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***'Labour chains': analysing the role of labour  
contractors in global production networks***

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## **Abstract**

Third party labour contractors are increasingly prevalent in Global Production Networks (GPNs), and are a potential channel for 'new forms of slavery'. Our review of case study evidence from South African and UK horticulture suggests unfree labour often emerges off-site through labour intermediaries. We examine analytical approaches to labour in GPNs and value chains. We argue that labour contracting is a logical extension of global outsourcing, helping to offset risk and enhance flexibility. A 'cascade system' allows unscrupulous intermediaries to exploit and coerce vulnerable workers. We examine strategies of civil society alliances, and regulatory reform, and argue for extending liability across global boundaries.

**Keywords:** global production networks, labour contracting, unfree labour, South Africa, UK, horticulture

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## 1. Introduction

Global production is expanding through outsourcing to developing countries, via interlinked networks of producers and agents coordinated by large global and regional buyers. It is generating increasing opportunities for employment in commercial agriculture and manufacture in the South. This can provide important opportunities for enhancing the wellbeing of those with little or no assets other than their labour. However, the type of employment generated is mixed. We appear to be witnessing a growing parallel workforce within global production. On many sites, some workers have access to jobs with relatively better employment security and conditions of employment. Working alongside them, on the same site, are often workers whose employment is highly insecure, with few rights or poor protection. They are increasingly hired through third party labour contracts (recruitment agents or labour intermediaries).<sup>1</sup> A large number are often migrant (internal or international), and in many sectors include a significant proportion of women. Some recruitment or temporary staffing agencies are formal businesses with established reputations. But this paper focuses on the myriad of labour contractors who operate informally, are often 'invisible', and are increasingly surfacing within global production.

A parallel trend has been the apparent rise of contemporary forms of forced or unfree labour in the global economy. Public perceptions tend to associate unfree labour with trafficking for sexual exploitation. But the most comprehensive research available from the ILO (2005) indicates that nearly two-thirds of all forced labour is for economic exploitation, and that 'private agents' are the primary channel through which this takes place. Case studies have examined 'modern forms of slavery' involving labour contractors or third party agents, particularly where debt bondage or transnational trafficking are involved (Bales 1999; van den Anker 2004; Lerche 2007). Studies by union and NGO researchers have highlighted labour abuses occurring under the guise of labour contractors within modern retail value chains (Pollard 2006; CCC 2009). These studies rightly highlight the worst cases, which are often hidden from view, but not all labour contracting involves extreme forms of abuse or unfree labour. The relationship between the commercial dynamics of GPNs and the role of labour contractors is poorly understood. The paper address this gap, in order to contribute to a more nuanced understanding of why and how contemporary 'labour chains' have emerged in this context, undermining the freedom of workers. A better understanding of the commercial and social processes involved can inform more effective strategies to address the rights and protection of contract workers in the context of global production.<sup>2</sup>

The paper is divided into four subsequent sections. The second section provides an overview of selected case studies on labour contracting within global production, and highlights the limited availability of data on the extent of coercive labour exploitation through labour intermediaries. It draws on more in-depth research by the author on labour contractors in South Africa and UK horticulture supplying UK supermarkets. These help to highlight the changing nature of temporary employment, and the continuum between better and worse forms of labour contracting. Workers

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<sup>1</sup> There is no single agreed definition or terminology. The generic term used in this paper is 'third party labour contractors'; however, many different terms are used, including: 'gangmasters' or 'labour providers' (UK), 'labour brokers' (S. Africa), and *thekedaars* in India.

<sup>2</sup> The paper is not examining all forms of labour contracting or private agents involved in the recruitment of free or unfree labour – it is focused only on those involved in global production networks.

recruited through a 'cascade' system, or network of labour intermediaries, are often most hidden, and exposed to abuse, including new forms of 'global slavery'. The links between labour contracting and unfree labour are further explored. Empirical information suggests that unscrupulous contractors apply unfree labour practices, often off site, to operate at the worse end of the labour practice continuum.

The third section provides a more analytical exploration of the drivers of labour contracting within GPNs, and asks why this should lead in some cases to unfree labour. It combines value chain and GPN analysis to examine how global outsourcing of production has helped to drive the systemic use of third party labour contractors. It argues that labour contracting is a logical extension of global outsourcing of production, where risk and cost are offset down value chains, and producers have to comply with tight turnaround and quality standards. Labour contracting involves a separation between the productive activity of labour and the formal 'employer', often through a network of intermediaries. This provides space for unscrupulous intermediaries to extract economic rent from vulnerable workers through coercive practices involving debt bondage and entrapment.

The fourth section considers the implications for the protection and rights of vulnerable contract workers in the context of buyer-driven GPNs. Contract workers often fall outside the reach of formal labour market regulation and protection, which normally assume close employer attachment. This section examines regulatory approaches to the 'triangular employment relationship' through joint liability. It further explores the space that has been opened up within GPNs through civil society pressure and new forms of business alliance to monitor labour contractors. However, it argues that only cross-national strategies, able to address the adverse impact of global commercial processes, will be able to reach the underlying drivers of unfree labour within labour contracting.

## **2. Labour contractors in global production networks**

Labour contracting has a long history, dating back to the 19th century. In agriculture it was a source of 'gangs' of seasonal labour at harvest time. In garments it goes back to the early 'sweating' system used in factories and workshops, whereby contractors providing labour 'sweated' the difference between payments received from factory owners and wages paid to the workers they provided (Goldstein 2006). The labour movement in many countries succeeded in challenging this system during the 20th century. There was an expectation that effective labour regulation would help to achieve more stable and direct employment relations, through which workers could be protected.

The existence of forced or unfree labour in global production also has a long history. It was associated with the transatlantic slave trade and movement of labour from parts of Africa to the 'new world' for exploitation in colonial production. In Asia more often it involved the use of bonded labour in natural resource extraction and crop cultivation for domestic and export markets.

