pata hai kya haalat hoti hai unki? Hum bayaan bhi nahin kar sakte*” [“Do you know how *those* girls are treated? I can’t even describe it”], he had told me. Both police interlocutors were thus more willing to respond to sex trafficking over situations that might entail labor trafficking or labor exploitation. Rejecting the global imperative against human trafficking, and reluctant to enforce domestic legislation against forced labor and child labor, they invoked a moral framework wherein ending up as domestic labor appears a better situation than ending up in a brothel, even

if the means by which someone was brought into either situation could be similar. In the example I gave from Kolkata, the police officer drew a distinction between what she assumed to be my globally mediated understanding of labor trafficking, and her own knowledge (that she believed I ought also to have), of the socio-economic exigencies that poor rural migrant labor face. She implied that “an Indian” would inherently have a different understanding of the relationship between poverty, migration and trafficking than what global anti-trafficking campaigns assume.

The local police’s unwillingness to implement Indian laws addressing forced labor was certainly a dereliction of duty. However, their comments partly accord with scholarly critiques of anti-trafficking discourse prevalent in the global North for not responding to structural conditions for labor migration, and conflating poverty with a lack of agency all too easily.<sup>lxxxi</sup> Rescues, foregrounded as a global anti-trafficking response, assume that the “freedom” of the exploited domestic worker lies in sending her back to her family. Some of the girls in the case I described did not want to be rescued from exploitative work situations, and were willing to do domestic work (“for no pay,” as the NGO kept reminding them), as long as their daily needs were met. They considered this a better situation than the dire poverty (and in at least one case, abusive conditions) of their families in the village. Indeed, the placement agent had deceived them into believing their families were being paid for their work. Rescue is thus premised on a limited view of the problem that does not address the structural realities of poverty because of which people (including children) work (or are sent to work). Removing children from work to the temporary custody of the state and the eventual custody of their families, rescue operations skirt around the socio-economic conditions propelling migration, trafficking, and labor exploitation.

Social scientists studying children in the sex trade make similar arguments about childhood, poverty and work, highlighting cultural differences in political and historical conceptions of

childhood. Heather Montgomery shows how the idealization of an “innocent,” work-free childhood is a Western bourgeois construct that does not always match other cultural and socio-economic contexts.<sup>lxxxii</sup> Julia O’Connell Davidson argues against treating adulthood and childhood as absolutely separate categories of experience, when in reality an adult and child might be subject to the same structural “unfreedoms.”<sup>lxxxiii</sup>

Commenting on the issue of child marriage, Indian feminist scholars have pondered the challenges of recognizing both the agency and subjectivity of children (especially female children), and their mediation by family and community expectations.<sup>lxxxiv</sup> Rajeswari Sunder Rajan urges against exalting the agency of a child as free choice or consent, explaining it instead as a “heavily compromised pact with the circumstances in which she was enmeshed.”<sup>lxxxv</sup> While recognizing that children often have less power than adults to shape their circumstances, Purnima Mankekar questions interventions that allow the state to invade the sphere of the family “on behalf of children” all too easily.<sup>lxxxvi</sup> These observations speak to the complexities and constraints shaping children’s agency in the context of work and migration (inextricably entwined with vulnerability to trafficking). As I have described, these complexities are further compounded by the difficulty of ascertaining (visually, legally, or medically) who is a child.

These critiques in the contexts of child prostitution and child marriage help call into question the myopic protectionism of the Indian state as represented by the CWC, as well as the short-sighted emphasis on rescues by global anti-trafficking initiatives in setting priorities for the NGOs they fund. Rescues are neither a province of the state, nor of NGOs alone, but part of a new mode of neoliberal government where NGO's increasingly participate in a field of agencies mediating between the poor, state institutions and transnational and multilateral entities.<sup>lxxxvii</sup>

The post-rescue solution entails returning children to their families who, though

reprimanded for facilitating exploitation in the first place, are treated as the custodians to whom the responsibility that the state and NGO temporarily took on can be returned. Indeed, those who are rescued themselves often express a desire for such a return, especially after languishing in state shelters. However, as Sunder Rajan observes in the case of child marriage, ultimately, neither the state nor impoverished families are able to make adequate provisions for the financial security, education, safety and well-being of the girl child.<sup>lxxxviii</sup> In the cases I observed, rescues, at best, temporarily addressed one exploitative dimension of the larger structural precarity to which the rescued were returned. Admonishing families for sending their children to work, and having them sign undertakings that gloss over their financial situations render the burden of poverty even heavier. Indeed, the CWC was threatening to penalize impoverished families for situations that state agencies, NGO's, or foreign donors have scarcely been able to ameliorate.

