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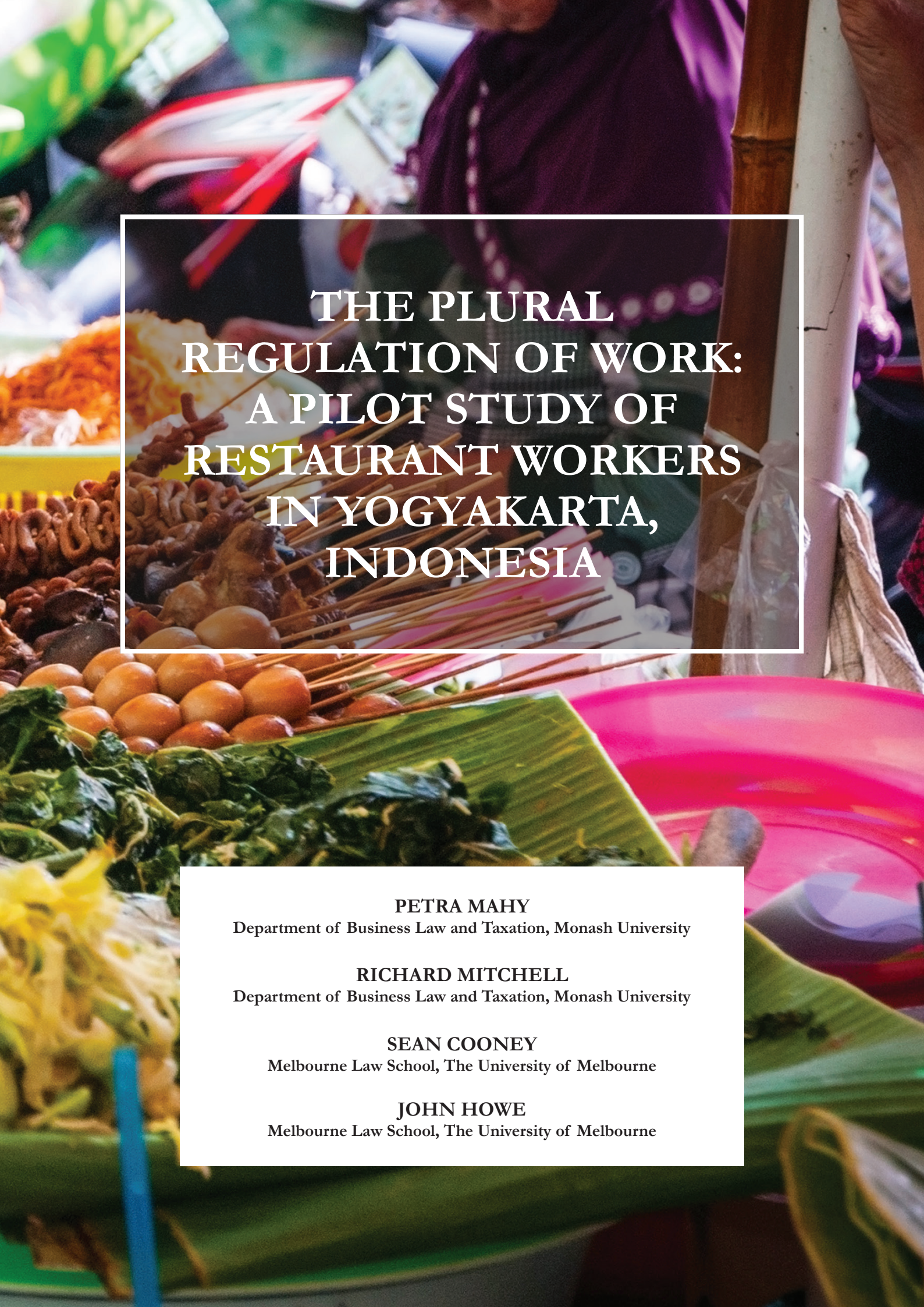
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THE PLURAL REGULATION OF WORK: A PILOT STUDY OF RESTAURANT WORKERS IN YOGYAKARTA, INDONESIA

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Executive Summary

This research project investigates the formal laws and informal norms and institutions, and the overlaps and interactions between them, in the regulation of work arrangements in restaurants in Yogyakarta, Indonesia. While there has been much attention paid in recent years to the failure of formal labour law to protect workers around the world, there is far less understanding of what actually determines working conditions of many workers beyond the scope of the law. While the importance of informal norms and institutions in regulating work is beginning to be acknowledged in the literature on labour law, the functioning of informal regulation and its relationship to formal labour law is still poorly understood. This empirical project aims to explore this gap in understanding in this one location and economic sector.

This Report begins with a discussion of relevant terms and definitions, and outlines the scope of the study. An extensive review of the international literature on the informal regulation of work is then provided. The Report introduces the labour law and social security framework in Indonesia, and extends the literature review on the informal regulation of work to the Indonesian context.

The Report then presents the results of a pilot study conducted in the City of Yogyakarta, Indonesia. The research used a qualitative interview-based methodology with 30 people working in a range of restaurants and other eateries during 2013. The research explored various aspects of the relevant work arrangements including: recruitment, use of contracts and other agreements, probation, wages and other allowances and benefits, bonuses, working hours, overtime, holidays and leave, workplace safety, forms of social security, workplace relations and disputes, discipline, and ending of work arrangements. The study also touched on the role of 'institutions of social identity' including gender, age and ethnicity, in determining work arrangements and also documented respondents' knowledge of Indonesian labour law and personal attitudes towards their work.

The pilot study found evidence of a spectrum of formality/informality in the regulation of work in restaurants in Yogyakarta, ranging from workplaces which follow Indonesian labour law to a greater degree through to workplaces where work arrangements are determined by principles of family-ness *(kekeluargaan)* which encompass notions of patron–client relations and reciprocity. It found a substantial middle area where many businesses use some elements of the formal labour laws but combine them with *kekeluargaan* principles. It also found instances of regulatory interaction where a law, norm or institution has influenced the work arrangement at the opposite end of the formality/informality spectrum. The research in Yogyakarta is found to support many of the insights drawn from a review of the international and Indonesia-specific literature on informal regulation in work arrangements.

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1. Introduction

This Report presents the results of a pilot study conducted in September–October 2013 in the City of Yogyakarta, Indonesia, as part of an Interdisciplinary Seed Grant project at the University of Melbourne titled 'How are Low Protection Workers Regulated? A Pilot Study in Australia and Indonesia'.[1]

Our objective in this project is to examine the ways in which various formal laws and informal norms and institutions regulate work arrangements[2] in industries and occupations which, for one reason or another, are often characterised by plural modes of regulation. More specifically, we are interested to understand what might be seen as a spectrum of employment arrangements and practices, which are derived from, or reflect, the operation of formal laws and standards (labour laws),[3] the degree to which these operate in practice, the operation of informal norms and institutions based in non-state derived social, familial, religious or other practices, and, importantly, the interaction of these various styles of regulation within a particular work context.[4]

We believe this inquiry to be of direct relevance to the concerns of scholars in labour law and associated fields. One very important issue in labour law, but one which, as yet, has been largely ignored in labour law discussion, is the degree to which work status, working conditions, security or vulnerability in work and so on, in the absence of formal legal protection, are, or may be, affected by the operation of *informal* regulation. Labour lawyers have tended to take a limited view of the regulation of labour by concentrating on formal state-based laws relating to the contractual employer–employee relationship, minimum labour standards, the regulation of unions, employer associations and collective bargaining, and the resolution of disputes that arise between parties to the employment relationship. However, the reality is that many workers around the world fall outside the protection of formal labour laws, in both developed and developing countries, either through the explicit exclusion of particular groups of workers from the scope of the law and/or weaknesses in enforcement regimes. Despite modernist assumptions that developing economies would follow the pattern of earlier capitalist societies, many have not evolved in such a way as to stimulate widespread industrial development and accompanying forms of 'formal' employment. Informality continues to dominate these economies, and economic crises have at times caused rates of formal employment to regress.

The failure of labour laws to protect many vulnerable people has been extensively discussed (see, for example, Davidov and Langille 2006; Fudge et al. 2012; Teklè 2010). The International Labour Organisation (ILO) also recognises this failure in its promotion of the formalisation of informal work around the world.[5] In contrast,

1 The project was funded by the University of Melbourne Interdisciplinary Seed Grants Scheme 2012. Briefly, the project was described in the grant application in the following terms: 'This project is a preliminary investigation of the norms and rules that govern workers who lie outside the scope of labour standards laws … This project seeks to address the deficit in empirical evidence about informal workers and aims to develop a feasible methodology for investigating this area of work regulation'.
2 We define 'work arrangements' in Section 2.2 below.
3 We explain what we mean by this in Section 2.2 below.
4 We explain what we mean by 'formal' and 'informal' regulation in Section 2.1 below.
5 See, for example, ILO 2013b; and ILO Recommendation no. 204 Concerning the Transition from the Informal to the Formal Economy, 2015. See also La Hovary (2016) for a discussion of the difficulties in the ILO's definitions of 'formal' and 'informal' and the adoption of Recommendation no. 204.

the norms and institutions which, in the absence of labour law, *do* govern the work arrangements and practices of these workers have been more rarely documented and analysed. Various researchers, including some labour law scholars, have identified the need for a more comprehensive mapping of informal norms and institutions and a better understanding of their operation across different geographical and cultural contexts (Sportel 2013; Tsikata 2011; Mitchell et al. 2014; Cooney et al. 2014). In addition, there is also a perceived need to 'explore the links between legal and customary rights at work and rights to formal and informal social security' (Harriss-White 2010:179).

The idea of the existence of a spectrum or continuum of formality and informality in work regulation has, as indicated, been influential in the design and analysis of this research project. We have sought to understand the interactions between formal law and informal modes of regulating work arrangements. For example, we are interested in discovering the extent to which the formal labour law system may influence the content of informal norms even when there is no possibility of actual enforcement of those terms or conditions. And, in the reverse, we are interested in whether, and if so in what ways, informal regulation has influence on the formal regulation of the same work — for instance it may be that the existence of functioning informal rules reduces demand for formal law change or demand for extending the coverage of formal protections.

Our supposition has been that in the restaurant (or food services) sector, the variability in the operation of formal and informal modes of regulation would be significant. We have also supposed that variability in operation of different modes of regulation will stand out, perhaps in different ways, when viewed across countries at different levels of economic development, and with differing socio/economic contexts. In Australia, for example, many restaurant workers fall outside formal protections in contravention of law and policy,[6] while in Indonesia there is generally weaker labour law enforcement and more widespread societal acceptance of informality in work arrangements. The selection of the two field sites in Yogyakarta, Indonesia, and Melbourne, Australia,[7] was aimed at developing a feasible methodology which recognises both the opportunities for, and obstacles to, researching this topic in very different national and cultural contexts. We recognise that these cities do not necessarily typify the situation in their respective countries and that our results will not be generalisable to a national level.

It is also important for us to make clear what it is that we are *not* doing in this work. Neither this Report, nor the project at large, is directed towards the measurement of the incidence of 'informal labour' or 'informal employment' or identification of the characteristics of informal workers. The project is also not designed to reach conclusions about the operation of the 'informal sector' in Indonesia, nor its 'informal economy'. That is not to say that these conceptions are wholly irrelevant to our discussion; on the contrary it is obvious that the degree to which the regulation of work arrangements is formal or informal by definition may have implications for the formality or informality of 'labour' and/or the 'economy' or 'sector of the economy' generally and vice versa.[8] Nevertheless, to re-emphasise the point made earlier, our purpose in this work is to report on the incidence, interaction and effects of formal and informal *regulation* on work arrangements across the different types of workplaces in which they are situated and operate, and the structure of the Report, and its analysis and conclusions are focused accordingly.

6 In Australia, the media often reports on the underpayment of wages, unpaid trials and very long daily working hours in restaurants. Further, the food services sector represented 45% of overall complaints of alleged breaches of workplace laws received by the Fair Work Ombudsman between 2013–2014 (FWO 2014:26).

7 Interviews were conducted with restaurant workers in Melbourne, Australia, in July–August 2014 and we plan to publish the results of this research at a later date. We also expect to comparatively analyse the results of the Melbourne and Yogyakarta projects — see Mahy (2016).

8 See also below at n. 11.

It should also be noted that we are not concerned in this immediate project with more normative arguments about what laws and standards *should* regulate work, what the objectives of those regulations should be, and what are the best ways to ensure the protection of workers. The project at this stage is only aimed at describing and understanding the dynamics of the roles of formal and informal regulation and their interaction.

The overall structure of the Report is as follows: In Section 2 we discuss some definitions and concepts, and review international studies on informal regulation of labour. In Section 3 we provide information on the relevant regulatory environment in the national context of Indonesia and the local context in the City of Yogyakarta. In Section 4 we set out the project methodology and a preliminary analysis of the research findings. Section 5 concludes the Report.