The abolition of slavery, and legislation against associated forms of bonded labour in many countries, were meant to have ended such practices. The advance of free market production and trade were postulated to involve the 'free' supply of labour by workers (Koettl 2009). Yet there is growing recognition that both labour contracting and unfree labour are appearing, albeit in different

forms, within contemporary globalised production (Bales 1999; van den Anker 2004; ILO 2005; Kuptsch 2006). Before examining links between the two, we provide an overview of labour contracting within global production.

## 2.1 Overview of labour contracting in global production

There is no commonly agreed definition of labour contracting. It is associated with what the ILO terms a 'triangular employment relationship', where the legal employer is separate from the person for whom work is carried out (Theron, Godfrey et al. 2005). However, it is important to distinguish between formally registered companies who provide temporary staffing services, and more informal or quasi registered labour contractors. Research has indicated the rapid growth of formal temporary staffing agencies globally, and the role they have played in facilitating the flexibilisation of labour in more liberalised labour markets (Peck, Theodore et al. 2005; Coe, Jones et al. 2009). It is estimated that such firms have doubled in size between 1994 and 1999, and again from 1999 to 2006, reaching US\$341bn in 2007, and incorporating an estimated 9.5 million full-time equivalent workers (Coe et. al. 2009). The top three companies (Adecco, Manpower and Vedicor) have operations that span the world, operating in developed and developing countries.

In this paper our focus is on labour contractors or intermediaries, who are not formally registered as companies.<sup>3</sup> Defining labour contracting in this context can be 'messy', as it takes different forms. These range from specialist or independent contractors, based on skill in a specific task supplying both labour and materials; to 'labour-only contractors', who have no specialist skills, provide no materials and are paid by completed task or for the provision of labour (Theron and Godfrey 2000). The mechanisms of recruitment and the employment relationship can be very variable, and differs between countries and sectors. Information garnered from case studies cited in Table 1 below suggests labour contracting can take many different forms, as shown in the following typology:<sup>4</sup>

- Labour intermediary or contractor supplies workers to a producer for a fee, and the producer becomes the direct employer.
- Labour intermediary or contractor supplies workers to a producer. The agent pays the workers (taking a percentage), but the producer supervises the workers.
- Labour intermediary or contractor supplies workers to a producer on the basis of a contract for specific task, for which payment is made (e.g. clearing a field or embellishing a batch of garments); the agent or contractor pays the workers and supervises their work.
- Informal contractor – an individual (often a worker) who recruits other workers for a farm or factory, may also be a worker or ex-worker, and receives a payment or unofficially takes a deduction from wages.

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<sup>3</sup> In this paper, we use the generic term 'labour contractor' to cover a wide range of largely informal arrangements for the third-party provision of workers. The actual terms used varies by country. For example the UK uses 'gangmaster' or 'labour provider', South Africa uses 'labour broker'.

<sup>4</sup> This typology is based on investigation of labour contracting systems in South Africa, India and the UK. It can vary between countries, but this summary captures the main features found in these studies.

The role of informal labour contractors or intermediaries is recognised to have grown over recent decades (Kuptsch 2006). Estimates of numbers are more difficult to obtain, particularly in developing countries, where labour markets are often more informal and less well regulated or monitored. Contract workers usually fail to show up in national labour market statistics; factories and farms rarely keep records of their use; and they are often 'absent' when labour inspectors or social auditors visit a site. However, an increasing number of separate studies on workers linked to global production networks have shown these workers to exist. Often such studies did not necessarily set out to examine contract labour. An impact assessment for the UK Ethical Trading Initiative, for example, carried out in five countries (Costa Rican bananas, Indian garments, South African fruit, Vietnamese garments and footwear, UK horticulture) found extensive use of labour contractors in four of the countries (Vietnam excepted) (Barrientos and Smith 2007; Barrientos 2008).<sup>5</sup> Information from various case studies helps to piece together a picture of the changing dynamics of labour contracting in GPNs, summarised in Table 1.

**Table 1. Examples of migrant and contract labour in global production**

| Country       | Sector       | Type of migrant labour                               | Note on known recruitment methods                                    |
|---------------|--------------|--|--|
| Chile         | Fruit        | Internal, male/female, mobile across regions         | Direct and labour contractors  |
| India (Delhi) | Garments     | Internal, male from rural areas                      | Direct and labour contractors  |
| Jordan        | Garments     | International from Bangladesh and China              | Labour contractors   |
| South Africa  | Fruit        | Internal, male and female, from different regions    | Direct and labour contractors (brokers)                              |
| Romania       | Garments     | International from China                             | Labour contractors   |
| UK            | Horticulture | International, male and female, from many countries. | Direct, seasonal workers' schemes and labour contractors (providers) |

**Note:** For further information on these case studies, see Salamé and Morales 2000; Theron and Godfrey 2000; du Toit and Ally 2001; Barrientos and Kritzinger 2004; Singh et. al. 2003; Frances et. al. 2005; Verité 2005; Barrientos and Smith 2007; Deshingkar 2006; Pollard 2006; Crisan 2007; Business for Social Responsibility (BSR) 2008; Maher 2009.

<sup>5</sup> Information on labour contractors is often difficult to obtain. When research was conducted on workers in eight Delhi garment factories, all factory managers denied using labour contractors. Yet, once on site, the research team found contract labour in all but one (Barrientos and Smith 2007).

Concentration of production and seasonality are often cited as factors in the rise of labour contractors within both agriculture and manufacture for global export. Labour contractors help to manage peaks and troughs in labour demand, which local labour markets are unable to supply. In Chilean fruit, labour contractors took advantage of the geography by moving teams of workers as the season progressed from the north to the south of the country (Salamé and Morales 2000; Barrientos and Kritzing 2004). In apparel, seasons such as Christmas lead to significant changes in the type of product ordered. Some labour contractors were found to have developed specialisms (such as in pruning and packing), whilst others focused on less skilled, labour-intensive work (such as clearing fields).