In a context where a culture of servitude feeds on income inequality, the blurred line between volitional migration and trafficking, uncertainties with regard to rescued domestic workers' age and consent, the subjectivity of coercion, and the domestic worker's families' willingness to "compromise" with the placement agent or employer bring the limitations of rescue into sharp relief. How, if at all, can those who wish to intervene "on behalf of" unpaid young domestic workers attempt to overcome the shortsightedness of rescues?

Given the complexities of the problem, both socially and legally, there are no easy solutions. Rescues do bring exploitative situations to light that are easily kept hidden within the walls of middle-class domesticity. It was clear from the rescues I described that some young domestic workers did not want to work and wanted to go home to their families. By themselves, however, rescues hit a dead end, and do nothing to alleviate poverty. For instance, pushing for better labor regulations and protections for "borderline age" migrant workers would likely serve them better

than obliterating the possibility of their employment altogether. Ordering restitution payments, while well-intentioned, can achieve little without improvements in the educational infrastructure and standard of living in villages where rural migrant workers come from. For effective interventions against labor exploitation, quick fix protectionist solutions will need to give way to more comprehensive, long-term engagements with the populations they seek to assist. The regulation of placement agencies, pursued by anti-trafficking NGOs, is one useful step in this direction, if done in the spirit of facilitating safe migration and not discouraging migration *tout court*. Besides this, regulations specifying safe working conditions for domestic workers (see p. 29) have the potential to translate better into police-speak (and therefore a greater possibility of being enforced) than what are perceived as abstract principles such as “slavery” embedded in “NGO talk” and vaguely worded laws. A domestic workers’ collective in Bangalore, for instance, is pushing for such legislation.<sup>lxxxix</sup> Engaging with such efforts, however, requires a willingness on the part of NGO's and state agencies to engage with domestic workers as political beings, rather than the depoliticized image of slaves passively awaiting redemption.<sup>xc</sup>

## Conclusions

For NGOs, pursuing a global anti-trafficking agenda, and for Child Welfare Committees, trying to bring legal redress to “children in need of care and protection,” laws are important instruments of change. The possibilities and efficacy of law are, however, ultimately shaped by the uncertainties and inconsistencies built into legal definitions and procedures, and the political economy and socio-cultural context in which laws operate.

An anthropological lens reveals the nuances of a socio-legal context in which a long-standing culture of servitude and entrenched socio-economic vulnerabilities coexist uneasily with

donor-driven NGO agendas, progressive postcolonial labor laws and current U.S.-driven legal advocacy against trafficking. This complex terrain of frictional encounters between the global and the local, police and NGOs, determines and complicates the meanings that trafficking, slavery, forced labor and child labor acquire as concepts and legal categories.

In the realm of law, variant interpretations are not merely a matter of discord between global legal instruments and the priorities of Indian law, nor do they simply reflect gaps between Indian laws and their implementation by the police, but also reside in the multiple and overlapping legislations dealing with forced labor in India, their construction of different age standards, and arbitrary levels of awareness of their existence and amendments amongst judges and police.

On the ground, rescues and subsequent legal procedures were riddled with tensions between the anti-trafficking NGO and its deployment of the language of slavery and bonded labor, the short-sighted, “quick fix” protectionism of the CWC, the police’s rejection of these frameworks, and the vexed negotiations that poor, migrant, sometimes underage, domestic workers and their families make. Such incongruous perspectives are often suppressed in heavily mediatized global humanitarian narratives about “modern-day slavery,” yet always shape moments of intervention.

### **Acknowledgements**

I wish to thank Sally Merry for her helpful suggestions on reworking a shorter paper into this longer article, Carol Wang and Wenrui Chen for their valuable edits of an early draft, Prabha Kotiswaran for inviting me to present an earlier draft to an engaged and supportive group of interdisciplinary scholars and activists at a workshop on “Shaping the Definition of Trafficking in the Palermo Protocol” at King’s College, and Mike Dottridge, Julia O’Connell Davidson and Beatrice Jauregui for useful inputs along the way that helped me develop my arguments.