2. Definitions, Theoretical Approaches and International Literature Review

2.1 'Law', 'Non-law', 'Formal Regulation' and 'Informal Regulation'

As noted in the Introduction, this project is concerned with understanding what might constitute plural modes of work regulation, and the interactions between these different modes. This requires an interaction with the definitions of various concepts associated with the idea of 'regulation' including: formal law, informal rules, norms, and institutions. 'Law' itself is a contested term, particularly when used in cross-cultural contexts. Some theorists conceive of 'law' as constituted only by those rules which are laid down and/or enforced by the state, while scholars engaged with the notion of 'legal pluralism' tend to argue that the role of a state or government is not a necessary pre-condition for the existence of 'law' (see, for example, Pirie 2010). The category of 'law' has sometimes been applied to cover other forms of non-state social ordering, including the official recognition of 'customary law' (a process that particularly occurred under many colonial administrations: see Chanock 1985; Cohn 1989; Burns 2004) and religious law within state legal systems, as well as various forms of 'living law'.

It is clear, of course, that 'law' or state regulation is not necessarily required for social order or the carrying out of economic transactions. Norms (expected patterns of behaviour and beliefs), institutions (bundles of norms and practices which produce ingrained social behaviour), and negotiated orders (dimensions of life where rules or norms do not apply in any rigid way but are renegotiated according to each specific situation) all have the power to regulate human behaviour. The classic study by Macaulay (1963) found that business exchange relationships often used little or no recourse to the law of contract but rather relied on social ties and presumed honesty. Similarly Ellickson (1991) demonstrated that neighbours may develop informal norms that allow them to co-ordinate to mutual advantage and solve disputes, and that such norms may trump actual 'legal' entitlements. Ewick and Silby (1998) found plentiful evidence of 'legality' in the United States; that is, sources of authority and cultural practices that convey a sense of the 'legal' but which are not limited to 'law' and formal institutional settings. The co-existence of these different types of social or economic ordering raises many questions about where to draw a line, conceptually, between law and social practice (Merry 1988:878).

One prominent approach to this problem is to draw a conceptual distinction between 'formal' and 'informal' types of regulation. Formal laws and institutions may be understood as those laid down by, or officially acknowledged by, the state. In contrast, informal norms and institutions are 'created, communicated, and enforced outside of officially sanctioned channels' (Helmke and Levitsky 2004:727). However, the usefulness of this dichotomy has been the subject of academic debate for some time. One problem is the tendency to conceptualise a hierarchy of regulation in which the term 'informal' covers an inferior residual category of everything that is not formal (Cleaver 2002). Another erroneous assumption often made is that informal forms of regulation are necessarily 'unstructured' and/or 'chaotic'. These tendencies obscure both the complexities of how people perceive the different strands of structuring forces in their lives and the high importance that informal forms of regulation can have in producing social order and facilitating economic activity (Benton 1994). Such assumptions have also

been shown to be conceptually unsound as evidenced by government interventions based on them that resulted in policy disasters (Guha-Khasnobis et al. 2006).

The point of this brief review is to do no more than indicate the complexity involved in explanations of how various rules and regulations may be derived, formulated, and applied, and how, and to what effect, they produce particular outcomes. It is not our aim here to enter into these conceptual debates in any detail.[9] Rather, for the purposes of this Report, while acknowledging the definitional problems outlined above, we have adopted a fairly straightforward approach to framing this research project. By 'regulation' (which is the generic term we are using here forming the basis of the discussion about how 'work arrangements' are ordered and controlled) we intend to adopt the broader definition accepted in many texts which includes mechanisms of social control whether or not they are derived from state authorities or processes. This definition encompasses state regulation including law, but 'extends also to mechanisms which are not the products of state activity, nor part of any institutional arrangement, such as the development of social norms and the effects of markets in modifying behaviour' (Baldwin et al. 1998:4; see also Baldwin and Cave 1999:3),[10] though it will be obvious from the discussion that we are interested in non-market based controls, rather than market-based regulation within this broad generalised definition. By 'formal' regulation we intend to indicate the laws and institutions laid down by, or recognised by, the state. In using 'informal' regulation we intend to describe the rules, norms, institutions and so on, of social ordering that do not originate from the state. At the same time, we try to avoid the idea that the informal is necessarily chaotic and we acknowledge that a spectrum or continuum of formality/informality exists where often there is no clear dividing line between the 'formal' and the 'informal' dimensions of regulation; that is, they may overlap and interact in the process of ordering and controlling 'work arrangements'. In our view this interface and overlap of the 'formal' and 'informal' requires exploration in seeking to understand how work relationships and conditions are determined in particular political, cultural and economic circumstances.

2.2 'Regulation' Affecting 'Work Arrangements'

In this Report we use the term 'work arrangement' to denote the full scope of the relationships, conditions, rewards, entitlements, motivations, security, and any other factors which constitute an individual's working situation at a particular point in time. The term deliberately avoids the narrower concept of the 'employment relationship' which assumes the existence of a standard contractual relationship. Our inquiry covers many situations which fall outside the purview of a formal employment contract or indeed any formal contract at all. Our use of the term 'work arrangement' in preference to 'employment relationship' also acknowledges that relationships in the workplace often involve far more than just two parties; this may occur in types of triangular employment as, for example, in agency work or personal care work, or there may be networks of various social relationships both within and outside the workplace (such as relationships between the workplace and other members of workers' households) that can influence work in any given situation.

The formal regulation most relevant to this inquiry is '*labour law*' which most scholars in this and associated fields

9 For more in-depth coverage of this debate within the legal pluralism literature, see: Griffiths (2006); Moore (2005); Tamanaha (2008) and Twining (2010).

10 This definition of regulation is also very similar to that of 'new legal pluralism', and we also draw on literature employing this concept where relevant. See Merry (1988:873) who describes 'new legal pluralism' as the recognition that 'plural normative orders exist in all societies' and as the recognition of the 'complex and interactive relationship between official and unofficial forms of ordering'. 'New legal pluralism' is thus clearly distinguished from the strand of legal pluralism research engaged in understanding the nature of, and interactions between, forms of officially recognised law, commonly manifesting as studies of three-way interactions between state law, religious law and customary law in court decisions.

would recognise as including the legislation and case law covering the ordering and control of work arrangements, including their terms and conditions, collective bargaining agreements, the organisation and regulation of trade unions, the regulation of industrial action, occupational health and safety, dispute settlement, and so on. However, as we have noted we are also interested, even *principally* interested, in how *informal* regulation also shapes these 'work arrangements'. Hence, this project takes a regulatory approach to studying labour law, and represents a departure from legal formalist or 'black letter' assumptions (Frazer 2014; Lee and McCann 2014:13).

At the present time, there is considerable uncertainty about the appropriate scope and purposes of the labour law discipline. While it is not our intention to enter into this debate here, we do note that there is an increasing shift in labour law discussion towards the inclusion (perhaps re-inclusion) of 'social security' as a core field for consideration (Stone and Arthurs 2013; Mitchell et al. 2014). Social security can be defined as the assistance measures guaranteeing access to resources such as food, shelter and income to the population at large and particularly to the unemployed, retired and those unable to work. This debate about the inclusion of social security within the field of labour law has occurred in relation to developed countries, as the patterns of work relationships, employment conditions and so on have retreated from the labour law model of the two or three decades following World War II (Davidov and Langille 2006). The continued relevance of social security (in both its formal and informal guises), is most apposite when attention turns to less developed countries where the role of formal 'labour law' has been, and remains, far less influential (Cooney et al. 2014). For these reasons, we have included 'social security' as a dimension in our discussion of the regulation of 'work arrangements'.

In adopting the concept of 'work arrangement', and acknowledging that a particular work arrangement may have an array of formal and informal regulation affecting it, we also want to avoid the tendency in much of the literature on this area to designate the worker, the business, the sector or the economy as being either formal or informal.[11] Here, we are emphasising that it is regulation which is either formal or informal, and on that basis a work arrangement may be more or less formally or informally regulated depending on the degree of influence of different forms of regulation.

2.3 Formal–Informal Interactions and Institutional Change

Formal and informal forms of regulation co-exist; in some societies formal regulation is dominant, while in others informal regulation is more prevalent. However, as we have noted above, formal laws and institutions and informal norms and institutions are not two separate realms, but are inter-permeable and dynamically linked (Chen 2006, 2012). Santos (1987) labels this porosity among legal orders as 'interlegality', while some regulatory theorists have also recognised the 'interdependence' between formal and informal regulation (e.g. Hancher and Moran 1989; Haines 2005). The balance among formal and the informal regulation is largely dependent on the coverage and effectiveness of the formal regulation. Coverage depends upon legal definition of the scope of a particular regulation. Effectiveness depends primarily upon enforcement, and the use, or threat of use, of state sanctions of one kind or another, as well as access to formal dispute resolution mechanisms. However, formal regulation will

11 The ILO defines the *informal sector* as production and employment in unregistered enterprises, *informal employment* as employment outside of labour protection regulations, regardless of whether it occurs in registered or unregistered enterprises, and the *informal economy* as all firms, workers and activities that operate outside the legal regulatory framework of a society. However, we are concerned in this Report with the 'formality'/'informality' of regulation, rather than with these other associated notions such as 'formal'/'informal labour', 'formal'/'informal labour markets', 'formal'/'informal employment', the 'formal'/'informal economy', the 'formal'/'informal sector'. Of course it is clear that there will necessarily be important relationships existing between the presence or absence of 'formal' regulation and the 'formality' or 'informality' of 'labour' or 'employment' or the 'economic sector' and so on. However, it cannot be assumed that the 'formality' or 'informality' of the one necessarily equates with the 'formality' or 'informality' of the other in systemic terms.

often have normative effects beyond the actual scope for enforcement, by virtue of self-sanctioning behaviour based on human emotions such as guilt and responsibility (Scott 2000).

As schematised by Helmke and Levitsky (2004), where formal regulation *is* effective, informal regulation may nonetheless play a complementary role by filling in gaps in regulatory detail. Informal regulation can also directly contradict and conflict with formal regulation and in doing so can undermine the effectiveness of formal regulation. Where formal regulation either is absent, or unenforced and ineffective, then informal regulation may play substitutive roles. In terms of labour law more specifically, it has been noted that informal regulation can have both positive and negative effects for workers. It can mimic the formal labour law to some extent, thus extending the reach of the law beyond direct enforcement. Informal regulation can also conflict with and undermine formal labour laws and standards, and in other cases can provide entirely different regulatory systems that draw their normative strength from sources other than labour law (Howe 2017; Harriss-White 2010:173–174).

Particular regulation, of course, is neither static nor permanently entrenched. There is both stability, but also change (North 1990). While processes of *formal* regulatory change are usually readily apparent, *informal* regulation may also be modified, adapted and reinvented, but less obviously (Helmke and Levitsky 2004:731). And whereas dramatic events such as wars, revolutions and natural disasters may bring about sporadic change, usually informal regulation changes through accidents, learning and natural selection in an evolutionary process (North 1990:87–89). It is not necessarily the most economically efficient institutions, whether formal or informal, which survive this process (Deakin and Wilkinson 2005; Milhaupt and Pistor 2008).

Interactions between formal and informal regulation may also bring about mutual or independent change. Processes of 'borrowing' or 'contamination' between regulatory systems may serve to strengthen the authority of particular elements of a system (Meagher 2013:19; Cleaver 2002). New hybrid or synthetic forms may also emerge from the complex interrelationships between different forms of regulation (Benda-Beckmann and Benda-Beckmann 2006). Although usually difficult to observe, regulatory change can involve individual agents. Agents may pick and choose and modify rules to suit particular situations which may eventually result in wider change to the system (North 1990; Olsen and Morgan 2010:538).

2.4 International Studies of the Informal Regulation of Work Arrangements

It follows that the 'informal' regulation of 'work arrangements' requires close examination, alongside formal labour laws. If we are to advance the international and comparative scholarship of how work arrangements are ordered and operate, and to advance understanding of the purposes the regulation serves, or appears to serve, we need to be able to communicate on common ground. That, in turn, means learning about the regulation of work arrangements beyond the narrow formalistic boundaries usually used in the developed economies.

In order to lay the foundations for our study in Yogyakarta, Indonesia, it was necessary to examine a broad cross-section of empirical literature relating to the informal regulation of 'work arrangements' as we have defined them. These studies do not form an integrated body of work. Rather, they are scattered across different disciplines, including: anthropology, sociology, labour geography, politics, gender studies, organisation studies, and management. Although such studies are usually not concerned with labour law in any direct sense, they still often refer to commonly recognised categories such as 'labour contracts', conditions and benefits, 'labour supply', training and skills, labour resistance, labour organisation, and so on. They reveal the many influences and types

of informal regulation which are grounded in the different social, economic and religious contexts of a particular nation or region.