Significant differences were found in all the above case studies, between the employment conditions of contract workers and directly-hired workers. In Delhi garments, for example, much labour is sourced through *thekedaars*, or labour contractors, who tend to employ labour from their own village and caste group, mainly internal migrants. Unlike workers hired by the factory directly, contract workers do not figure in the factory rolls and the factory does not take responsibility for them or provide legal benefits. These workers are paid by the contractor on a daily or monthly basis, depending on the nature of the agreement with the contractor. Their wages are 15 to 30 percent lower than the contract wages offered by the factory. The difference is the share of the contractor. The proportion of contractor-hired workers in factories can range between 40 and 50 percent at any given time (Singh, Kaur et al. 2003; Barrientos, Sood et al. 2010).

In hiring internal migrant workers from rural villages, contractors often took advantage of their return to villages for annual festivals to relocate them, therefore denying them access to formal employment rights. Contract workers were often from lower caste or more marginalised ethnic groups, with less ability to resist.

Labour contractors may recruit and supply local, internal and/or international migrant labour, depending on labour market conditions. Case studies indicate that the recruitment of migrant labour by labour contractors is increasing, and these workers are often very vulnerable to abuse. There is evidence of labour contractors moving Asian workers to garments factories in Jordan, Egypt, Mauritius and Romania (Crisan 2007; BSR 2008; Maher 2009). There are reports that this often involves high levels of exploitation and sometimes new forms of forced labour. Verité (2005) carried out a study of 600 returned foreign contract labourers in four countries (Indonesia, Philippines, Thailand and Vietnam). They found systematic issues of abuse, including placement fees, high charges (such as for travel), onerous debt burdens, and 'runaway insurance' (against a worker absconding). Undocumented migrants are often most vulnerable to conditions of unfree labour, especially when locked into a dependent relation with particular labour contractors or intermediaries through a system of effective debt bondage (Verité 2005; Pollard 2006). Labour contractors often charge migrant workers high fees for transport, training, provision of 'documents', and also charge high 'interest' on loans for these 'services'. These are often on top of high payments to agents for 'travel' to the country of destination. Undocumented migrant workers often have no channels for claiming their rights, and fear not only loss of work, but deportation if they complain.

These studies indicate that unfree labour practices can therefore be found within labour contracting across countries. We examine the specific case of labour contractors in South African and UK

horticulture supplying UK supermarkets, in order to gain more in-depth insights into the types of practices that can occur within globalised production.

## **2.2 Contract labour in South African and UK horticulture**

Changes within the global food chain over recent decades have had significant impacts on the demand and deployment of temporary workers. The rapid expansion and changing nature of supermarket retailing provides an important example of the dynamics of contemporary global production networks (Reardon, Timmer et al. 2003).

Supermarkets operate a system of centralised procurement, distribution and retailing, which is highly focused on meeting consumer requirements.<sup>6</sup> Supermarket buyers have increasing sway over their global suppliers, driving down prices, raising standards and dramatically increasing the range of products available. Within fresh produce, this has led to the year-round availability of a wide variety of fruit and vegetables. Advances in global transport and cool chain facilities enable the continuous homogenous supply of fresh fruit provided by northern producers during the UK summer, and southern producers in the UK winter. All producers are under the same pressure to supply quality fruit at competitive prices according to tightly pre-programmed schedules. To facilitate this, there is an increasing trend for producers to deploy labour contractors to facilitate the labour supply required to meet production schedules, as exemplified by the case of UK and South African horticulture.

Traditionally, much seasonal employment in UK agriculture was drawn from local labour markets, often women. But this has changed radically over the past two decades, particularly amongst those supplying supermarkets. A study of UK horticulture carried out in 2004-2005 examined labour use in 21,603 enterprises, of which 6,594 sold to supermarkets (Frances et. al. 2005). Enterprises with supermarket customers employed 26 percent of directly recruited temporary workers, and 54 percent of temporary workers recruited through labour contractors (including the Seasonal Agricultural Workers Scheme). The 15,000 farm enterprises that did not have supermarkets as customers were responsible for 74 percent of direct recruitment of temporary workers and 46 percent of recruitment through labour contractors. Yet enterprises supplying supermarkets accounted for more permanent employment than those without supermarkets as a customer.

South Africa is an important supplier of fresh fruit (with some vegetables and flowers) to the UK during its winter months (December to April). Approximately 60 percent of its fruit exports go to Europe, the majority to the UK. At the end of the 1990s, there were approximately 2,000 deciduous fruit farms, employing an estimated 283,000 workers. Under apartheid, coloured workers had lived on-farm, supplemented by migrant black African workers from the 'homelands' at the height of the season. However, South African agriculture has undergone a rapid process of change since the early 1990s, with the introduction of a raft of labour regulation. At the same time, South Africa has

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<sup>6</sup> During the 1980s, UK supermarkets increased their total market share of grocery sales from 25 percent to 40 percent and, at the same time, developed a discrete supply chain that was independent of traditional wholesale markets. By 2005 the industry source Taylor Nelson Sofres (TNS) estimated that nearly 80 percent of fresh produce retailed in the UK was sold directly through supermarkets.

opened up to increasing competition from other southern hemisphere producers, and suppliers are more exposed to commercial pressures from supermarkets. Many growers introduced a process of 'retrenchment', laying off on-farm workers and increasing employment of off-farm casual labour. With this, there has been a steady increase in the use of labour contractors (or labour brokers, as they are known) in the country (du Toit and Ally 2001). Studies suggest that approximately 50 percent of farms use contract labour in the main producing region of the Western Cape (Barrientos and Kritzinger 2004 (Kritzinger and Barrientos 2004) and WIETA personal communication).