## Notes

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<sup>i</sup> See Raka Ray and Seemin Qayum, *Cultures of Servitude: Modernity, Domesticity, and Class in India*. (Stanford: Stanford University Press, 2009).

<sup>ii</sup> See, generally, Nicholas Kristof's columns on trafficking in the *New York Times*, or CNN's Freedom Project dedicated to "Ending Modern-Day Slavery,"

<http://thecnnfreedomproject.blogs.cnn.com/> (accessed December 15, 2014).

<sup>iii</sup> In her forthcoming book on human rights indicators, Sally Merry discusses how the TIP reports' ranking of countries, with repercussions of poor ranking extending to the possible withdrawal of certain forms of financial aid, functions as an instrument of global governance that both defines the problem and shapes the solution. See Sally E. Merry, *The Seductions of Quantification: Measuring Human Rights, Violence against Women, and Human Trafficking*. (Chicago: University of Chicago Press, 2016).

<sup>iv</sup> See the "India" narratives in the State Department's annual *Trafficking in Persons Reports* especially from 2005 onwards available online, <http://www.state.gov/j/tip/rls/tiprpt/> (accessed December 15, 2014).

<sup>v</sup> Including all these facets, the VTVPA defines "Trafficking in persons" as the act of recruiting, harboring, transporting, providing or obtaining a person for compelled labor or commercial sex acts through the use of force, fraud, or coercion. The *TIP* report explains how the VTVPA and UN Protocol of 2000 both "describe this compelled service using a number of different terms,

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including involuntary servitude, slavery or practices similar to slavery, debt bondage, and forced labor” (*Trafficking in Persons Report*, 2013, 29, 31).

<sup>vi</sup> Janie Chuang, “Exploitation Creep and the Unmaking of Human Trafficking Law,” *American University, WCL Research Paper* (2013), accessed November 29, 2014,

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2315513](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2315513)

<sup>vii</sup> Mike Dottridge, “The Meaning of Terms in International Law referring to the forms of Exploitation for which People are Trafficked,” Paper prepared for a Workshop on Shaping the Definition of Trafficking in the Palermo Protocol, King’s College, London, May 7-8, 2014, 14.

<sup>viii</sup> *Trafficking in Persons Report*, 2011, 3.

<sup>ix</sup> For a discussion of how “white slavery” or a “traffic in women” is another, less explicit referent here, see Karen Bravo, “Exploring the Analogy between Modern Trafficking in Humans and the Trans-Atlantic Slave Trade,” *Boston University International Law Journal* 25 (2007): 209-295, passim.

<sup>x</sup> *Ibid.*, 254.

<sup>xi</sup> Janie Chuang, “The United States as Global Sheriff: Using Unilateral Sanctions to Combat Human Trafficking,” *Michigan Journal of International Law* 27 (2006): 437-494.

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<sup>xii</sup> See Sally E. Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice*. (Chicago: University of Chicago Press, 2006).

<sup>xiii</sup> Aihwa Ong, “A Biocartography: Maids, Neo-Slavery, and NGOs,” in *Migrations and Mobilities: Citizenship, Borders, and Gender*, edited by Seyla Benhabib and Judith Resnik (New York: NYU Press, 2009), 157-183.

<sup>xiv</sup> Anna L. Tsing, *Friction: An Ethnography of Global Connection*. (Princeton: Princeton University Press, 2004), 1, 5.

<sup>xv</sup> Examples of such critiques include Laura Agustin, *Sex at the Margins: Migration, Labour Markets, and the Rescue Industry*. New York: Zed Books, 2007; Janie Chuang, “Rescuing Trafficking from Ideological Capture: Prostitution Reform and Anti-Trafficking Law and Policy,” *University of Pennsylvania Law Review* 158 (2010): 1655-1728; Gretchen Soderlund, “Running from the Rescuers: New U.S. Crusades Against Sex Trafficking and the Rhetoric of Abolition,” *NWSA Journal* 17, no. 3, (2005): 64-87.