The studies indicate a complex web of social interactions between different actors (Frazer 2014:6) which are often difficult to pinpoint with predictability. The informal norms and institutions that play a role in regulating work arrangements are likely to differ quite markedly between geographical areas, across time, and also across sectors of industry and economy and even individual workplaces. That is, labour markets, within which individual work arrangements are situated, are 'socially structured and locally constituted' (Sportel 2013:42). Variations in informal regulation are thus identified as being embedded in social and economic structures and local politics (e.g. Rogaly 1996). Both Breman (1996) and Holmström (1985), for example, provide evidence of different work cultures in various parts of India. Similarly, in a study of informal mining in Ghana, Tsikata (2011) found that labour relations can be unpredictable even in adjacent mines. Also in Ghana, Britwum et al. (2006) document a variety of labour arrangements in the informal agricultural sector which can differ according to sub-sector, type of crop, or the interrelationship of family ties and other factors. Meagher (2004, 2010) provides a good example of informal practices changing with the times in Nigeria. There, traditional apprenticeship practices in small-scale shoe and tailoring businesses were slowly being undermined. The community-based relationships that were previously important for enforcing obligations between master and apprentice had weakened, and had been replaced by increased opportunism, unreliability and theft from the workplace. Other studies indicate that the degree of formality in the regulation of a particular work arrangement is not necessarily a fixed feature, but rather may be continuously negotiated by both business owners and workers (Marlow et al. 2010; Debrah and Mmieh 2009).

Nonetheless, it is possible to loosely categorise the different types or sources of 'informal regulation' found in 'work arrangements' in the international literature and we set out these out in the following Sub-Sections of this Report (2.4.1.1–2.4.1.6). In Section 2.4.2, we consider the literature on interactions between different regulatory orders. Specific studies relating to the informal regulation of work arrangements in Indonesia are surveyed in Section 3.3 below.

2.4.1 Sources of Informal Regulation

2.4.1.1 Institutions of Social Identity

'Institutions of social identity' (Harriss-White 2010) are critical factors in the informal shaping of work arrangements. These include: gender, caste, class, age, ethnicity, marital status, and religion. Social identities may affect the tasks that workers perform and the range of working conditions and remuneration that they are offered and accept or refuse even within the one social group or industry (Harriss-White 2003:21; Rogaly 1996). Particularly in areas with different migrant groups, whether within or across national borders, the ordering of work arrangements can be segmented based on ascribed identities and attributes based on race, ethnicity, nationality, gender, religion and immigration status (Waldinger and Lichter 2003; McDowell 2009; McDowell et al. 2009; Gadzala 2010). There is a need to think of institutions of social identity here not as just a mere set of personal attributes but as sources of group-specific norms and expectations and also as a basis for various forms of discrimination (e.g. on the discriminatory effects of caste on wages in India, see Banerjee and Knight (1985)).

A given 'institution of social identity' may not be part of an easily discernible rule or pattern within work arrangements. Social identities are historically contingent, subject to continual reinvention and may interact with other institutions of social identity in unpredictable ways. Personal identity is usually composite, ambivalent and not readily compartmentalised into separate ideas of class, caste, gender and so on (De Neve 2005:29–30; also citing Fernandes 1997). It is thus important to be careful to avoid oversimplification in assessing the role of identity in work arrangements (Harriss-White 2010:171). For example, even within one nation state, and in a common industry, the involvement of women, or of children, may vary considerably according to place, culture, type of product and so on (Fisher 2007:741).

We do not propose to survey the literature on the regulatory effects of all 'institutions of social identity' on work arrangements, but we make particular mention here of gender, religion, caste and class, and ethnicity.

Gender

The links between gender and work arrangements have been the subject of multitudes of critical feminist literature over the years, covering different societies and times, which we do not intend to survey in any great depth here. Suffice to say the discussion is often directed towards the systematic differentiation of women and men in terms of labour market opportunities and remuneration, treatment in the workplace, as well as societal attitudes towards gender-appropriate types of work and, indeed, the construction of the idea of 'work' in the first place and whether it includes domestic work and unpaid work. Such gender differences are rarely neutral but instead create and reinforce regimes of inequality, usually, but not always, disadvantaging women.

The role of gender in the workplace is often based on gender preconceptions — for example, employers have often viewed women workers as having 'nimble fingers but slow wit', that is, of being more dexterous, patient and passive than men. Ong (2010) describes these attitudes influencing the employment of female factory workers in assembly lines in Japanese electronics factories in Malaysia in the early 1980s. An additional reason for preferring to employ women was that, at the time, they could be paid less than men (Ong 2010:151). Inside these factories, Malay men found it unacceptable to work in assembly work, as this had been characterised as 'female'. Women themselves also often refused to be promoted to 'male' jobs so as not to be a woman alone among men (Ong 2010:160).

The way that gender regulates employment is often strongly tied to ideals of gender roles in the household. For example, where women are expected to bear greater responsibility for household tasks and child rearing, employers are more likely to see them as being only suitable for part-time work, if any. This was the case among the Japanese women factory workers observed by Kondo (1990:286). Part-time women workers were defined in the workplace by their presumed overriding loyalties to their household duties. This was despite the fact that the women themselves expressed great pride in their work and felt that their identities were linked to their employment.

Leading approaches to occupational gender differences argue that they should be understood not as the outcome of immutable attitudes but as a reciprocal relationship between choices and constraints and as the outcome of ongoing everyday social interactions and performances (West and Zimmerman 1987). As noted above, particular institutions of social identity do not act independently within society, but rather interact with other factors. The well-established 'intersectionality' feminist literature draws attention to the intersections of gender with race and class and so on, and how these factors often combine and disadvantage minority or lower-status women within

occupational opportunities (e.g. Harvey 2005, Acker 2006).

Religion

Many societies assume no separation between the rules of religion and the rules of the workplace, and work arrangements may be shaped accordingly. For example, religion may play a role in the recruitment and selection of new workers where employers prefer workers to hold a particular faith, and may also play a role in building trust within and between businesses (Shakya 2007). Labour markets in a particular place can be segregated along religious lines (Scoville et al. 1991). Religious values can often affect personal attitudes towards work and the acceptance of working arrangements and conditions. Religious values may imbue work with meaning beyond the mere exchange of labour for remuneration, and may involve the idea of a 'calling' or the pursuit of personal values and goals (Davidson and Caddell 1994). For example, Moreton's (2009) study of retail giant Wal-Mart in the United States includes analysis of how the Christian idea of work — being a way of serving God — was influential in encouraging employees to accept lower working conditions than in comparable workplaces. Similarly, Isik's (2008) study of female carpet weavers in Turkey described how the Islamic ideal of *sabir*, or patience, and the embracing of hardships with determination and resolve, was integral to weavers' attitudes towards their work and their life in general. In other words, among these women, religious life and their work arrangements were inextricably interconnected.

Religion may also play a more overt role in the workplace in the maintenance of relations of hierarchy and control. For example, employers and middlemen may be closely involved in religious rituals alongside their workers (De Neve 2005). Shakya (2007) describes the effects of religious ritual in garment factories in Nepal in building work floor socialisation and staving off fears of economic uncertainty. There, the business owners and supervisory staff assumed the main roles in such rituals. Heuzé (1992) (cited in De Neve 2005:15) also documents how, in the mills of Kolkata and Mumbai in India, employers and middlemen often made use of religious ritual to control and discipline labour. Workplaces may also have explicitly religious aims and related management practices. Sloane-White (2011, 2017) documents the *syariah* business sector in Malaysia and the ways that corporate leaders have established a set of corporate and human resources rules, codes, procedures and disciplines for their employees based on Islamic principles.

Class and Caste

Class and caste are both social status groupings that are a source of the informal regulation of work arrangements. While caste is largely hereditary and often confers fixed ritual status, class is more usually associated with economic relations of production, but also carries a range of social aspects that are determined by a person's family, education and wealth. The links between class and work are now thought to be far more complex than originally theorised by Marx and Weber, for whom social classes arose directly and solely from the occupational structure of society. The current trend in research on this topic is to see class through Bourdieu's work on social space, where a person's available social capital, past and present, which may include his/her occupation, can be used to plot his/her position roughly within a class (Atkinson 2009). In terms of how class may be a regulating factor in work arrangements, there is ample evidence of class inequalities being reproduced in the workplace. For example, MacDonald et al. (2005) documents how young people in poor neighbourhoods of England tend to have low education levels which leads to low-skilled employment with low wages and little security. They tend to obtain employment through

informal personal networks, whereas formal assistance through job centres has proved almost wholly ineffective. Harriss-White (2010) also describes fault lines in workplaces in India dividing workers based on the extent and kind of security that they enjoy, where a select group may have permanency, with the rest employed on various forms of individual and verbal insecure contracts. Studies of the growth of non-standard forms of employment around the world also indicate similar stratification within formally regulated workplaces, with large numbers of people on temporary or agency-based employment.

Caste continues to be a major feature of labour market organisation in various places around the world, but particularly in South Asia. The Hindu caste system in India is one of graded inequality, where the lower castes suffer differing degrees of denial and exclusion (Thorat and Newman 2010:19). Castes have tended to be associated with different levels of ritual cleanliness and with particular labour occupations; in present day India this particularly affects the lowest castes within the population. However, the literature on the topic is fairly consistent in its depiction of caste as being not at all straight-forward in Indian society — it is flexible with some social mobility possible, has various political, economic and cultural dimensions, and overlaps with other markers of social identity including gender, religion, ethnicity, and urban/rural locality (Vaid 2014; Harriss-White 2010; Thorat and Newman 2010). In other words, caste is not a set factor that always has predictable social outcomes in the labour market.

That said, there is evidence that caste continues to play a major role in both job discrimination and wage discrimination in the formal private sector in India (Deshpande 2011; Attewell and Thorat 2010; Thorat and Newman 2010; Vaid 2014). This evidence comes from statistical studies as well as studies of decision-making by private sector employers where fake applications for advertised jobs were submitted using caste-based names and then call-back rates recorded. This discrimination favours higher caste groups. Recent data indicates that higher castes, i.e. 'Upper Hindus' and 'Others' have a higher proportion of workers in regular employment (that is, as regular employees) in comparison to their overall share in the workforce (Institute for Human Development 2014:79–81).

Caste may also structure informal entitlements at work and links to different forms of social security (Harriss-White 2010:173). De Neve (2005:23–24) describes how caste can be critical for finding a job and can play a role in how labour organisations are formed, but he argues it is less important in determining shop floor interactions or the formation of local unions, where wider relations of patronage can be dominant.

Ethnicity

Ethnicity (or race) tends to play a prominent role in labour regulation within mixed populations, particularly where there are large numbers of migrants. Ethnicity can be a significant source of discrimination in labour market opportunities due to employers' ethnic prejudices. Numerous studies that measure call-back rates for job applications using ethnically distinguishable names indicate high levels of prejudice against minority ethnic groups among employers (see, e.g. McGinnity and Lunn 2011; Booth et al. 2012). Ethnic ties can also be a resource for organising and worker voice, whether within trade unions or more informally (Nicol 1997), but they can also hinder effective organising where ethnic divisions prevent class solidarity (Todd and Bhopal 2002).

Migrant business owners may bring their own employment practices from their culture of origin. Ong (2010) analysed the ethnic divisions of labour in Japanese electronics firms in Malaysia where occupational hierarchies were based on ethnicity. Similarly, Kung and Wang (2006) described ethnic-based divisions of labour in Taiwanese owned firms in Malaysia and Vietnam. There, superiors were often from the ownership ethnicity, while lower

skilled workers were local. Different ethnic groups were not randomly mixed in the workplace but rather ethnic divisions were constructed by the business owner in order to maximise control.

Restaurants are particularly interesting sites in which to study the influence of ethnicity on work arrangements, given the association between particular ethnic cuisines and consumer expectations in relation to the link between the ethnic identity of staff and the authenticity of the food served. For example, many ethnic restaurants in rural Australia are run as family businesses and often rely more on the labour of children and extended family members compared to other small businesses (Strickland 2011). Song (1999) documented Chinese take-away businesses in the UK and their use of unpaid family labour with work arrangements determined through kin responsibilities and rules of obligation. When recruiting outside the immediate family, ethnic restaurant owners often employ co-ethnic group members, who are more likely to be deemed 'suitable' to the technical requirements of the task of producing the specific ethnic cuisine and 'acceptable' to prevailing workplace culture (Ram et al. 2000; Kitcharoen 2007). The link between ethnic minority restaurants and migrant workers also tends to produce insecure and highly dependent work arrangements, particularly where migrant workers are housed by their employers (Kitcharoen 2007).

2.4.1.2 Patron–Client Relationships

Studies have shown that forms of patron–client relationships continue to characterise many types of work arrangements (e.g. Chikarmane and Narayanan 2012). Such relationships often have their roots in earlier feudal-type traditions but may also have changed with the passage of time, or arguably be purely a manifestation of new forms of production. Patterns of patronage are not static, and patron–client ties may now carry weaker social obligations than they did in the past (Breman 1996, 1999; Sportel 2013; Akhtar 2011). Modern patron–client relationships are often characterised by debt. In India, a recurrent feature of many work arrangements is that a cash advance is made to facilitate the migration of the worker to their new place of work and then the worker is expected to pay back their debt through their labour (Breman 1996:25; Mosse et al. 2002). In other cases, loans may be given to cover living costs and then, due to low wages, a cycle of inescapable debt can begin (Kapadia 1995). This fundamentally reduces the freedom of the worker to leave their position. Forms of extra-economic control may cause workers to regard contractors as their patrons (Akhtar 2011). For example, among female carpet weavers who produce carpets in their homes in Turkey, workers may continuously defer payment of their initial debt to their employer, or take out further loans, which then creates long lasting bonds between patron and worker. In such cases, contractors promise stable employment, while the worker may have to agree to lower remuneration (White 2004).