Evidence from case studies in the UK and South Africa has highlighted that there can be significant differences between the experiences of workers involved in labour contracting.<sup>7</sup> Contract workers are rarely in receipt of legal employment benefits, such as a formal contract of employment, social insurance or pension (except in the UK, following introduction of the Gangmasters Licensing Act, discussed below). Relations between workers and contractors can vary. Some workers indicate that they prefer labour contractors, as their work is more continuous than direct casual employment, and extends for a longer period each year. Contractors take on responsibility for finding work and make the necessary travel arrangements. Some labour contractors also provide informal benefits to their workers, such as food and medicine if they are ill, and teams of contract workers can provide mutual support to each other to offset risks. Where workers are with their contractor for a prolonged period of time, they can build up close bonds with the contractor and fellow workers. Some smaller contractors are themselves ex-workers, and often draw on their own kinship or friendship networks to recruit workers (Kritzinger and Barrientos 2004; Frances, Barrientos et al. 2005).

However, labour practices amongst contractors can also be highly exploitative, particularly amongst more 'fly by night' contractors. In South Africa, research uncovered stories of contractors abusing workers, disappearing without paying wages, and being responsible for serious accidents (particularly through the use of unsafe vehicles). The use of unfree labour within the gangmaster system in the UK was most tragically brought to the fore by the death of 21 Chinese cockle pickers in Morecombe Bay in 2004. They were all undocumented migrant workers, controlled by unscrupulous gangmasters, who extracted long hours at low pay in hazardous and dangerous conditions. They had arrived in the UK via networks of people smugglers that channelled them to their gangmasters. Whilst the normal cost of a flight from China to the UK was £800-£1,000, these undocumented workers paid around £5,000-£10,000 for their 'passage'. The monies had been paid through loans from local intermediaries in China based on the assurance of their families, to be repaid through their work in the UK. Some families of the deceased were forced to continue repaying these loans even after their deaths, with the children of one couple becoming responsible for their loan on reaching adulthood (The Guardian, 2004).

Research carried out by Frances, Barrientos and Rogaly (2005) found that whilst these types of practices were only found amongst some gangmasters, they were often buried in a complex 'cascade' system of labour supply, involving networks of labour intermediaries. For example, if a sudden change of weather led to an increase in demand for fresh produce, a supplier could be required by their supermarket buyer to deliver a larger quantity at short notice. The supplier would

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<sup>7</sup> This section draws on in-depth case studies carried out on labour contractors in South African horticulture in 2003 and UK horticulture in 2004-2005. For detailed information on the methodologies used and research findings, see Kritzinger and Barrientos 2004 and Frances, Barrientos and Rogaly 2005.

contact their main labour contractor (possibly a formal staffing agency) for more workers. But if that provider could only partially meet a request for workers through their own sources, they would then contact another labour contractor, who might do the same, and via a cascade the full complement of workers required would be met. Formally workers would arrive through the primary labour provider, but in reality they were brought together through this cascade system. The producer might well be (or choose to be) unaware of the multiple sources of the workers coming on site (Frances et. al. 2005). This system of labour subcontracting provides an opening for unscrupulous labour intermediaries, including those linked to the smuggling of undocumented migrant workers, to enter the system, providing workers to more reputable temporary employment agencies and contractors.

The global dimension of labour contracting is highlighted by the movement of workers between countries to meet different seasonal production peaks. This has included the supply of South African workers to UK horticulture during their counter season. In this case, workers recruited through formally legal channels can still be open to unfree labour practices through unscrupulous 'gangmasters'.

One example was highlighted following an audit of a UK gangmaster in 2004. He employed South African workers who had been brought to the UK ostensibly as part of the Commonwealth Working Holidays Scheme and were, therefore, working legally. Their visas to the UK had been arranged by a 'travel agency' in Pretoria with whom their gangmaster had an arrangement. The travel agency provided travel loans with 100 percent interest charges and the workers had to sign an agreement not to leave the gangmaster's employment until the loan was paid off. If they broke this agreement, legal action would be taken against whoever had given a reference to the worker, usually their parents. Repayment of the loan would be taken from the worker's wages until the full amount was paid. Once they had arrived in the UK, most of the workers were housed in overcrowded accommodation by the gangmaster. They were paid below the minimum wage, were discouraged from obtaining National Insurance numbers, and had deductions for transport, rent, loan repayments and sometimes other unspecified charges. They were often required to work long hours and continuous days. When these violations were put to the gangmaster, he claimed that he did not employ these workers, as he had sub-contracted the work to another gangmaster and, therefore, was not liable for any offence (The Guardian 2004; Pollard 2006).

The UK/South African cases highlight the increased prevalence of labour contracting within global supermarket sourcing. They point to the involvement of serious labour abuse and new forms of 'economic slavery'.

### **2.3 Links between unfree and contract labour**

The extent to which workers recruited through labour contractors can be classified as 'unfree labour' poses a conceptual challenge. There are significant differences in the definition and characterisation of contemporary unfree labour. Current researchers generally agree that there are significant differences between 'traditional' and 'modern' forms of contemporary unfree or forced labour. However, there is no common agreement on how to define the latter (van den Anker 2004; Lerche 2007; Koettl 2009). Bales (1999) distinguishes between previous forms of slavery, involving

long-term ownership of the slave, and modern forms, characterised by short-term control by a 'slave holder' of a person through implicit, threatened or actual use of violence.