<sup>xvi</sup> For a description and critique of alliances formed between ‘abolitionist’ feminist and faith-based activists and a securitized state apparatus in the United States to combat “modern-day slavery,” see Elizabeth Bernstein, “Militarized Humanitarianism meets Carceral Feminism: the Politics of Sex, Rights, and Freedom in Contemporary Anti-Trafficking Campaigns,” *Signs* 36, no. 1 (2010): 45-71. For an account of the multi-professional collaborative alliances being formed between police and NGOs to protect victims of sex trafficking in the Netherlands, see

Jennifer L. Musto, “Carceral Protectionism and Multi-Professional Anti- Trafficking Human Rights Work in the Netherlands,” *International Feminist Journal of Politics* 12, no. 3-4 (2010): 381-400. These critiques have been in the context of sex trafficking, the aspect of human trafficking that has attracted the greatest media and policy attention in the past decade or so. Concerns around labor trafficking have started to occupy some of this media and policy space more recently, though to a lesser extent.

<sup>xvii</sup> The phrases derive from the American legal realist tradition attributed to Roscoe Pound, “Law in Books and Law in Action,” *American Law Review* 44 (1910): 12-36, and subsequently developed by a breadth of scholarly interlocutors including legal philosopher Lon Fuller, “American Legal Realism,” *University of Pennsylvania Law Review and American Law Register* 82, no. 5 (1934): 429-462, and anthropologist Karl Llewellyn, “A Realistic Jurisprudence—the Next Step,” *Columbia Law Review* 30 (1930): 431-465.

<sup>xviii</sup> I borrow this term (with an expanded discussion in the last section) from Mariana Valverde, *Law’s Dream of a Common Knowledge: The Cultural Lives of Law*. (Princeton: Princeton University Press, 2003).

<sup>xix</sup> A largely agrarian, landowning caste in North India with significant economic and political status in certain states. The lower and middle rungs of the Delhi police are heavily staffed with men (and to a smaller extent, women) of this or similar caste groups from the neighboring state of Haryana.

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<sup>xx</sup> For a detailed account of the marginalization of Jharkhand's indigenous tribal population and its scarce access to development projects and resources in a newly formed state ostensibly created to protect tribal interests, see Alpa Shah, *In the Shadows of the State: Indigenous Politics, Environmentalism, and Insurgency in Jharkhand, India* (Durham: Duke University Press, Duke University Press, 2010).

<sup>xxi</sup> Sources for this account of placement agencies include “Country Assessment: Current Status of Victim Service Providers and Criminal Justice Actors in India on Anti-Human Trafficking,” (United Nations Office on Drugs and Crime, New Delhi, 2013), 10; (Dasgupta et al 2012; Dixit 2008; Joshi 2012); Debarshi Dasgupta et al, “Domestic helps: Inside Slave City,” *Outlook*, April 23, 2012, accessed April 2, 2014, <http://www.outlookindia.com/article.aspx?280558>; Neha Dixit, “The Nowhere Children,” *Tehelka* 5, no. 43, November 1, 2008, [http://archive.tehelka.com/story\\_main40.asp?filename=Ne011108cover\\_story.asp](http://archive.tehelka.com/story_main40.asp?filename=Ne011108cover_story.asp); Mallica Joshi, “Abject poverty at the root of trafficking,” *Hindustan Times*, July 22, 2012, accessed April 2, 2014, <http://www.hindustantimes.com/india-news/abject-poverty-at-root-of-trafficking/article1-893874.aspx>.

<sup>xxii</sup> Per the provisions of the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (see note 26 below), which India ratified in 2011, available at the website of the United Nations Office on Drugs and Crime, <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>, accessed September 13, 2010.

<sup>xxiii</sup> “Bill to Regulate placement agencies coming,” *The Hindu*, February 15, 2012, accessed April 2, 2014, <http://www.thehindu.com/news/cities/Delhi/bill-to-regulate-placement-agencies-coming/article2895626.ece>; Ambika Pandit, “Delhi govt. drags its feet on draft bill on placement agencies,” *The Times of India*, April 29, 2013, accessed April 2, 2014, <http://timesofindia.indiatimes.com/city/delhi/Delhi-govt-drags-its-feet-on-draft-bill-on-placement-agencies/articleshow/19773310.cms>.

<sup>xxiv</sup> *TIP* report 2013,195; *TIP* report 2014, 203.

<sup>xxv</sup> NGOs and police described the act of bringing rescued girls before the CWC, in Indian legalese, as “producing” them. I use this verb through the article in this context.

<sup>xxvi</sup> All names changed to protect the subjects’ identities.

<sup>xxvii</sup> The UN Protocol 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. “Exploitation” includes sexual exploitation, forced labour, slavery or practices similar to slavery, servitude or the removal of organs.