2.4.1.3 Kinship and Community

The informal regulation of work arrangements is often provided through kinship networks and family-based patterns of obligation and morality. Kinship is also involved in the production of authority within the workplace. Work arrangements often cannot be divorced from an individual's location within households and communities and the social ties that they hold with others (Ram et al. 2001, 2007). Recruitment, in particular, is one obvious issue where kinship plays a key role. Business owners may prefer to employ their own relatives as they are perceived to be less likely to cheat on their employer (Safaria et al. 2003) and to be more amenable to being asked to put in extra hours and effort (Harriss-White 2003:24). Conversely, business owners may find themselves under social pressure to provide work opportunities to their kin ahead of strangers. Similar points may be made about recruitment through native place networks, which may involve more flexible notions of kinship to include communities living

in a worker's place of origin (Padmanabhan 2011; Mosse et al. 2002). Research on migration networks has also demonstrated that ethnicity and kinship interact to facilitate labour migration and the recruitment of new workers (Waldinger and Lichter 2003).
De Neve (2005) in his study of workers in small-scale factories in India warned that kinship is not necessarily a fixed and static factor affecting work arrangements. Recruitment was not always based on kinship connections. Kinship also did not necessarily guarantee labour supply and there were limits to the benefits of cooperating with kin. Kinship was not the only dimension of workers' and employers' identities; it interacted with other 'institutions of social identity' and with wider patterns of patronage.

Beyond the use of actual kin in the workplace, another related factor is the development of kinship values among actors who were not actually related, that is 'fictive kin' relationships may be created. Haynes (1999) described the nostalgic recollection of past labour relations in textile factories in Surat and Bhiwandi, India, as being 'like a family'. These views of history were contrasted with the more transient ties that workers perceived they had at the time of the study. Kondo (1990) explored the use of the metaphor of 'company as family' in Japan. Kondo noted that the meanings of family in the workplace had evolved over the course of Japanese history. Once the Meiji Civil Code of 1898 separated business from household, fictive kinship became possible. Later, familialism was used by managers to combat the introduction of the 1911 Factory Law (1990:172). Within individual businesses the degree to which it was arranged like a family, and owners acted 'in loco parentis' and had involvement in their employees' lives, also changed over time. Further, the ways that 'company as family' was viewed often differed between managers and workers or was given contradictory meanings at different times (1990:202).

De Neve (2008) expanded on the idea of kinship values as being a malleable and negotiable concept in his study of the dyeing industry in a small town in Tamil Nadu, India. Kinship ideals were often used to call on extra workers, even if they were reluctant to work. There was also a tendency to use kinship terms for non-relatives flexibly and to draw them into kinship networks in order to invoke kinship morality and create the sorts of social relations that allow the business to run. Ong (2010:170, 174–176) also described the use of ideals of the family in Japanese-owned electronics factories in Malaysia as an element in the disciplining of local Malay labour whereby supervisors would stand in for the parents of young women workers while they were in the factory. At the same time, factory workers themselves claimed to belong to a single family with co-workers at their workbenches (Ong 2010:188).

It may be that in Western societies, 'fictive friendship' rather than 'fictive kinship' is more apparent. Moore (1973) described 'fictive friendships' among New York fashion traders where instrumental business relationships were transformed into friendships. These friendships become the basis of allocation of labour, among other things. According to Moore, the emphasis on 'fictive friendship' in this context arose because of ideas of individualism and a sense of voluntariness in the choice of these social relationships.

2.4.1.4 Self-Regulation by Business

Business clusters can also be an important source of informal regulation. Historically, guilds were a key way for businesses intentionally to regulate labour practices across a sector, particularly through the accreditation of apprenticeships and status as a master craftsman (or sometimes craftswoman). In the modern day, business or employer associations may function to standardise labour practices in a particular sector and/or location, including through, but not limited to, processes of collective bargaining.

Studies have shown that in some cases informal rules can also unintentionally develop in specific economic sectors

when the conditions are right such that there arises a high degree of uniformity in work practices across disparate businesses. Yoruk (2009) describes the development of such a code across tens of thousands of separately owned and managed small garment factories in Istanbul, Turkey. The unwritten code, which is not government regulation, determines definite working hours and overtime payments and includes well-defined rights, responsibilities and sanctions. Yoruk found a high degree of certainty and definiteness conferred by the code. Yoruk presents a number of interlinked explanations for the development of this code: the diffusion of multi-national company regulations down to the informal manufacturing sector, rising bargaining power of workers caused by a tight labour market and scarcity of skilled workers, and the spatial relationships between the factories and the social identities of the local populations. Padmanabhan (2011) describes a similar situation of commonly accepted work norms among apparel factories in Kerala, India. Swider's (2015:47) study of internal migrant construction workers in China also documents 'informal, yet standardised and widespread, agreements with labour contractors' which involve elaborate control mechanisms including fines, playing groups of workers off each other, provision of accommodation in dormitories, and restricted mobility for workers.

There is no clear sense in these studies that business clusters deliberately meet and determine a set of labour rules among themselves, although this is of course quite possible, but rather that these arise through informal monitoring of other businesses' employment practices and ensuring that the benefits offered to workers are not so comparatively low that they leave for employment elsewhere.

More modern transnational initiatives to encourage businesses to provide ethical labour conditions have occurred through the development of Corporate Social Responsibility (CSR) initiatives such as the UN Global Compact and other voluntary corporate codes of conduct which, in theory, cover a corporation's full supply chain. Pearson and Seyfang (2001) link the rise of voluntary codes of conduct on labour standards to a decline in statutory regulation by the state as well as to the activities of ethical trade movements.

2.4.1.5 Self-Regulation by Workers

There are various studies demonstrating that workers themselves can be a source of, or contribute to, the regulation of work arrangements. This can occur through worker organising or more spontaneous and individual negotiation and other action. Collective organising tools may include associations, trade unions, self-help groups and cooperatives, and are often linked with NGOs and other social agencies (Mather 2012). Organisational forms can be large or small, but often have to overcome many obstacles to organisation including a lack of acknowledgement of shared interests, apathy and disempowerment. Organising can occur in informal spaces, such as in coffee houses in Egypt (Assaad 1993). There are examples of organising around an identity such as gender (e.g. Self-Employed Women's Association (SEWA) in India), ethnicity or immigration status (Anderson 2010), or around a particular industry (such as waste pickers, sex workers or domestic workers) (Bonner and Spooner 2011). Such organisations can win important recognition and resources from the government and engage in struggles against injustice and exploitation and to negotiate fairer returns for labour (Kabeer et al. 2013).

Vargas' (2015) research provides an example of the self-regulation of rickshaw drivers in Bogota, Colombia. There, many informal associations of rickshaws have developed where these associations maintain a register of their drivers and ensure that each has a uniform, ID number and adheres to a standard tariff for journeys. Drivers pay a standard membership fee, daily rickshaw hire fee to the owner of the vehicle, and through the placement of organised lookouts are protected from state road patrol officers. The growth of these associations put a stop to

violence between drivers wanting the best passenger pick-up locations, but the associations also impose discipline on the drivers through threat of loss of their rickshaw or through threat of violence. It is likely that a business cluster effect (see Section 2.4.1.4 above) was also at work, with rival rickshaw associations all setting similar prices and drivers' conditions. This form of organising did not provide any form of social security to drivers should they be unable to work.

Other researchers have emphasised that unorganised forms of agency can act as an informal form of regulation. De Neve (2005:25) provides ethnographic data on the everyday political actions of workers in informal textile workshops in Tamilnadu, India. He describes foot dragging, teasing, flirting and fighting as being the more visible expressions of individual and collective resistance. A more recent article by Sportel (2013) analyses the active reworking of employment conditions within a socially-structured workforce. She describes various forms of agency (defined as resilience, reworking and resistance) among coconut pickers in Kerala, India, such as refusing to pluck coconuts during the rainy season to limit risk of injury, negotiating combined payments in times of labour shortage, stealing coconuts and deliberately diminishing productivity through inadequate palm maintenance, requesting advances, and seeking alternative offers. Ong (2001:436) mentions how factory workers in Malaysia made covert protests by deliberately damaging components and deliberately stalling machines in order to slow down production. Such subversive strategies may be characterised as 'weapons of the weak' (Scott 1990).

2.4.1.6 Regulation Through Civil Society and Consumer Power

In recent years, scholars have noted the growth in 'private labour regulation' or 'soft law' initiatives where regulatory control has moved away from the state. In many cases this is driven by the NGO sector and its utilisation of consumer power to choose ethically produced goods and services. Dumas (2013, 2016) labels this 'consumocratic' regulation. Such private governance initiatives have included certification of value chains which encourage businesses to gain accreditation and hence encourage consumers to prefer their products. Governments can also act as 'superconsumers' by putting pressure on companies to meet certain labour standards, such as through procurement processes (Howe 2010), particularly if the state is the only purchaser of a particular commodity or service (Charlesworth 2012), or through trade agreements.

Certification processes tend to result in the development of codes of labour practice, sometimes local, sometimes transnational, which may or may not correlate with the labour laws of a relevant country. For example, Macdonald and Marshall (2015), and Marshall (2010), document the activities of Ethical Clothing Australia and its attempts to hold a broad range of actors accountable for garment outworkers through its Homeworkers' Code of Practice. This Code draws entirely on existing Australian law. Dumas (2016) documents the case of RugMark/GoodWeave in India which is a standard setting initiative aimed at eliminating child labour in the rug industry. Under this programme, the standards set by inspectors may not follow Indian labour law, though there may be some interactions with it. Dumas also notes that businesses can still find ways of circumventing the accreditation processes — such as by not registering all their looms.

2.4.2 Interactions between Formal and Informal Labour Regulation

Although the existence of 'interlegality' has been recognised in general socio-legal scholarship (e.g. Santos 1987) (see Section 2.3 above), relatively little scholarly attention has been paid to the interactions among formal law and informal norms and institutions in the regulation of work arrangements specifically. Labour law studies tend be closely concerned with the law, while sociological and anthropological studies tend to describe the social relations

within workplaces without mentioning the influence of state law. Only an occasional study, like that of Assaad (1993) in the construction industry in Egypt, juxtaposes formal and informal labour regulation on particular labour issues. Thus, the social impact of law or the influence of formal norms in informal settings is 'imperfectly understood' (Lee and McCann 2014:13). There is perhaps more understanding of how informal norms can cause discrepancies in the application of formal law; for example, the influence of gender and race prejudice in recruitment, promotion and other aspects of work arrangements is well-evidenced. However, overall there are few socio-legal studies of how labour law is 'itself modified and regulated by other forms of social ordering' (Frazer 2014:7).

There are seemingly some exceptions to this interdisciplinary gap in the literature on interactions between different forms of labour regulation. Benton (1990; 1994) describes how the working conditions of informally regulated workers in Spain often referred very closely to the standards set by formal labour law. Kondo (1990, ch.5) documented how the introduction of the Meiji Civil Code in Japan in 1898 interacted with and changed the prevailing modes of labour relations based on fictive kinship. Petersen (1996:52–55) speculated that a norm of consideration of family life and particularly women's family responsibilities was moderating the effects of formal labour law in Denmark. Charlesworth (2012) documents the 'regulatory space' of care work in Australia and the three-way interactions and conflicts between: (i) federal and state labour laws; (ii) the funding market created by governments setting the price of contracted out care work; and (iii) the social norms of gender and care. Fransen and Burgoon (2012) studied competing private regulatory regimes and what factors may affect a company's choice among them.

This review of existing studies of the informal regulation of work arrangements from around the world indicates a number of key issues that may also be important factors in our study in Yogyakarta. Of course, this may not be an exhaustive or prescriptive list given the variation and contingency around geographical and sectoral specificity and 'institutions of social identity' and their influence on informal employment arrangements. What these studies tend to show, however, is one point in time snapshots of how work is regulated in a particular geographical location or industry, and they are generally not aimed at capturing the dynamics of regulatory interactions or institutional change as such. These studies also do not try to capture an understanding of the continuum between formal and informal modes of regulation and have little to say about the interactions or overlaps between the two. It is with regards to these issues that we believe this study of work arrangements in restaurants in Yogyakarta will add an original contribution to this field.

3. The National Context in Indonesia and the Local Context in the City of Yogyakarta

3.1 Labour Law and the Formal Regulation of Work Arrangements in Indonesia

We turn now to the formal regulatory context of Indonesia. Indonesia essentially rebuilt its labour law system in the early 2000s. Previously Indonesian labour law consisted of a confusing patchwork of Dutch colonial regulations, Indonesian national laws and ministerial decrees. The rebuilding of the system occurred following decades of labour movement repression under the Suharto regime when there was only one state-sanctioned trade union and the military was used to limit and control collective labour mobilisation. After the fall of the Suharto regime in 1998, one of the first acts of his successor was the ratification of a number of ILO Conventions in order to signal a break with the past (Lindsey and Masduki 2002:27). Since then, Indonesia has undergone a massive democratisation transition, and one element in this movement was the passing of new labour laws. In 2000, a trade union law was passed allowing free unionisation, and in 2004, an industrial disputes resolution law was passed which included the establishment of a new industrial relations court for adjudicating labour rights and interests disputes, dismissal and disputes between unions.