Koettl (2009) emphasises the difference between consensual and non-consensual forms of exploitation (involving coercion, fraud or deception), taking the definition of trafficking in international law (whether or not it involves movement of people) as synonymous with non-consensual exploitation. Some critiques argue that these definitions tend to focus on 'victims', taking insufficient account of the agency of those entering 'enslaved' forms of work, or of the role of globalisation in promoting the use of unfree labour (Lerche 2007; Rogaly 2008). Here the debate is about the degree to which a worker is free or unfree, depending on their ability to enter or exit a specific work situation, and the socially diverse and complex forms of entrapment which can limit their freedom to move in different contexts within a 'neo-liberal' globalised economy.

The ILO uses the term 'forced labour'. This is defined as involuntary entry and participation in work or a service which is extracted 'under menace of any penalty and for which the said person has not offered himself voluntarily' (ILO 2005). It provides the most comprehensive, and often cited, estimates of the contemporary use of forced labour. The ILO (2005) report gives a detailed account of the methodological problems of measurement and, taking all the caveats into account, provides an overall picture. It estimates that there are a total of 12.3 million people in forced labour globally, of whom 7.8 million (63 percent) are in economic exploitation (as opposed to sexual or other forms of exploitation, such as forced soldiers). It also highlights a strong gender bias, with women/girls accounting for 56 percent and men/boys 44 percent of those in economic exploitation. It further estimates that 'private agents' provide the main channel, accounting for 80 percent of total forced labour.

However, aggregate estimates do not indicate the extent to which these 'private agents' are labour contractors supplying forced or unfree labour to producers. Whilst it refers briefly to the use of forced labour in global value chains, the ILO report is unable to provide more specific information, citing this as an area where more research is required (ILO 2005: 52). It also highlights the importance of intermediaries in the recruitment of forced labour: 'Labour trafficking often takes place under a legal cover, for example through private recruitment agencies, contract work, or even abuse of seasonal worker schemes.' (ILO 2005: 54). Other researchers have also highlighted the role of labour contractors as a channel for recruitment of unfree or forced labour (Bales 1999; Brass 2004; Lerche 2007; Rogaly 2008). Many mention globalisation as a factor underpinning the rise of unfree or forced labour, but beyond empirical case studies there is a limited unpacking of the analytical implications. None to my knowledge have provided estimates of aggregate numbers of workers recruited or retained through debt bondage or other forms of coercion that are directly or indirectly involved in global production.

The relation between people traffickers or smugglers and labour contractors needs to be better analysed, and is often obscure, with information difficult to access. Martin describes the two as distinct but related activities, even though these functions are sometimes undertaken by one and the same company or person (Martin 2005). However, the specialised knowledge of a labour contractor (linking workers to specific production sites as labour demand shifts) appears to be different from the specialist knowledge of people smugglers (illicitly moving people across borders).

Whilst the two networks can be interlinked, anecdotal information suggests that often different people operate each. The boundaries between labour contractors and people smugglers become more blurred when the former recruit workers through the 'cascade' system, as highlighted in the example of UK horticulture.

It is thus a complex picture, which this paper attempts to unpack. Given the heterogeneity of contractors and workers found in every case study (cited in Table 1), it is difficult to generalise. However, they do reveal a great variety of worker experiences. This can broadly be described as a continuum, involving levels of gradation from better to worse. At the better end, workers choose labour contractors in preference to direct casual employment; at the worse end, workers become trapped into situations of debt bondage and highly exploitative conditions. Even at the better end, in all the above case studies, contract labour experienced poorer conditions than regular workers on the same site. Contract workers are rarely in receipt of legal benefits enjoyed by regular workers, such as a formal contract of employment, social insurance or pension.<sup>8</sup> Relations between workers and contractors vary. At the better end of the continuum, workers often have a paternalistic relationship with the workers they recruit, creating a sense of belonging, even though these workers usually lack access to formal employment rights (Barrientos and Kritzingner 2004; Frances, Barrientos et al. 2005). However, as we move to the other end of the continuum, conditions of contract workers become progressively worse, ranging from greater levels of exploitation through to overt coercion and forced or unfree labour. The cascade system provides a channel through which workers from the better and worse ends of the continuum can be supplied together onto the same site. The drivers of labour contracting and the inclusion of unfree labour are complex and need to be better understood in the context of the commercial dynamics driving global production.

### **3. Global production as a driver of labour contracting and unfree labour**

Global outsourcing of goods and services from developing countries has expanded over the past few decades, in the context of economic liberalisation and the rapid advance of information technology and transport. This has led to a shift away from sourcing through remote markets governed by free price movements or intra-firm trade within multinational enterprises. Increasingly sourcing by larger retailers and brands is taking place through coordinated chains or networks of producers and agents, in which lead firms exert a high level of control, but no formal ownership.

Two overlapping bodies of literature have arisen to analyse this process. Global value chain (GVC) analysis has tended to focus on the commercial relationships between firms. Global Production Network (GPN) analysis has placed more emphasis on the institutional, societal and territorial embeddedness of those linkages, and asymmetric power relations between actors (Dicken, Kelly et al. 2001; Gereffi, Humphrey et al. 2001; Henderson, Dicken et al. 2002; Kaplinsky and Morris 2002).<sup>9</sup>

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<sup>8</sup> Exceptions include the UK and South Africa, discussed below.

<sup>9</sup> Production may be for international, regional or domestic markets, but trade is increasingly characterised by coordinated inter-firm linkages. UNCTAD, *World Investment Report* (1999) estimates that two-thirds of world trade now involves movement of goods within multi-nationals or between firms, rather than rather than free market trade.

The role of labour has largely been overlooked in both GVC and GPN analysis (Barrientos, Dolan et al. 2003; Pegler and Knorringer 2007; Cumbers, Nativel et al. 2008; Coe and Jordhus-Lier 2010). An important consequence of the emergence of global value chains is that the determinants of labour supply and demand are increasingly external to national labour markets, and can be affected by the decisions of global buyers operating beyond their borders. We want to explore the extent to which contract labour arises as a logical extension of the commercial dynamic through which global outsourcing is implemented by global buyers. We first consider the commercial drivers of the labour continuum discussed above, through analysis of global production networks and value chains. We then consider the implications of different definitions of 'unfree labour' for assessing where it is found in GPNs.