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<sup>xxviii</sup> Denise Brennan, *Life Interrupted: Trafficking into Forced Labor in the United States*. (Durham: Duke University Press, 2014).

<sup>xxix</sup> Rhacel S. Parrenas, *Servants of Globalization: Women, Migration, and Domestic Work*. (Stanford: Stanford University Press, 2001), 179-185.

<sup>xxx</sup> Mary Romero, “Not Just Like One of the Family: Chicana Domestics Establishing Professional Relationships with Employers,” *Feminist Issues* 10 (2) (Fall 1990), 33-41.

<sup>xxxi</sup> Dr. Jaising P. Modi, *A Textbook of Medical Jurisprudence and Toxicology*, 5<sup>th</sup> ed., edited by Justice K. Kannan and Dr. K. Mathiharan (Nagpur: LexisNexis Butterworths Wadhwa, 2013), 247-248.

<sup>xxxii</sup> In her ethnography of rape trials, Indian anthropologist Pratiksha Baxi describes how such settlements outside the court, while illegal, are a public secret in India, a “culture of compromise” which in criminal trials often leads to prosecution witnesses changing their testimonies. Pratiksha Baxi, “Justice is a Secret: Compromise in rape trials,” *Contributions to Indian Sociology* 44, no. 3 (2010): 207-233.

<sup>xxxiii</sup> Rescuing a greater number of children could certainly improve an NGO’s chances of getting funding. However, this observation greatly simplified the far from transparent politics of global funding. The NGO I volunteered for did receive foreign funds, but the parameters of evaluation were more complicated than the number of rescues and included their advocacy work,

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demonstrated capacity to work with the police, courts, CWCs and other state agencies, and so on, as well as their skill at publicity and networking in the right policy and donor circles.

<sup>xxxiv</sup> A written complaint lodged with the police about the commission of a crime; the first step in the initiation of criminal proceedings in India.

<sup>xxxv</sup> Kailash Satyarthi, 2014 Nobel Peace Prize winner and long-time crusader against child labor (whose NGO, Bachpan Bachao Andolan, receives foreign funding), laments in an op-ed titled “Getting ready for the new law against child labour” in the national newspaper *The Hindu* on September 10, 2012, that the “endemic corruption, insensitivity and indifferent attitude of the “inspector class” is not a secret.” In a July 12, 2014 opinion piece titled “Of Human Bondage” in the same newspaper, bureaucrat turned social activist Harsh Mander observes that the “administration refuses to acknowledge the existence of bonded labour system.”

<sup>xxxvi</sup> Though Delhi policemen of sub-inspector rank were often from castes with political and economic power (see note xix above), their class status and salaries are on the lower rungs of the police bureaucracy.

<sup>xxxvii</sup> Anthropologists and other social scientists studying “middle-class” identity in India (and elsewhere in South Asia) have emphasized its performative and discursive dimensions, given its somewhat fluid empirical boundaries (See William Mazzarella, “Middle Class,” in Rachel Dwyer, ed, *South Asia Keywords* (2005), available online at [http://d3qi0qp55mx5f5.cloudfront.net/anthropology/docs/mazz\\_middleclass.pdf](http://d3qi0qp55mx5f5.cloudfront.net/anthropology/docs/mazz_middleclass.pdf) [last accessed July 2017]; Mark Liechty, *Suitably Modern: Making Middle-Class Culture in a New*



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*Consumer Society*. (Princeton: Princeton University Press, 2002); Leela Fernandes, *India's New Middle Class: Democratic Politics in an Era of Economic Reform*. (Minneapolis: University of Minnesota Press, 2006)). In India, “middle class” is not as much a measurable or accurate description of an income category, as a normative standard for the acquisition of forms of capital such as education, credentials, skills, and cultural resources (Fernandes 2006). “Middle-class” is a category used to describe a fairly wide range of socio-economic situations in India (Jyoti Puri, *Woman, Body, Desire in Post-Colonial India*. (New York: Routledge, 1999: 2)), referring to a highly heterogeneous social group (Christiane Brosius, *India's Middle Class: New Forms of Urban Leisure, Consumption and Prosperity*. (London: Routledge, 2010)). Multiple scholars have recognized the existence of “lower” and “upper” middle-classes in India (see, for e.g., Fernandes 2006; Satish Deshpande, “The Centrality of the Middle Class,” In *Contemporary India: A Sociological View*. (New Delhi: Viking, 2003, pp. 125-150; Ruchira Ganguly-Scrase, “Paradoxes of Globalization, Liberalization, and Gender Equality: The Worldviews of the Lower Middle Class in West Bengal, India,” *Gender and Society* 17 (4) (2003), 544-566), and drawn attention to the fissures between hegemonic representations of contemporary middle class identity and the contradictory socio-economic realities of those who both constitute and aspire to this group (Fernandes 2006).