Most relevantly for this project, a new general Labour Law was passed in 2003 (Law no. 13/2003).[12] Some of the key features of the 2003 law include the following: restrictions on the use of fixed-term employment contracts, high rates of severance pay, explicit allowance of labour outsourcing arrangements, explicit allowance of the right to strike as a result of failure of collective bargaining, prohibitions on discrimination in hiring and conditions, minimum wages to be set at the district level, the 8-hour working day or 40-hour working week with rest times, overtime bonuses, provision for paid sick leave and paid maternity leave, and a number of other miscellaneous forms of paid leave including menstruation leave, marriage leave, and leave for having a child circumcised. There are also occupational health and safety provisions, special requirements for employing women at night, and the requirement that employers must give workers free time for religious activities. Although some of the provisions had been present in earlier laws and ministerial decrees, others were completely novel or modified versions of previous provisions. Quite a number of these provisions are culturally specific and were obviously not just copies of ILO Conventions.

The Labour Law of 2003 technically applies to all work agreements between an entrepreneur/business owner (*pengusaha)* and a worker/labourer (*pekerja, buruh)*. The definition of 'entrepreneur' includes individuals and is not tied to the existence of a legal business entity (such as a limited liability company or partnership[13]). Social organisations (i.e. the not-for-profit sector) are specifically included within this definition. However, this definition necessarily excludes domestic workers because there is usually no 'entrepreneur' involved in the relationship between home

12 This law is often referred to in English as the 'Manpower Law'.
13 For statistics on the use of formal legal entity status by businesses in Indonesia, see Badan Pusat Statistik (1998, 2006).

owner and their domestic workers. Following the same reasoning, it is likely (although apparently not discussed in the literature) that certain farm and fisheries labourers who work within more traditional arrangements (such as for small-holders or on family farms) and not for an 'entrepreneur' would also be considered to fall outside the legal scope of the Labour Law of 2003. The law also does not apply to civil servants (including public school teachers and academics, military and police) who are regulated separately. The law should otherwise apply to work relationships in all circumstances; however, as outlined below, weak enforcement has limited the reach of the protections afforded by the law. Further details on Indonesia's labour laws are included in Part 4 of this Report where relevant.

Enforcement of labour law in Indonesia is thought to have possibly improved under the new system, but still to be generally weak. Labour inspection is inadequate with few inspectors and low reporting standards (Warnecke and De Ruyter 2012:397; Arnold 2008; ILO 2013a; Dupper, Fenwick and Hardy 2016:19–22). Labour inspection has also been highly decentralised under the decentralisation package of the early 2000s with variable outcomes across the country according to local government capacities (especially of the District Labour Offices, *Disnaker)*. Much law enforcement activity relies on trade unions (in unionised sectors) to take cases of rights violations and interest disputes to court. However, recent studies of the new Industrial Relations Court have found variable legal bases for decision-making, poor record keeping, and more frequent rulings in favour of employers than occurred under the old system (Caraway n.d.; Hurst 2014). Other research continues to document violations of trade union rights and unlawful dismissal of workers in the formal sectors (e.g. Tjandra 2011).

It is estimated that 30% of workers are covered by the formal labour law system in practice, although there is considerable regional variation within this figure (Cuevas et al. 2009; Asian Development Bank and BPS-Statistics Indonesia 2011). Such figures point to the exclusion of workers in the traditional agricultural sector, as well as workers in urban small businesses, from labour law protections. However, for our present purposes, this estimate of the 30% coverage of formal labour law in Indonesia provides a broad general indicator, but is too narrowly defined. As we have noted, we have observed a spectrum of regulation where formal laws and informal norms overlap and where there is such no clear dividing line between the two.

One complication in the regulatory framework in Indonesia lies in the fact that the formal legal system itself is marked by plurality. This is a legacy of the Dutch colonial era. Customary law (*adat)* is officially recognised by the Constitution (and hence is discussed here as a possible type of 'formal' regulation). However, *adat* law, at least in the sense of meaning a set of officially acknowledged rules shared by a particular ethnic group, does not tend to include rules on labour. There are very few textbooks on *adat* law which include any mention of labour (one exception where *adat* is mentioned in relation to agricultural labour is Koodoh et al. (2011)), with the usual preoccupations of such texts being on family law, inheritance and property ownership. The reasons for this may originate in the Dutch colonial era when Dutch legal scholars put a lot of work into codifying and classifying the *adat* laws of different ethnic groups in Indonesia and, in the process, laid down the parameters within which *adat* law is understood today in Indonesia's legal system (Burns 2004). Still, there is ample evidence that rural communities continue to regulate agricultural work according to 'living law' or local traditions, also called *adat* (Blackwood 1997; White 1997; Hart 1986) (and see Section 3.3.1 below). There are also certainly local customary processes for dispute resolution which may include labour disputes (World Bank Social Development Unit 2004, 2008; UNDP 2007; Clark and Alpian 2005; although note that these sources are not specific with regards to this point). Such dispute resolution processes, however, are much more likely to play a role among rural communities compared to urban multi-ethnic settings (Stephens 2003:214).

Religious law also operates within certain spheres of life in Indonesia. However, Islamic laws and principles do not play a direct role in the labour market in Indonesia, being mainly confined to family law issues for Muslims and to banking and finance, and in any case *syariah* itself does not contain many clear pronouncements on labour, but rather relies on principles of individual contracting (Zulfikar 2007; Aiz 2011). Nevertheless, Islamic principles still have some indirect influence. Arnold (2008) has argued that Indonesian labour law needs to be understood in relation to Indonesia's majority Muslim population. Some of the provisions in the 2003 Labour Law, such as the ability of employers to dismiss workers for gambling in the workplace,[14] and the provision of paid leave for the circumcision of a child,[15] are attributable to Islamic principles (Arnold 2008: 533–4).

3.2 Social Security Law and the Provision of Economic Security for Labour by the Indonesian State

Since 1993,[16] Indonesia has had a workers' social security program (*Jamsostek*) which provides life insurance, retirement benefits, free health care for workers, their spouses and up to three children, and workers' compensation insurance for work-related accidents and illnesses. This scheme was largely funded by employers with a much smaller contribution by workers. There was no government (taxpayer) subsidy involved. It was an ambitious scheme but had the basic design flaw that employers could avoid paying the contributions by paying lower wages (McLeod 1993:91; Widarti 2008:262). Moreover, it was only compulsory for workplaces with 10 or more employees to enrol their workers, compliance was low and the scheme never succeeded in covering informal workers. Consequently, only about 17% of the employed population was enrolled in *Jamsostek* in 2007 (ILO 2008). Studies have also shown that the actual amounts paid as retirement benefits have been lower than if the workers had put the money in their own bank account rather than in *Jamsostek* (Arifianto 2006:61).

In 2004, a new social security law was passed (Law no.40/2004). It envisioned an ambitious extension of *Jamsostek* from formal sector workers to all citizens. It mandated the creation of concurrent schemes covering old-age pension, old-age savings, national health insurance, workplace injury insurance and death benefits for survivors. Employers and workers are still to pay contributions, and the state is to pay the contributions for the poor and non-workers. The 2004 law provided the framework for these changes, but implementation was slow. Law no. 24/2011 finally created the Social Security Implementation Agency (*Badan Penyelenggara Jaringan Sosial (BPJS)*), and the new social security system came into effect on 1 January 2014 (Situmorang 2013). Thus, at the time when field research for this project was conducted in September–October 2013, implementation of this new scheme had not yet started.

It should also be noted that under neither the old nor the new scheme are unemployment benefits made available. In recent years there have been a range of nation-wide welfare programs aimed at the poor generally — unconditional cash transfers, block grants for schools and scholarships, free basic health care and insurance for the poor at community health centres, and rice for the poor programs (Widianto 2013). Another example is the Social Welfare Insurance (*Askesos*) program — a government subsidised micro-insurance program which was authorised in 2009. The program is managed by the Ministry of Social Affairs in partnership with community-based organisations. It requires a small monthly premium in return for modest benefits — a measure of social protection against sickness, injury and death for informal sector workers and their families who join the program. This program is still quite

14 Law no. 13/2003, art. 158(1)(d).
15 Law no. 13/2003, art. 93(4)(c).
16 Prior to this, a more limited workers' social security scheme (ASTEK) had been in place since 1978.

limited in terms of population coverage (Sirojudin and Midgely 2012).

3.3 Studies of the Informal Regulation of Work Arrangements Specific to Indonesia

Studies from around the world relating to the informal regulation of work arrangements were surveyed in Section 2.4 above. This section examines the available literature specific to Indonesia, identifying similar categories of sources of informal regulation as those used in Section 2.4, although not all of the same sources of regulation have been studied in the Indonesian context. In general, the literature on the informal regulation of work arrangements in Indonesia is patchy, especially in relation to non-agricultural sectors,[17] but various insights can be made from a diverse range of research drawn from different academic disciplines. This literature on Indonesia is surveyed on the basis that it provides a general indicator of factors that may be relevant to this study in Yogyakarta, while still recognising that informal labour regulation in Yogyakarta may be quite locally specific.

As was the case in the international literature, the point about diversity in informal labour regulation should be emphasised. Indonesia is extremely diverse in terms of ethnicity, culture, religion, and local economy and livelihoods, meaning that patterns of informal labour regulation are likely to be equally diverse across the country. Work arrangements and their regulation are also historically specific. For example, Schrauwers (1998) details the changing village work relations in upland Sulawesi under different political administrations and their effects on collective labour groups and labour exchanges.

3.3.1 Sources of Informal Regulation

3.3.1.1 Institutions of Social Identity

This Section focuses on the 'institutions of social identity' (see Section 2.4.1.1 above), that have been identified in the literature as having particular salience in Indonesia.

Gender

Perhaps the most obvious 'institution of social identity' that informally regulates labour in Indonesia is gender. Numerous studies of women workers in Indonesia document the labour market opportunities afforded to women along with different social values placed on their work and the different family and community expectations of women workers compared to men (e.g. Wolf 1992; Silvey and Elmhirst 2003; Ford and Parker 2008a; Brenner 1995). Studies show that gendered divisions of labour permeate all sectors of the economy, from agriculture and fisheries (Hart 1986; Amigo 2010; Blackwood 2008; Fagertun 2009) to cottage and home industries (Alexander and Alexander 2004; Oey-Gardiner et al. 2007; Nakatani 1995), factory work (Warouw 2008; Tjandraningsih 2010), hospitality (Cukier et al. 1996; Bennett 2008) and professional occupations (Nilan and Utari 2008). Importantly, however, these gendered divisions do not necessarily have predictable or consistent effects.

Much gender and work ideology was influenced by Suharto's New Order era policies which promoted an ideal of households with a male head of household and breadwinner and his home-focussed wife. This was very much an ideal based on middle class privilege and probably did not resonate with the real working life of many Indonesians

17 See Manning and Effendi (1985:413–418) for a list of older, general, studies of the urban informal sector in Indonesia.

(Blackwood 2008). Views on gender and work can be complex and locally specific, and there are often many exceptions to prevailing attitudes. For example, in Central Java, trade and handling money has traditionally been seen as somewhat demeaning for men, with women taking most trading and market roles (Brenner 1995). Views on gender and work in Indonesia should be seen as an evolving set of preferences rather than as a set of immutable principles (Alexander and Alexander 2004:222; Ford and Parker 2008b), which intersect with class, ethnicity, age and other factors (Blackwood 2008).

Class and Caste

While there are various studies of class in Indonesia generally, and of caste in Bali where it continues to be an important factor in social status, there is little research on how these factors may regulate work arrangements. One older study by Kikuchi et al. (1980) argued that class differentiation was being *created* by new agricultural employment practices with the replacement of traditional output sharing with one that limited participation in harvesting work. The authors noted that wealthier employers were tending to employ poor, landless labourers in patron–client type arrangements, while middle-class agriculturalists were employing each other through labour exchange. More recent research on the growth of temporary and outsourced work in various economic sectors notes the growth of marked differences in employment conditions within businesses between those who have permanent employment and those on contemporary work contracts (Tjandraningsih et al. 2010; Herawati et al. 2011), which also suggests that class creation is occurring. Tidey (2012) and Vel (2008) document the creation of the 'political class' in regional areas of Indonesia where income derives primarily from the state, through civil service employment, state-issued projects and other informal means. Guinness (1986) also noted the links between five general categories of occupation (civil servant, entrepreneur, private employee, petty trader and labourer) and social status in his ethnographic study of an urban village (*kampung)* in Yogyakarta. By contrast, other studies suggest that the class status of the Javanese aristocratic-cum-bureaucratic elite (*priyayi)* could often be divorced from occupation and wealth and rather relied on a mix of birth and restrained behaviour (Brenner 1995). In summary, there is evidence of occupation and work practices creating class in Indonesia, but we have unfortunately found little mention of any direct return influence of class or caste on work arrangements in Indonesia.