The analysis of global value chains has played an important role in helping to understand the changing commercial dynamics of global production, but largely from a firm-centric perspective. It has analysed buyer-led chains, where lead firms coordinate networks of suppliers that cross-cut sectors and countries. Hence, lead firms are able to coordinate productive activities across suppliers, linking design, raw material inputs, manufacturing specifications, distribution timing, branding and marketing (Gereffi, Humphrey et al. 2001; Kaplinsky and Morris 2002). GVC analysis examines how the dominant commercial position of lead firms allows them to exercise governance over suppliers from whom they source. They extract economic rent (or additional profit) through control of quality enhancing value-added activities (such as branding) at the consumer end of the chain. Bringing labour into this analysis, it can be argued that lead firms achieve this by outsourcing higher cost, labour-intensive activities to suppliers and sub-contractors further down their chains.

This process has allowed global buyers to outsource higher cost and risk aspects of production and distribution, whilst exerting control over product specifications, production processes and standards which enhance quality at the consumer end of the chain where they are positioned. However, global buyers and retailers do not pursue low prices per se, but rather, competitive price-points for specific consumer segments at given quality levels. They aim to maximise market share and expect suppliers to deliver maximum quality at lowest cost for any given product range. As GVCs have expanded globally, many lead firms have further offset cost within their value chains by increasing the speed and precision of delivery through enhancing their 'just in time' distribution systems. Reduced order times and increased re-orders put further pressure on suppliers, who carry the costs of holding larger stock (Acona 2004; Raworth and Kidder 2008). Suppliers dependent on sales to large corporate buyers are caught in a complex web of shifting sourcing, competitive pricing and rising standards (Acona 2004). Brands and lead firms argue that they are responding to the pressures of a competitive global economy. They claim that efficient suppliers are able to meet competitive commercial demands through improved productivity.

A GPN perspective facilitates examination of the social and institutional embeddedness of commercial operations, with local labour market institutions playing a key and varying role. Suppliers adopt diverse labour strategies to meet competing commercial pressures, but common trends can be identified. A number of studies have highlighted the increasing flexibility of employment as a result of globalised production (Standing 1999; Munck 2002; Castree, Coe et al. 2004). Flexible employment facilitates variation in the numbers of workers, tasks undertaken and wages paid, to meet changing buyer orders at low labour cost. However, simply employing cheap

labour that produces poor quality goods could lead to a shift down or out of the value chain, if competitors are better able to manage the pressures. In response, many supplier firms employ a core regular, combined with a casual irregular, labour force. The core labour force provides the requisite skill and training to ensure consistency and quality of output. The casual labour force provides flexibility by using temporary workers (often undertaking similar tasks to core workers) to meet variations in output (Barrientos 2008). Local labour markets are often unable to provide a sufficient supply of casual labour with the right skills on a 'just in time' basis.

Labour contracting has expanded to facilitate the provision of these latter workers. It can be argued that it is a logical extension of global production networks, playing three key roles in managing the commercial pressures, through: (i) coordination; (ii) information; and (iii) efficiency.

Firstly, labour contractors co-ordinate the flexible supply of labour to meet variations in demand on a 'just in time' basis to meet commercial dynamics within GPNs. They draw on a range of labour sources, including migrant and local workers, depending on socio-economic and labour market conditions. As orders or seasons peak and fall, labour contractors are able to provide variable numbers of workers at short notice to meet supply requirements (Salamé and Morales 2000; du Toit and Ally 2001; Frances, Barrientos et al. 2005).

Secondly, labour contractors have the knowledge to match the 'right' workers to the right task to maintain quality, helping to overcome information obstacles faced by employers and workers (particularly migrant labour). Information about specific job opportunities takes time to be transmitted. This is a particular problem where production is highly concentrated, and there are sudden surges in the demand for workers at particular points of the production cycle. Labour contractors have connections to different networks of workers, and gain direct knowledge of producers' specific needs. They have acquired the knowledge to service producers seeking 'the right kind of worker' (often migrants), with a 'better attitude' to working long hours for low pay (Rogaly 2006; Martin 2005).

Thirdly, labour contracting enhances efficiency. It reduces the transaction costs of finding and recruiting appropriate workers at the right time, reduces the non-wage costs incurred by direct employees, and maximises the efficiency of labour use on an 'as need' basis, to match the 'just in time' production schedules of buyers. The use of contract labour gives suppliers an important mechanism for managing the competing pressures of cost and quality in employment. It provides a buffer for producers caught in a pincer movement, where lead agents and buyers extract value up the chain and drive risks down the chain (Barrientos and Kritzing 2004). Labour contracting thus involves the 'outsourcing of labour' as a complement to the 'outsourcing of production'. Risk displaced along the production chain is extended along the labour chain.

A GPN perspective sheds a different light on the conceptualisation of unfree labour in the context of labour contracting within global production. Debates over forced and unfree labour mention globalisation as a factor, and provide important empirical studies. Unpacking of the analytical implications of the global dimension is limited, however. Koettl (2009) applies conventional economic theory to analysis of what he defines as consensual and non-consensual exploitation. Within competitive labour markets, such exploitation should theoretically not occur. It is only deemed possible within monopsonistic labour markets, or where overt coercion is applied. This

allows the wage to be less than the marginal value product of labour, with the employer acquiring additional profit. Marxian analysts focus on capitalist accumulation through the extraction of surplus labour. But there is dispute over whether mature capitalism inherently necessitates the free sale of commodified labour power by workers, or can involve the 'deproletarianisation' of unfree labour through the advance of wages and debt bondage (Lerche 2007; Brass 2008). The ILO (2005) report is more ambiguous on the underlying conceptual approach to labour in a global economy, focusing on wider causes of forced labour. In particular, it highlights the role of poverty and regulatory failures in terms of the implementation of both labour and social law, as well as criminal law. Much of the analytical debate implicitly assumes that the producer and employer are synonymous, or fails to sufficiently explore the analytical implications of their separation. A GPN approach takes a more grounded approach. It helps to unpack the complexities of labour contracting in the context of global production, and the underlying drivers contributing to unfree labour.