<sup>xxxviii</sup> Shankar Sen and P.M. Nair. *A report on trafficking in women and children in India 2001-2003 Vol. I*. (New Delhi: Institute of Social Sciences, National Human Rights Commission, and UNIFEM, 2004), 170.

<sup>xxxix</sup> A Hindi word explained in the Constituent Assembly debates (deliberations of the body of law-makers who drafted the Indian Constitution) as “compulsory work without payment,” “work at command,” and “forced work against will,” linked to caste-based oppression and landlord-tenant hierarchies, and likened to slavery. *Constituent Assembly of India Debates (Proceedings)* Vol. VII, (Friday, December 3, 1948), accessed March 31, 2014, <http://www.indiankanoon.org/doc/607985/>

<sup>xl</sup> Constituent Assembly Debates, *ibid.*

<sup>xli</sup> The Immoral Traffic (Prevention) Act, 1956.

<sup>xlii</sup> The section now criminalizes anyone who “recruits, transports, harbours, transfers or receives a person using certain means (including threats, force, coercion, fraud, deception, abduction, abuse of power, or inducement) for purposes of exploitation.” For a detailed discussion of the inclusions and exclusions this new anti-trafficking law entails, see Prabha Kotiswaran, “A Battle Half-Won: India’s New Anti-Trafficking Law,” *Interdisciplinary Project on Human Trafficking* (blog), April 26, 2013, accessed April 10, 2014, <http://traffickingroundtable.org/2013/04/a-battle-half-won-indias-new-anti-trafficking-law/>

<sup>xliii</sup> The most literal explanation, spelled out in the Bonded Labour System (Abolition) Act of 1976, is that of forced or partly forced labor performed by a debtor to pay off a loan advanced by a creditor, or in “pursuance of any customary or social obligation,” or “obligation devolving on him by succession.”

<sup>xliv</sup> *People’s Union for Democratic Rights v. Union of India*, (1982) (3) Supreme Court Cases 235.

<sup>xliv</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) (3) Supreme Court Cases 161.

<sup>xlvi</sup> Indrani Chatterjee and Richard M. Eaton, eds., *Slavery and South Asian History* (Bloomington: Indiana University Press, 2006), 1.

<sup>xlvi</sup> Gyan Prakash, *Bonded Histories: Genealogies of Labor Servitude in Colonial India*. (Cambridge: Cambridge University Press, 1990), xi.

<sup>xlviii</sup> Trafficking in Persons Report, 2010, 33.

<sup>xlix</sup> Alec Fyfe, *The Worldwide Movement against Child Labour: Progress and Future Directions* (Geneva, International Labour Organization, 2007), 46.

<sup>1</sup> Although there were strong links between activists against bonded labor and child labor in India, and organizations in the global North working against the exploitation of children such as the UK-based Anti Slavery Society (now Anti Slavery International) even in the 1990s before the US TVPA Act and the UN Protocol against trafficking came into force. Fyfe, *ibid.*, 47.

<sup>li</sup> International Labour Organization (ILO), No. 138, “Convention on the Minimum Age for Admission to Employment and Work ,” June 26, 1973 (Geneva, 58th ILC session), accessed

April 20, 2014,

[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_COD](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_COD)  
E:C138

<sup>lii</sup> Shakti Kak and Biswamoy Pati, eds., *Enslaved Innocence: Child Labour in South Asia* (New Delhi: Primus Books, 2012), 9.

<sup>liii</sup> “Cabinet okays total ban on employing children below 14,” *The Times of India*, August 29, 2012, accessed September 15, 2013, <http://timesofindia.indiatimes.com/india/Cabinet-okays-total-ban-on-employing-children-below-14/articleshow/15912256.cms>

<sup>liv</sup> Gaurav V. Bhatnagar, “Establishments being sealed across Delhi to curb child labour,” *The Hindu*, July 15, 2012, accessed September 15, 2013, <http://www.thehindu.com/news/cities/Delhi/establishments-being-sealed-across-delhi-to-curb-child-labour/article3642276.ece>

<sup>lv</sup> Indeed, the NGO’s anti-trafficking work in partnership with the federal ministry overseeing law and order, for which it received U.S. funding, involved intensive programs to train police, prosecutors and judges in these nuances of the Indian legal framework.