Religion

Some researchers have considered the intersection between work and religion in Indonesia, and have touched on religion as a source of informal regulation. Some workplaces have overtly religious aims and practices. A series of publications by Rudnyckyj (2008, 2009, 2010, 2011) examined Islamic spiritual training in a major Indonesian state-owned steel company. The company had an explicit policy to enhance Islamic piety among the company's 6000 employees. This was done via a program called ESQ — a combination of Qur'anic recitation, American business management theories and pop psychology. Every month, spiritual reformers would hold a session aimed at producing more disciplined producers, particularly during times of economic difficulty. Rudnyckyj argues that this was not actually a matter of manipulating lower level employees but was mainly a program for managers to participate in.

As was found in some of the studies surveyed in Section 2.4.1 above, religious ritual in the workplace can be especially deployed in times of uncertainty. Warouw (2004:210) describes how a major company in Greater Jakarta that was facing legal action for allegations of corruption first tried to put pressure on the government to drop the charges by mobilising their workers to travel to government offices in Jakarta. That plan was abandoned when

not enough workers turned up. Having failed in this plan, a few months later the conglomerate came up with an initiative to organise mass prayers *(istiqotsah)*. They invited clerics from five major religions to pray for the safety of the nation still in crisis and for the well-being of all employees and, particularly, the company's owner who was facing the legal charges. The prayers were held in the soccer field within the company's vast industrial complex. It was compulsory for workers to attend, including those from afternoon and night shifts. Later, according to Warouw, many of the workers complained about having to be out in the midday sun and did not display much loyalty to their beleaguered boss.

In other workplaces, religious practices need to be scheduled around working hours. In a study of female hospitality workers in Bali, married Balinese-Hindu women, on whom more ceremonial duties fell, needed to change their work schedules to prepare for special ceremonies, or would have to miss them if they could not get time off (Cukier et al. 1996). Similarly, Muslim factory workers in Tangerang had to deposit their prayer attributes at the front gate of the factory when arriving for work, and then quickly collect them and walk to the nearest *mushalla* during their lunch break, and would make it back breathless just in time to start work again (Warouw 2004:174).

Ethnicity

In her study of the civil service in Kupang, West Timor, Tidey (2012) found that 'ethnicity' was just one factor that contributes to a person's social capital that can be drawn on for informal favouring in applications for civil service positions in Indonesia. However, she argued that the effects of ethnic stereotypes are not straightforward or necessarily distinguishable from other social networks and influence. Turner (2007:412) also noted the existence of ethnic niches among small-scale enterprises in Makassar caused by recruitment patterns that favoured the entrepreneur's ethnic ties and a sense that only people from a particular area are qualified to produce certain goods, such as a particular cuisine.

Other examples of ethnicity playing a role in the regulation of work arrangements in Indonesia are drawn particularly from the restaurant sector — making them very relevant to this project. The literature suggests that certain types of restaurants which are associated with particular ethnic groups in Indonesia have, or had, their own particular traditions with regards to the recruitment and management of labour. The two types usually mentioned are Padang restaurants and Tegal eateries.[18] Both are characterised by migration from particular parts of Indonesia.

Padang restaurants (*Rumah Makan Padang* or *Warung Padang)* are very common throughout Indonesia. The Padang cuisine originates in the province of West Sumatra (Klopfer 1993). Traditionally, Padang restaurants used a profit sharing (*bagi hasil)* model of remuneration for employees who are likely to be mostly migrants from West Sumatra. Written sources indicate that the Padang restaurant model was managed by a family or village kin group. This was purportedly based on Minang democratic philosophy where tasks were divided evenly and the benefits were enjoyed by all. Profits were divided every 100 days based on a performance index which was designed to make employees want to serve customers well so that they got a larger return. There was no daily wage, but food and cigarette money and a place to sleep was usually provided. Workers tended to start at the bottom of the restaurant hierarchy as kitchen hand and could eventually make their way up to cook, waiter, cashier or manager (Klopfer 1993; Yaumidin 2008; Alamsyah 2008; Rahmah 2008).

18 We were given some indication that these patterns of Padang and Tegal restaurant labour have changed, or are in the process of changing, and that many businesses no longer follow the model in Yogyakarta, but not enough data was collected to say one way or the other.

The second group, Tegal eateries (*Warung Tegal* or *Warteg)*, are also common and well-known throughout Indonesia. They are known for simple cheap food and tend to attract middle to lower class customers. They are likely to be located in a simple building with basic stools and tables with only minimal cooking facilities. Originally these businesses were run from three particular villages in Tegal District, on the north-west coast of Central Java. They used a rotating schedule of workers from the one family or wider kinship group who would rotate every three to four months to the eatery. Those who were not taking a turn in the restaurants would be farming at home. However, this is reportedly no longer the case as others have also moved in on the successful model (Sugandi 2012; Pranoto 2011).

3.3.1.2 Kinship and Community

Ethnographic studies show that both real and fictive kinship relationships have played strong roles in the informal regulation of work arrangements across Indonesia, where there is rarely any clear dividing lines between family, community and workplace. It is not necessarily the case, however, that small firms are always governed by principles of kinship or other 'traditional' practices. Alexander and Alexander (2004:217) demonstrate that labour relations are always under a process of constant innovation and that new forms of household and family organisation can emerge in order to legitimate labour divisions and control.

Family relationships may allow land owners and business owners to demand labour from their kin, as in the case of Blackwood's (1997, 2008) study of labour and land relations among the Minangkabau people in West Sumatra. There, a mix of kin and non-kin were employed for different tasks involved in wet-rice cultivation, with a preference for using kin for sharecropping arrangements and harvesting while landless labourers were employed planting and weeding. Client-kin families were also expected to contribute labour to many other tasks including ceremonies, cooking, building, and cutting fodder for livestock. Landowners were very reluctant to dismiss hardworking client-kin because of their guaranteed political and ceremonial support. Blackwood noted that a systemic shift from sharecropping to day labour was underway with a change from long-term labour relationships with kin to short-term guarantees of a day's pay.

In Turner's (2003, 2007) research on small enterprises in Makassar there was also a mix of kin and non-kin labour. Turner found that employing family members could mean that in times of difficulty, workers would be more willing to accept that they must produce less and take a reduction in piece-rate earnings. Conversely, Turner's study also showed that the responsibility for providing employment to family members sometimes caused inefficiencies as family members were not necessarily the best workers (Turner 2003:106–109). The use of kin labour could also depend on the type of enterprise, for example, gold smiths were more likely to use kin due to the high value of their raw materials compared to food producers and tailors who used a greater mix of kin and non-kin labour (Turner 2007:411).

Silvey and Elmhirst (2003) demonstrated that rural–urban kinship networks facilitated the recruitment of rural workers, particularly young women, for work in urban factories. These networks then acted to establish the rules and conventions about these young women's behaviour while away from home, and played a key role in routinising the payment of remittances and preventing consumer behaviour and spending all their wages themselves. Jellinek's (1987) study of petty entrepreneurs in Jakarta noted patterns of kin and native place employment that were part of rural–urban migration networks. At that time there was a pattern of small entrepreneurs in the city inviting kinsfolk and neighbours to come to work for them on rotations of around three months each. The workers

would learn the trade and be given free accommodation and food and then would return to their village. Only as a business strengthened could the petty entrepreneurs afford to provide better working conditions and pay and secure a reliable workforce.

As noted in Section 3.2 above, the reach of Indonesia's state social security system has been limited. In both rural and urban settings, kinship units can operate as a safety net or form of social capital, for example with orphaned children taken into relatives' households and elderly parents cared for by their children or grandchildren (Benda-Beckmann 1988:345). Community members will often contribute food, money and labour to major life events including weddings, funerals and house building (Angelini and Hirose 2004:14). Ideals of reciprocity and social obligation are often strong, although, of course, this does not mean that everyone is necessarily looked after by their community, and kinship networks can also function to exclude who for whatever reason does not belong to them.

Fictive kinship ties and values (*kekeluargaan)* are also key organisational factors in Indonesian labour arrangements. Schrauwers (1999) warns that such relationships are not necessarily less strong than 'real' biological kinship relations, especially as many Indonesian societies have traditions of the fostering and adoption of children, with the wealthy often adopting the poor. Alexander and Alexander (2004:218) argue that it is misleading to think that fictive kinship relations are just a transitional stage in the evolution towards more formalised and impersonal business relationships.

The ideology of kinship (or, the family principle) (*kekeluargaan)* finds expression in the Indonesian Constitution, where the economic affairs of the country are supposed to be based on *kekeluargaan* (art. 33). It is also an element of the fifth pillar of *Pancasila,* the official national ideology. The concept also has a more grassroots basis. Jellinek (2000) found that *kekeluargaan* was the dominant moral value expressed by residents of an urban neighbourhood in Jakarta, such that they saw each other as 'one large family' regardless of cultural and ethnic background. This moral expression had practical outcomes in that it helped many survive the Asian Financial Crisis and the scarcity of basic necessities through resource-sharing. Mahy (2009) also described fictive kinship relationships between sex workers and brothel owners in Kalimantan, where the sex workers were referred to as 'children' and they in turn called the owners 'mother' and 'father'. Mulya's (2004) thesis found that *kekeluargaan* was a strong guiding principle in the formal corporate world as well, although the concept did not always carry the same fixed meanings; some saw it as a human value that required ensuring prosperity for employees*,* others felt that it meant equality between workers, as well as a parental style of leadership, emotional ties and trust. Hermawan (2015) also found *kekeluargaan* to be an organisational feature of professional Indonesian accounting firms. Tidey (2012:111) documented 'family-ism' ideology in the workplace among civil servants in Kupang, West Timor, where 'family' analogies were used to describe relationships in the bureaucratic workplace.

Another term that expresses ideals of fictive kinship is that of '*gotong-royong'* or mutual assistance. Like *kekeluargaan* it appears as an element in the official state ideology *Pancasila.* As Bowen (1986) explained, this term corresponded with indigenous Javanese notions of moral obligation and reciprocity and covered a wide range of unpaid collective labour activities such as collective agricultural work or repairs to village infrastructure. The term g*otong-royong* was used and modified by post-independence political regimes as an instrument for the mobilisation of village labour and as evidence that Indonesia was 'naturally' a collective society. It is still a common term in use in contemporary Indonesia, typically involving neighbourhood cleaning and maintenance activities, and the social pressure to be involved can be high (Lussier and Fish 2012:76–77). Jellinek (2000:267) in her study of Jakarta slums found the

concept of *gotong-royong* to exist at the heart of social and economic relations there.

A further issue integrally connected to that of kinship values and patron–client relationships is the importance of housing provided to workers. The provision of accommodation can extend the working relationship and regulation and control of workers beyond working hours. It is also likely to strengthen fictive kinship ties between business owner and worker. Sjahrir (1993) examined the role of the *bedeng*, or barrack, for construction labourers in Jakarta. The barrack functioned as a socio-economic unit where 15–20 male labourers lived together which assisted with organising and distributing the labour force through the sharing of job information, news and gossip. Such places were usually located close to the construction site and made of leftover building materials with no sanitation, often resulting in poor health. However, the labourers felt that it was more important to live with their workmates rather than finding a good (and more expensive) place to live.

Fictive kinship ties and community ideals are also integral to the popularity of rotating savings and credit associations (ROSCAs), usually called *arisan*. Groups meet on a regular basis and each person contributes a specified amount. Then each member takes a turn at 'winning' the pool. In the end each member only takes home the same amount that they put in, so *arisan* act as a form of enforced savings plan, but not as an investment. Members of *arisan* tend to appreciate the social gathering aspects as much as the actual benefit of saving. An *arisan* can be a strategy to ensure that all members of a group attend meetings that have other aims. *Arisan* are usually arranged around a shared social identity, such as the women of a particular neighbourhood or colleagues in a workplace, which assists with ensuring trust between participants. Individuals often belong to more than one *arisan*. Credit cooperatives (*simpan pinjam)* also exist where each member contributes a particular amount and then may ask for a small loan with low or no interest when needed. These can be private or public associations. Funeral funds are also common. All these types of financial self-help associations have changed over time with contemporary associations having very different modes of operation from those in past decades (Lont 2005:104). The topic of *arisan* arises in the research findings for this project, and is discussed further at Section 4.4.14 below.

3.3.1.3 Patron–Client Relationships

Closely related to the previous topic of kinship, patron–client relations are also often important elements in work arrangements in Indonesia, but these may have either positive or negative effects for clients. For example, work arrangements in a multi-ethnic fishing community in North Jakarta were found to depend on patron–client relations in a positive way (Suhanda 2003). Boat-owners would entrust their boats to workers and the worker would hand over their catch of the day to a fishmonger who would then report the proceeds to the boat owner. The profits were then distributed each month according to an existing agreement. As the profits of fishing were never regular, workers were often dependent on their patron for health care costs, holiday bonuses and small loans. Sometimes children's school costs would be covered or a child would be adopted by their parent's patron. A fisherman could also be called on to fix their patron's house and such like.