Labour contracting fulfils its functions through a separation between the productive engagement of the worker in commercial activity (producing goods and services for global markets) and the 'contractual' engagement of the worker ('employment' by a separate labour contractor). At its core, this involves a dislocation in the twofold character of labour as a factor of production, and workers with social agency and rights (Barrientos, Gereffi et al. 2010). Labour contractors mediate these two dimensions, through the supply of labour to producers whilst assuming responsibility for their 'employment'. They extract an economic rent or profit for their service. Formally, that rent is paid by the producer, but it opens up space for abuse of the employment relationship. This abuse can occur through a combination of reasons: (a) the price paid to the labour contractor is insufficient to cover the costs of wage and non-wage benefits; and/or (b) more unscrupulous contractors extract an additional surplus, through coercion of the workers. When (a) prevails alone, this is likely to lead to abuse of workers' rights (wages below the minimum wage, non-receipt of statutory benefits). When (b) also prevails, this leads to situations of unfree labour. Workers are no longer able to exit the grip of a labour contractor or intermediary, and the labour for which they are supplied to the producer becomes effectively involuntary.

The labour contracting system as practised within GPNs reflects 'value chain struggles' over the distribution of surplus or economic rents between different commercial actors in any chain (Kaplinsky and Morris 2002; Neilson and Pritchard 2009). Global buyers exercise power, through their dominant position, to extract conditions from suppliers which maximise their returns. Suppliers exercise their power to extract conditions from direct workers and labour contractors that guard their returns. Labour contractors extract conditions from their workers that guard their returns. Unscrupulous contractors or intermediaries, at the bottom of the chain, stoop to forms of coercion and 'economic slavery' to squeeze every drop they can from the most vulnerable workers, who are often women and/or undocumented migrants. From a GPN perspective, dislocation between the commercial dimensions of labour as a factor of production and the societal embeddedness of workers provides space for abusive practices beyond the production site. Contractors or intermediaries exploit social norms and power relations to exert control over workers. This is exemplified in the case of the migrant cockle pickers in the UK. The terms and conditions of their debt bondage were based on traditions of inter-generational debt practised in China.

Where labour contracting is integrated into GPNs, the link between a producer and such abusive practices is formally indirect. When workers are drawn into production through a 'cascade' or network of intermediaries, the chain becomes even further distended. It may not be the producer on site, or even the labour contractor who formally supplies the worker. Rather, more remote intermediaries, through whom the worker arrives on site, may be responsible for their labour being unfree. These intermediaries might be in another country altogether. But where this is embedded in global value chains linking buyers, suppliers and contractors, the connections become more interlinked than in traditional 'arms length' markets of buyers and sellers. If, as examined above, the commercial drivers of GPNs are contributing to the channelling of these practices through labour contracting, then we need to look within GPNs for strategies to address this dimension of contemporary slavery.

#### **4. Implications for addressing unfree labour in GPNs**

Dislocation between the producer and 'employer' presents a particular challenge in addressing the issue of unfree labour in GPNs. In most countries, the main mechanism for protecting workers is national labour legislation channelled through the employer, with government providing the means of enforcement. This assumes close employer attachment, with the employer held responsible for ensuring workers' rights are recognised and applied according to labour law. A key feature of contract labour is that it involves a 'triangular employment relationship' that de-couples workers from the formal producer on whose site they work (Theron and Godfrey et. al 2000, 2005). The producer who 'buys' labour as a factor of production is no longer the 'employer' responsible for ensuring their protection or rights. When workers are recruited through a 'cascade system', this relationship is more than triangular, involving networks of intermediaries, often operating across countries. The channel of employer attachment is thus undermined as a means of labour protection.

The challenge for protecting and defending the rights of contract workers is further aggravated within the context of GPNs. Here, external global buying practices not only intensify the de-coupling of producers and 'employers', by driving the rise of labour outsourcing through contractors. Global buyers fall outside the ambit of national regulatory mechanisms for employer-based protection, and there are few means of calling them to account. This further weakens national labour legislation and enforcement through the employer as the channel for worker protection.

The practical implications of this challenge are how to address abuses of contract workers, which often occur off-site. This is more prevalent at the worse end of the continuum of labour contractors, where unscrupulous contractors operate. Formally, when their contract workers are on site, producers may nominally pay a legal minimum wage and the costs of any requisite legal benefits. But unscrupulous intermediaries extract an economic rent from those workers off site by extracting illicit payments (such as training or unwarranted debt obligations), put them at physical risk (e.g. transport in unroadworthy vehicles), and exert power over them through physical threats and/or sexual abuse (Pollard 2006; Wilkinson et. al. 2009). Most producers employing labour contractors do not view them as 'their' workers and are (or choose to be) unaware of their circumstances.

A central issue arising from analysis of contract labour is that their intensified use is a key component of the commercial dynamic of GPNs. Ultimately, therefore, these abuses have to be addressed through more targeted strategies that address the underlying commercial drivers. This can be done at different levels: (i) holding corporates to account through campaigns and targeting commercial buying practices; and (ii) extending principles of worker protection beyond the 'employer' channel, to incorporate labour intermediaries and other actors in the chain. We examine each in turn.