<sup>lvi</sup> Sujata Gothoskar, “The Plight of Domestic Workers: Confluence of Gender, Class and Caste Hierarchies,” *Economic and Political Weekly* Vol. XLVIII, no. 22 (June 1, 2013).

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<sup>lvii</sup> “Cabinet must quickly approve national policy on domestic workers: NGOs, activists,” *The Times of India*, February 19, 2014, accessed March 20, 2014,

<http://timesofindia.indiatimes.com/india/Cabinet-must-quickly-approve-national-policy-on-domestic-workers-NGOs-activists/articleshow/30686827.cms>; “Questions raised over national policy for domestic workers,” *The Times of India*, May 19, 2013, accessed March 20, 2014, <http://timesofindia.indiatimes.com/india/Questions-raised-over-national-policy-for-domestic-workers/articleshow/20136681.cms>

<sup>lviii</sup> Barbara Ehrenreich, “Maid to Order,” in Barbara Ehrenreich and Arlie R. Hochschild, eds., *Global Woman: Nannies, Maids and Sex Workers in the New Economy*. (New York: Holt Paperbacks, 2002), 90-91

<sup>lix</sup> Saskia Sassen, “Global Cities and Survival Circuits,” in Ehrenreich and Hochschild, *ibid.*, 255.

<sup>lx</sup> Bridget Anderson, *Doing the Dirty Work? The Global Politics of Domestic Labour*. (London: Zed Books, 2000).

<sup>lxi</sup> Nivedita Menon, *Seeing Like a Feminist* (New Delhi: Zubaan-Penguin Books, 2012), 20-21.

<sup>lxii</sup> Kak and Pati, *Enslaved Innocence*.

<sup>lxiii</sup> *Ibid*; Gothoskar, “The Plight of Domestic Workers.”

<sup>lxiv</sup> Ray and Qayum, *Cultures of Servitude*.

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<sup>lxv</sup> *Lakshmi and Me*, directed by Nishtha Jain (Mumbai: Raintree Films, 2008), available at <http://www.pbs.org/independentlens/lakshmiandme/film.html> (accessed April 20, 2014).

<sup>lxvi</sup> The 2010 U.S. *TIP* report, for instance, reductively traces the origins of domestic work to “slavery and other forms of servitude,” going on to admit that “despite such linkages, many countries, including the US, do not offer protection to domestic workers under prevailing labor laws, perceiving their work as something other than regular employment” (p. 33).

<sup>lxvii</sup> The case received widespread media coverage, both nationally and internationally. See, for instance, Jim Yardley, “Maid’s cries cast light on child labor in India,” *The New York Times*, April 4, 2012, accessed April 25, 2014, [http://www.nytimes.com/2012/04/05/world/asia/india-shaken-by-plight-of-13-year-old-maid.html?\\_r=0](http://www.nytimes.com/2012/04/05/world/asia/india-shaken-by-plight-of-13-year-old-maid.html?_r=0)

<sup>lxviii</sup> “Delhi shocker: Senior female exec arrested for torturing 15-yr-old maid,” *Firstpost.com*, October 1, 2013, accessed December 2, 2013, <http://www.firstpost.com/india/delhi-shocker-senior-female-exec-arrested-for-torturing-15-yr-old-maid-1144827.html>

<sup>lxix</sup> “Locked in for 2 days, 13-year-old maid seeks help,” *The Times of India*, October 30, 2013, accessed December 2, 2013, <http://timesofindia.indiatimes.com/city/delhi/Locked-in-for-2-days-13-year-old-maid-seeks-help/articleshow/24894508.cms>

<sup>lxx</sup> Shobhomoy Sikdar, “BSP MP, wife arrested for maid’s death in their Delhi house,” *The Hindu*, November 6, 2013, accessed December 3, 2013,

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<http://www.thehindu.com/news/cities/Delhi/bsp-mp-wife-arrested-for- maids-death-in-their-delhi-house/article5316703.ece>

<sup>lxxi</sup> These statistics are from the website of the Childline India Foundation, a nodal agency set up by the federal Ministry of Women and Child Development and run in partnership with NGOs, at <http://www.childlineindia.org.in/child-labour-india.htm> (accessed January 27, 2015).