Similarly, Mulyani et al. (2007) in a study of small- and medium-scale cottage industries in Jepara, Central Java, described beneficial patron–client type relationships where workers who lived with their employer were provided with all their living needs plus an additional small wage. Cottage industry firm owners often paid for medical costs or would lend the money for it to workers and meals were often provided in the workplace. This was despite the fact that most workers were employed on piece-rate arrangements.

On the other hand, Timmer (2010) found that the modern patron–client system for organising labour and distributing wealth among the Buginese living in the Mahakam Delta, East Kalimantan, was actually the main source of hardship. The protection and loyalty that once marked such relationships had ebbed away under modern capitalism. These relationships were more likely to be based on debt, where the patron would lend money to build a house or shrimp pond to a client and the client could then only sell their shrimp back to the patron. Clients did enjoy financial assistance for school fees, medical treatment and some retirement benefits, but the system made the poor poorer, especially in times of bad harvest. Similarly, Hart (1986) argued that patron–client ties functioned to co-opt and overcome resistance to increasingly unfair labour practices by large landowners in rural Java.

A specific form of patron–client relationship is the Javanese tradition of '*ngenger*' loosely meaning 'to serve'. This is where a young person of lower status and prospects, often from a village, is placed with someone with more status and wealth, often in a town or city. They will serve them in some way and in return receive accommodation, food and their basic needs, and perhaps also be assisted to get ahead in life such as through access to education. Under the *ngenger* relationship, the conditions and rewards of work are all left up to the patron to determine. The *ngenger* tradition apparently also occurs among other ethnic groups in Indonesia, including: the Batak, Minangkabau, Madurese, and Makassarese (ILO 2004). Although *ngenger* at least originally had wider implications for other types of labour, *ngenger* is most commonly discussed in relation to domestic workers and their work conditions and it is controversial as to whether this tradition truly provides protection to them (Wicaksono 2011).

Warouw's (2006, 2008) study of the industrial area of Tangerang in Greater Jakarta, shows an extension of patron–client ties beyond the immediate workplace. Accommodation was often not directly provided by the employer, but landlords often played a direct role in labour control. Migrant factory workers in Tangerang usually lived in a small room in barrack-like private residential compounds that were built throughout the area. Landlords adopted a sort of father–child relationship with their worker-tenants and often had unofficial community leadership roles. This gave them the capacity to persuade their tenants to be obedient, and landlords often intervened in industrial disputes, a role for which they could be paid a secret honorarium by companies.

3.3.2 Interactions Between Formal and Informal Labour Regulation

Very little of the literature on Indonesia specifically describes interactions between formal labour law and informal norms. One exception is a case study by Sugiarti and Novi (2003) located in tea plantations in West Java which found evidence of both 'semi-formal' and informal work arrangements. In the authors' view, the semi-formal situations occurred where the work conditions imitated the formal sector in many respects, but did not have written contracts and the employer was responsible for determining all rights and responsibilities of the workers. In the fully informally regulated arrangements the division of labour on the plantation was much less clearly defined. Work arrangements were affected by the size of the plantation, productivity levels and use of picking technology. Foremen tended to be paid with fixed wages and enjoy national holiday bonuses. For the tea pickers, their conditions were usually based on informal agreements that included wages, holiday bonuses, hours and days of work, provision of tools and work clothing, medical assistance, loans, and transport costs. They tended to be paid according to the volume of tea leaves picked. Carriers (usually men) were paid by the kilo of how much tea they delivered. Women tended to work as maintenance labourers. Picking labourers were paid very little and had little bargaining power in terms of negotiating pay or social security with their employers.

Overall, the available studies on the informal regulation of work arrangements in Indonesia, indicate, but do not map comprehensively, a wide variety of sector and place specific traditions and practices. Kinship values

(*kekeluargaan)* and patron–client relations seem to be the dominant forms of informal regulation and it is clear that employment relationships are often embedded within communities and are not just a function of the relationship between business owner and worker. It is also evident that informal forms of work regulation in Indonesia are not just vestiges of pre-existing institutional orders that remain untouched by formal labour law, but are constantly evolving and permeate the whole range of labour activities to greater and lesser extents. However, other than the short study by Sugiarti and Novi (2003), there has not been any research that has directly analysed the relationship between formal labour laws and informal institutions and practices in any sector. This project thus presents one step towards remedying this gap in knowledge.

3.4 The City of Yogyakarta, its Restaurants and the Workforce

We turn now to some basic background data on our specific research context. Yogyakarta, a city of approximately 390,000 residents,[19] is located in the Special Region of Yogyakarta, Central Java, Indonesia. Yogyakarta is the seat of Sultan Hamengkubuwono X who also functions as the Provincial Governor — a situation which is unique in Indonesia. The city's Javanese court culture and history, its proximity to the temples of Borobudur and Prambanan and its renown as a centre for arts and crafts makes it very attractive to both domestic and foreign tourists. With numerous state and private universities and a comparatively low cost of living, Yogyakarta is also a popular destination for university students from around Indonesia who move to the city for the duration of their studies.

As a result of the large number of tourists and university students, the city is very well provided with a wide variety of eating options ranging from restaurants located in high end hotels, specialist boutique restaurants, to Western chain stores such as McDonalds, Pizza Hut, KFC etc., to Indonesian chain restaurants which have a number of branches throughout the city, cafes, roadside tent stalls (*warung tenda*), small stalls selling drinks and small packets of rice (*angkringan*), and roaming food sellers (*pedagang kaki lima*) (Rukmana and Purbadi 2013; Gunadi 2008). One can find Javanese food, food from around Indonesia and increasingly also from other parts of the world. The idea of culinary tourism (*wisata kuliner*) is often promoted to visitors. More generally, particularly for those who eat at the cheap food stalls, it is often more economical than cooking food at home. Many of the city's university students buy all their meals rather than cooking for themselves.

In Yogyakarta Province, the official unemployment rate in February 2013 was 3.80%. This was lower than the Indonesian national average which was estimated at around 5–7%. Between 2010 and 2013, the unemployment rates in the Province had fluctuated between 3–6% (*Kedaulatan Rakyat,* 7 May 2013). The official minimum wage for the City of Yogyakarta for 2013 was IDR 1,065,247 per month. This was slightly higher than in the surrounding districts within the Province.

The Asian Development Bank (ADB) and the Indonesian Bureau of Statistics have published a survey of the informal sector in the Province of Yogyakarta[20] based on 2009 data (Asian Development Bank and BPS-Statistics Indonesia 2011). It estimated that a total of 1.9 million persons were employed in Yogyakarta Province. However, since having additional jobs is a common practice in Indonesia, the total employment (the total number of jobs) in Yogyakarta reached 2.5 million. There were more male than female workers: men comprised 61% of own account

19 This is the official population figure for Kota Yogyakarta for 2011 (Badan Pusat Statistik Provinsi Yogyakarta, *Daerah Istimewa Yogyakarta Dalam Angka 2012*).

20 Note that the survey covers the Province of Yogyakarta, and should not to be confused with the City of Yogyakarta which this report more generally refers to. Nonetheless, this survey still provides useful background statistics for this study.

workers; 69% of employers; and 65% of employees. Meanwhile, 68% of unpaid family employment was carried out by women. In terms of sectors, 44% of jobs were in agriculture, 15% in wholesale and retail trade, and 11% in manufacturing.

The ADB and Indonesian Bureau of Statistics survey followed the ILO definition of informal employment as being employment that occurs outside of the labour protection regulations of a given society, whether it occurs in formal or informal firms or in households . The survey found that of the total employment in Yogyakarta, 9 in 10 jobs (89%) were informal (95% in rural areas, 83% in urban areas). The survey found that four in five jobs in Yogyakarta's non-agricultural sectors were informal. While informal employment was found to be primarily linked to informal enterprises, informal arrangements also existed in formal enterprises. The survey results suggested that formal employment is associated strongly with higher levels of education while informal employment is linked to lower educational attainment. Formal employees in Yogyakarta earned roughly 2.4 times more than the average informal employee. One in five informal wage workers in Yogyakarta was entitled to sick leave (19%) and to maternity/paternity leave (15%).

The ADB and Indonesian Bureau of Statistics survey also found that hotels and restaurants in Yogyakarta contributed 12% of Gross Value Added (GVA) to the Province and employed 5.23% of the workforce. Of all hotel and restaurant businesses, 22.22% were classified as formal (that is, registered as legal entities), while the remainder, 77.78% were informal. Of all hotel and restaurant jobs in Yogyakarta, 7.33% were formal while the vast majority of jobs (92.67%) were classified as informal. More men than women had formal jobs in the hotel and restaurant sector.

As we have previously highlighted, these statistics on employment in Yogyakarta provide a general backdrop to our study, but, as they rely on discrete categories of formal and informal employment, they are too narrow to be of direct use here given our broader conceptualisation of a spectrum of formal and informal regulation of work arrangements.

4. Pilot Project Findings and Analysis

4.1 Data Collection Method

The multidisciplinary literature review above identifies numerous types or sources of informal regulation of work arrangements. While many studies of this subject matter have been conducted by sociologists and anthropologists, the interface between formal labour law and informal norms and institutions remains poorly understood. Hence, in this project we have designed a research methodology aimed at producing a set of empirical data on what is actually regulating work arrangements in one particular location and sector.

We have used a qualitative interview-based method of data collection. We used semi-structured interviews designed around a set of questions covering the full possible scope of work arrangements, including: personal identity, work history, recruitment, remuneration, hours, leave, supervision, discipline, welfare, safety, and ending the work relationship. We also asked about knowledge of Indonesia's labour laws. The original set of questions was aimed at workers, but towards the end of the fieldwork period we also started interviewing a few business owners about the arrangements they had with their workers. See **Appendix** for a list of indicative interview questions.

We chose one sector to interview within — restaurants and other eateries. This was a strategic choice as we wanted to research within a sector that was very likely to have both formally and informally regulated workplaces, and to this end we tried to interview across a range of restaurants based on size and permanency of its building, ranging from high end hotel restaurants down to road-side tent vendors. We excluded the self-employed, but we did interview a couple of people who were employed by their own family members.

As indicated above, the interviews were conducted in Yogyakarta, a medium-sized city with a wide variety of restaurants and other places to eat. We conducted 30 semi-structured interviews altogether (**see Table 1**), gained mainly by approaching businesses directly, and then asking permission to interview one or more of the workers. In a few cases we were introduced to potential participants through personal contacts. The interviews were mostly conducted in a quiet corner of the restaurant. In some cases two people were interviewed simultaneously when the participants expressed a wish not to speak to us alone. We managed to obtain a reasonable gender balance among respondents, and we included waiters, chefs, cashiers and supervisory staff in the sample. In our search for participants, we also had a number of informal conversations with a few business owners, and later made notes of the information they gave us. All the interviews were conducted in Indonesian and were later transcribed and translated into English.

Table 1: List of Interviews Conducted in Yogyakarta

Pseudonym	Gender	Age	Restaurant Description	Work Role	Work Arrangement
Wulan	F	23	Small permanent tiled room, open to the street, makeshift kitchen.	Server	Oral agreement, indefinite term
Bunga	F	24	Medium outdoor café, variety of food, 12 tables.	Kitchen coordinator	Oral agreement, indefinite term
Ria	F	22	Medium-sized café, 8 tables, full kitchen.	Waitress	Oral agreement, indefinite term
Lina	F	31	Small permanent space open to the street, trolley serving as the kitchen.	Family worker	Family arrangement
Yuyun	F	18	Small café selling snack foods, permanent building, 3 tables.	Server	Oral agreement, indefinite term
Suryo	M	32	Medium-sized modern restaurant, 10 tables, kitchen out the back.	Cook	Written fixed-term contract of one year, extendable
Ammar & Ferdy	M & M	32 & 25	Medium, with a few branches throughout the city.	Manager Shift leader	Written fixed-term contracts
Bagus	M	28	Medium-sized, permanent building, basic furnishings, 8 tables.	Cook and server	Oral agreement, indefinite term
Nita	F	32	Medium-sized, 15 tables, basic tables and stools.	Cashier	Written fixed-term agreement of one year, automatically extendable
Vina	F	19	Medium, permanent building, 20 small tables, one main dish.	Waitress	Oral agreement, indefinite term
Maya	F	20	Small, permanent building, variety of food, open to the street, 8 tables.	Waitress	Oral agreement, indefinite term
Nur	F	50	Small, basic concrete structure, one long table with benches.	Cook and server	Long-standing oral agreement, indefinite term
Putri	F	30	Small, food stall in covered market area, one table with benches.	Server	Family arrangement
Tomi	M	35	Small, basic timber roadside structure, 3 tables with benches.	Cook & server	Oral agreement, indefinite term
Intan & Mutia	F & F	42 & 49	Medium, permanent but basic building.	Cooks and servers	Oral agreement, indefinite term
Wawan	M	28	Medium open air café, 12 tables.	Cook	Oral agreement, indefinite term
Dewi	F	45	Large, open air building style, about 12 tables.	Accountant/ Manager	Oral agreement, indefinite term
Dian	F	21	Medium-sized chain restaurant located in a shopping mall, 15 tables.	Cashier	Written fixed-term contract for two years