At present, the main mechanism for holding corporates to account, particularly when they operate across national boundaries, is through global civil society campaigns. Corporate buyers pursue social compliance in the face of reputational risk of exposure of labour abuse in their global value chains – and illicit labour contractors using unfree labour encompass the worst risk (BSR 2008; Barrientos 2008). Trade unions and NGOs have become more vocal in highlighting abuses of migrant and contract labour (Anderson and Rogaly 2005; Pollard 2006; Maher 2009). Early campaigns over poor labour conditions in global production led to private sector 'voluntary initiatives', including the implementation of codes of labour practice by many large companies aimed at ensuring minimum standards for workers in their value chains. This has stimulated a large compliance industry of social auditors, who monitor global factories and farms (O'Rourke 2002; Jenkins 2002). However, the compliance approach is also largely focused on assessments carried out 'on site', and contract labour often 'disappears' when social auditors visit (CCC 2005). The impact assessment carried out for the Ethical Trading Initiative (ETI) (cited above) found that, whilst the use of contract labour was prevalent in four of the five countries, these workers were rarely picked up by social auditors, and they were the 'Achilles heel' of codes (Barrientos 2008).

In general, social compliance has failed to address the challenges facing contract labour, given its mobility and the de-coupling of employment from production sites. In response, NGOs and trade unions have increasingly targeted the commercial buying strategies of companies, to enhance the stability of their supplier relations and improve their pricing and purchasing practices. They have focused on leveraging the reputational risk to global brands and retailers to hone in on the commercial drivers which underpin labour contracting (Oxfam 2004; ActionAid 2007). But this has not stopped continued revelations of labour abuse in global production (Craig, Gaus et al. 2007; Maher 2009)

In the face of the limitations of regulation and social compliance approaches, more 'joined up' strategies have begun to appear to address the problems of contract workers within GPNs. These involve more enlightened companies and a wider set of actors, including trade union, civil society and, importantly, government, often acting in alliance. In the UK, increasing awareness of the issues risks led the ETI to set up the multi-stakeholder Temporary Labour Working Group (TLWG) in 2002 to establish minimum standards for labour contractors. The TLWG was composed of trade unions, NGOs and supermarket members. Following the Morecambe Bay tragedy, it played a critical role in pressuring the UK government to enact the Gangmasters (Licensing) Act (Pollard 2006). This requires all UK labour contractors to register and be monitored by the Gangmasters Licensing Authority. Producers are liable if they use unregistered contractors. However, it only covers agriculture, not other sectors, such as construction and hotel and catering, which also make extensive use of contract labour (Wilkinson, Craig et al. 2009). This example highlights the potential

of linking voluntary and regulatory approaches, involving private sector, civil society and government alliances. Within South Africa, concern over the practices of labour brokers (contractors) in the 1990s led to their insertion into the Basic Conditions of Employment Act, with a proviso of 'joint and several liability', so that producers became responsible if contractors failed to adhere to labour legislation (Taylor 2003). These initiatives are important, but remain limited in number or scope.

From a GPN perspective, it could be argued that whilst global companies take advantage of and intensify the use of labour contracting, they alone are not capable of addressing issues that arise from commercial engagement in wider, socially embedded processes. This requires other development strategies and a broader set of actors. At a national and supplier level, labour legislation and worker protection need to be worker focused, and portable between sites (and countries) if the ultimate aim of improving workers' wellbeing is to be achieved. In the context of GPNs, the protection and rights of workers need to be recognised, irrelevant of employment status, citizenship or nationality (Anderson and Rogaly 2005). But, further, as in the case of 'joint and several liability', global companies should be made more accountable for labour practices within their value chains, ensuring adequate provision is made for decent work in their buying practices. One step in this direction is a legal requirement for large and medium companies operating overseas to report on employee, social and community issues in their value chains, as required of quoted UK companies since 2007 (CORE 2011). Only when the commercial drivers are addressed, and all actors in the chain take joint responsibility, can an environment be created in which strategies across countries become more effective in supporting contract workers and addressing problems of the labour unfreedoms in global production.

## **5. Concluding remarks**

This paper has had a specific focus – analysis of the role of labour contracting within coordinated global production networks. It has not examined wider forms of coercive or unfree labour within developing countries, nor whether these are a consequence of capitalist or pre-capitalist modes of production. It has argued that there are commercial trends in the nature of global production networks that are driving costs and risks downwards, and the use of flexible labour provides the final buffer for producers operating in this system. Contract workers are the most flexible and lowest cost source of labour. Campaigns by NGOs and trade unions are flagging up the adverse effects of companies' purchasing practices (particularly falling prices and shorter lead times) on employment conditions. As this paper has highlighted, through case studies, this is not an isolated developing country issue. It is found in global production that prevails in both developed and developing countries.

Global production networks and value chains provide a specific form of interaction between the advanced commercial operations of firms and their outsourcing of labour-intensive production to developing countries. It has been argued that commercial chains linking firms are replicated through labour chains linking producers, contractors and workers. Within the continuum of labour contracting that this generates, we have found that a gradation of labour relations co-exists, from better to worse. Those at the lowest end of this continuum are often recruited through 'labour chains' that informally link networks of labour contractors involved in the provision of workers to

production sites. At the outer reaches of these chains, labour contracting can overlap with illicit activities, including debt bondage and people smuggling. Whilst the worst forms of labour coercion and abuse are found at one end, contributing to new forms of labour 'unfreedom', this is not found in all forms of contract labour. Academic research on this is still limited. Much more systematic research needs to be undertaken. But if global production networks are contributing to intensification in the demand for this type of labour, there needs to be greater focus on the underlying commercial pressures that are generating its use, and how they can be addressed to ensure that such workers are able to access both the benefits of gainful employment *and* decent work in the process.

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