<sup>lxxii</sup> This figure is cited by Bachpan Bachao Andolan (see p. 26 and note 34 above), the NGO started by child rights activist Kailash Satyarthi, which works against child labor and child trafficking in India. See <http://bba.org.in/sites/default/files/CAPITAL%20CORRUPTION.pdf> (accessed July 10, 2014).

<sup>lxxiii</sup> See more at the ILO's website at <http://www.ilo.org/legacy/english/regions/asro/newdelhi/ipecc/responses/index.htm> (accessed February 25, 2014).

<sup>lxxiv</sup> Kak and Pati, *Enslaved Innocence*, 2.

<sup>lxxv</sup> Rajeswari Sunder Rajan, "The Ameena "Case": The Female Citizen and Subject," in *The Scandal of the State: Women, Law, and Citizenship in Postcolonial India* (Durham: Duke University Press, 2003), 41-71.

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<sup>lxxvi</sup> Ratna Kapur, *Makeshift Migrants and Law: Gender, Belonging, and Postcolonial Anxieties* (New Delhi: Routledge, 2010).

<sup>lxxvii</sup> Sunder Rajan, “The Aameena Case,” 60.

<sup>lxxviii</sup> Brennan, *Life Interrupted*.

<sup>lxxix</sup> Valverde, *Law’s Dream*.

<sup>lxxx</sup> For an insightful anthropological account of the job dissatisfaction and suboptimal work conditions that subordinate police in India face, see Beatrice Jauregui, “If the Constable Could Speak: Notes on a Continuing Failure to Secure the Masses and Reform the Police in India,” *India in Transition*, December 7, 2009, accessed April 28, 2014, [https://casi.sas.upenn.edu/system/files/\(Hindi\)+If+the+Constable+Could+Speak+-+Beatrice+Jauregui.pdf](https://casi.sas.upenn.edu/system/files/(Hindi)+If+the+Constable+Could+Speak+-+Beatrice+Jauregui.pdf)

<sup>lxxxi</sup> Svati P. Shah, “Distinguishing Poverty and Trafficking: Lessons from Field Research in Mumbai,” *Georgetown Journal on Poverty Law and Policy* 14, no. 3 (Fall 2007), 442.

<sup>lxxxii</sup> Heather Montgomery, *Modern Babylon? Prostituting Children in Thailand* (New York: Berghahn Books, 2001), 159.



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<sup>lxxxiii</sup> Julia O’Connell Davidson, *Children in the Global Sex Trade* (Malden, MA; Cambridge, UK: Polity Press, 2005), 142.

<sup>lxxxiv</sup> Sunder Rajan, “The Ameena Case”; Purnima Mankekar, “To Whom Does Ameena Belong? Towards a Feminist Analysis of Childhood and Nationhood in Contemporary India,” *Feminist Review* no. 56 (Summer 1997), 26-60.

<sup>lxxxv</sup> *Ibid.*, 60.

<sup>lxxxvi</sup> Mankekar, “To Whom Does Ameena Belong,” 50, 52.

<sup>lxxxvii</sup> Anthropologists studying the state in India have made this point in the context of poverty and women’s empowerment programs. See Aradhana Sharma, *Logics of Empowerment: Development, Gender, and Governance in Neoliberal India* (Minneapolis: University of Minnesota Press, 2008) and Akhil Gupta, *Red Tape: Bureaucracy, Structural Violence, and Poverty in India* (Durham: Duke University Press, 2012), 38.

<sup>lxxxviii</sup> Sunder Rajan, “The Ameena Case,” 56-57.

<sup>lxxxix</sup> Sumana Mukherjee, “Geeta Menon: Voice of the Toiling Woman,” *Livemint*, August 9, 2014, accessed October 19, 2014, <http://www.livemint.com/Leisure/Lg8vDPO6dwMJE9eX21z37H/Geeta-Menon--Voice-of-the-toiling-woman.html>

<sup>xc</sup> Samuel Martinez elucidates this point effectively in an earlier issue of this journal. Samuel Martinez, “Taking Better Account: Contemporary Slavery, Gendered Narratives, and the Feminization of Struggle,” *Humanity* 2, no. 2 (Fall 2011), 296.