Irwan	M	28	Small permanent building, makeshift kitchen, open to quiet street, 5 tables, basic food.	Server	No explicit discussion of employment terms
Yuli & Anisa	F & F	18 & 19	Medium-sized permanent building, variety of food, also does outside catering.	Servers	Oral agreements, indefinite term
Rizal	M	29	Medium, open-air, simple, one specialist dish, five rows of tables.	Cook	Oral agreement, indefinite term
Robi	M	42	Large, modern enclosed building, air-conditioned, 30 tables.	Manager	Written fixed-term contract of one year, automatically extendable
Ramli	M	25	Medium, open-air, serves basic food and drinks, 5 tables.	Cook	Oral agreement, indefinite term
Wati	F	41	Medium, permanent building, basic tables and plastic stools.	Server	Oral agreement, indefinite term
Yenny	F	21	Branch of a fast-food & snack chain store, air-conditioned.	Shift leader	Written contract of one year, extendable
Andi	M	21	Roadside tent stall, open only late afternoon to night. Seating on mats on the pavement.	Server	Oral agreement, indefinite term
Firman	M	32	Large, modern, 5 star hotel restaurant.	Restaurant manager	Fixed-term agreement of two years, also covered by collective agreement.
Arief	M	36	Medium-sized permanent building open to the street, basic furnishings, 8 tables.	Owner	Uses oral agreements with indefinite term with his workers
Ida	F	40s	Medium-sized café, open to busy street, 6 tables.	Owner	Uses oral agreements of indefinite term with her workers
Rina	F	22	Medium-sized, open-air restaurant, 20 tables, seating on mats.	Waitress	No explicit agreement

We acknowledge the limitations of the data collection methods used in this project. These were one-off interviews and the methodology did not include any form of ethnographic observation. It may be that the sample was skewed towards places where business owners were happy to allow us to interview their workers. We did meet with a few refusals for interviews to take place. In some workplaces there was no manager or owner available to seek permission to interview, and in such cases, we were also turned away. We found that approaching workplaces during the less busy times of the day (particularly mid-morning and mid-afternoon) was the most successful strategy.

4.2 Analytical Approach

In this project a causal leap needs to be made between the work arrangements documented through the interview data and the assumption that it is a particular type of regulation that causes it. This may be characterised as a reverse positivist assumption about the existence of an outcome and its causal link to a law or norm. We acknowledge that such an assumption might be seen as problematic as it is theoretically possible that individuals may act without any

conscious reference to a law or norm and simply choose their own way to suit their circumstances which could happen to coincide with observable patterns of behaviour. However, human behaviour almost inevitably occurs within a social framework, and the situations where someone would act entirely independently would be very rare.

In situations of reference to law, causation between the behaviour documented and its origin was easier to infer in this project, such as where the detail of a particular labour law was exactly or closely reproduced in reality. Identifying 'norms' is rather more difficult. Banakar (2015:216) writes that the 'external' aspect of social norms can be 'revealed through tangible and observable behaviour and can be studied by employing empirical methods'. However, a distinction may be drawn between what actors subjectively think 'ought' to be done (the 'internal' aspect), and what 'is' commonly done in practice (the 'external' aspect). Baier (2013) similarly warns that mere recurrent patterns are not necessarily the result of norms, and equally, norms (as 'ought') do not necessarily result in particular behaviour. Further, normative openness is possible where many types of social ordering are acceptable. Twining (2010) also argues that it can be misleading to conceptualise norms as discrete units that can be counted, compared and classified as in reality they are intertwined in complex ways. In cases where there are competing norms, an actor may rationalise a choice between them or come to some consensus with other parties.

In order to at least partially overcome this difficulty, in this study we have looked for patterns of work arrangements while at the same time asking respondents to identify the source of authority for particular behaviours. This introduces a subjective element to the analysis, which of course has its own weaknesses, as workers in particular may not know how their work arrangement was determined by their employer, but it does allow us to draw more defensible causal linkages. In the analysis below we identify patterns in work arrangements, but we also note exceptions to the patterns where they have been found. We acknowledge that this analysis is conducted within the obvious limitation of the moderately small number of interviews (30) conducted for this study. We acknowledge that the categories and headings used in the remainder of this Report are at least partly based on the authors' pre-conceived conceptions of what aspects are important within work arrangements (which were reflected in the pre-prepared, semi-structured interview questions), but we have also endeavoured to allow unexpected themes to arise from the data itself.

4.3 General Findings from the Research in Yogyakarta

4.3.1 A Spectrum of Formality/Informality in the Regulation of Work Arrangements

The interview data indicated the existence of a spectrum of work regulation ranging from the more formally regulated end, with work arrangements that followed Indonesian labour law to a greater degree, through to work arrangements affected more by informal norms and institutions. These informal norms were often explicitly termed by interviewees as '*kekeluargaan*' or 'family-ness' (for coverage of the literature on this see Section 3.3.1.2 above) and this was consistently distinguished very clearly from formal labour law. In other words, the interviews indicate two well-defined sources of regulation — formal labour law and *kekeluargaan* norms — although other 'institutions of social identity' also had less explicitly acknowledged effects across the spectrum as well (see Section 4.3.2 below).

We use the metaphor of a spectrum here to indicate that the degree to which formal and informal sources of regulation are mixed together is variable across different work arrangements. It is the work arrangement, rather

that the workplace, which is the unit of analysis here, as it is possible for there to be more formally or informally regulated work arrangements within the one workplace, and indeed this situation was indicated in some of the interviews. There did appear to be some correlation between the size, prestige and legal status[21] of a restaurant with the formality of its work arrangements, with larger more prestigious restaurants more likely to follow formal labour law, but this was not consistent. Some restaurants with relatively large numbers of workers nonetheless had more informally regulated work arrangements. The idea of the spectrum is also useful in order to indicate that we found no work arrangements that were completely formal as there was always evidence of some influence of informal regulation. Nor did it appear that the most informally regulated work arrangements were entirely free of influence from the formal labour law at least in terms of general standard setting. There were also no clear dividing lines between different classes or categories of work arrangements, with the formal and informal regulation often affecting various aspects of a particular work arrangement in different combinations. It is also important to note that while certain aspects of a work arrangement might be fixed, others were open to ongoing negotiation between business owner and worker.

When asked to expand on the meaning of '*kekeluargaan*', respondents emphasised a number of different factors: the ability of workers to raise personal issues with the business owner and expect advice or financial assistance in return, joking and talking within the workplace and sometimes socialising outside work hours, everyone helping each other, reciprocity, the owner trusting workers to mind the business when they are absent, solving problems and misunderstandings in a family way, and living and eating together. The expectation that a business owner would help to solve their workers' personal problems pointed to the existence of patron–client relationships within the concept of *kekeluargaan*. Some workplaces also arranged occasional outings for their workers, or held social service and religious activities within working hours. As was found in some of the studies of informal regulation of work arrangements in Indonesia surveyed in Section 3.3.1 above, this 'family' feeling does not rely on actual kinship or pre-existing social ties, but rather is expressed in a way which includes all persons in the workplace.

The existence of a written contract of employment was just one element in terms of the degree to which a work arrangement was formally or informally regulated. For instance, we found a number of work arrangements in the spectrum which used written fixed-term contracts but were in contravention of the formal restrictions around their use. Fixed-term contracts are only allowed to be used for work that is not of a permanent character, and may only be for a maximum of two years duration with one year extension. The use of fixed-term contracts outside these limitations is apparently very common as employers seek to avoid high severance payments and other compulsory benefits that must be paid to permanent workers (Tjandraningsih et al. 2010; Herawati et al. 2011; Landau et al. 2015). The acceptance of the use of fixed-term contracts outside these legal stipulations appears to be quite a well-established informal norm. See also the discussion at Section 4.4.2 below.

At the formally regulated end of the spectrum, Indonesia's labour law was obviously being implemented quite closely. However, even here, interviewees described their relationships in the workplace as being influenced by *kekeluargaan*. For example, Robi a 42-year-old mid-level manager with an otherwise formally regulated work arrangement, explained that to him *kekeluargaan* amounted of an expectations of having his personal problems solved by the business owner:

> *So it seems that the relationship between the owner and the workers is good here?* Yes it's good. There is a strong *kekeluargaan* (family-like) feeling. *Can you explain a bit more about that term kekeluargaan, can you*

21 This generally refers to whether the business was registered as a company, partnership or other legal entity form (*badan hukum*), whether it was in compliance with national and local taxation requirements, and held locally issued trading licenses.

> *explain what it means?* Oh it's like this. If I have a personal problem, not a work problem, I get up my courage and explain it to the leadership here. I ask forgiveness if in these coming weeks my work is of lower standard than normal because I have a personal problem. It's a problem that I can't just leave at home and ignore while at work. I'm surely going to be thinking about it. I would ask, do you have a solution for me as an employee so that I can work well? Then I will be given advice. If it's a problem with money, then it will be evaluated. I will be told, if you need money, then you can speak to the finance department and copy in your request to me. That's what 'family-like' means. There is a high degree of understanding. They're not uncaring.

In the middle areas of the spectrum there were also businesses which used some elements of formal labour law even where there was little expectation of actual enforcement, that is, it was evident that formal labour laws were having at least some normative force beyond the scope of actual enforcement by the state. The eight-hour working day with one-hour rest and minimum wages in particular were often found across this section. At the same time, many of the interviewees with such work arrangements also described themselves as being in *kekeluargaan*-influenced relationships with the business owner and with co-workers even if they had once been complete strangers. These fictive kin relationships seemed to be strengthened in the common situation where business owners provide accommodation to their workers, because bringing someone under one's roof tends to increase parental-like obligations towards them. In other words, there was clear mixing of formal and informal forms of regulation within particular work arrangements in the middle of the spectrum.

At the very informally regulated end of the spectrum, work arrangements were based on trust placed in the hands of the business owner, although there still seemed to be some influence from the distant shadow of the law in terms of setting general standards and expectations. The most informally regulated work arrangements often had little to no discussion about wages and conditions, just acceptance of what was given. Here, business owners were more likely to employ family members or friends, or friends of current employees as a way of ensuring that the worker could be trusted. However, this was not always the case; businesses using informally regulated work arrangements would still advertise and take on a stranger if they could not get anyone else (see Section 4.4.1 below). Towards the informal end of the spectrum there was also a greater sense of workers being taken on permanently, and that firing them or letting them go was very difficult because of moral feelings of responsibility on the part of the business owner. Hence, sometimes there was actually greater security for them compared to those workers who were on short fixed-term contracts towards the more formal end of the spectrum. That is, formality was not always a guarantee of better employment security. At this end of the spectrum there seemed to be some parallels with the idea of *ngenger* (see Section 3.3.1.3 above), although none of the interviewees actually described their situation using the term.

In the more informally regulated work arrangements, it appeared that the idea of *kekeluargaan* and its expectations of reciprocity could substitute for 'rules'. For example, Irwan, a 28-year-old man with no written contract or even an explicit oral agreement, explained that he saw rule-based arrangements and family arrangements as being different:

> *Can you tell me more about the kekeluargaan feeling here? Can you give an example?* Well, in companies they have written rules, here we arrange rules ourselves according to how we feel, what we like. We make sure that the boss isn't disappointed, and we as employees may not be let down. Maybe in companies you need to write things down for the boss, here we just talk when we need to.

The two business owners whom we interviewed incidentally to the main research with workers also expressed the idea of *kekeluargaan* and the sense of responsibility that they felt towards their workers. Both of these business

owners instituted informally regulated work arrangements. Firstly, Arief, the 42-year-old owner of a small eatery with five workers, expressed his sense of responsibility in the following terms:

> *So can the relationship between yourself and your workers be described as being like a family?* That's what I hope for. So that they also have a feeling of ownership, if they have a sense of belonging then they will maintain the place better. If they just feel that they're only here to work, then their work won't be good. I really try to make our relationship good. *So if they have a personal problem, will they be able to discuss it with you?* Yes they can. I personally help them, I help them financially. Because I hear them telling the story about their family, what their difficulties are. *Is that assistance in the form of a loan or do you just give it to them?* Usually we start with a loan, after that we see how things develop, if the problem is still too heavy, I make an agreement with my wife, and then we will give them [some money]. *In our research, we've found that this often happens here, that employers lend money to their workers. Is this a kind of responsibility of all business owners?* I think it is more about morals. We here, our culture is like that. Moreover, I'm a Christian. The Bible says that we must help the weak. I try to be a good Christian.

Ida, the owner of a small tourist café, also described her relationship with her workers as one of family-like responsibility and obligation towards her workers:

> *If someone does want to leave, how should they do it?* Usually they will tell me one week beforehand, or two weeks before. Usually they will say I will wait until you have found a replacement for me. My system here is also like a family system. I treat my workers like family. *What is that family system exactly?* It means there is no distance between me and them. But the point is I also give them freedom that includes responsibilities. So they feel comfortable working here as well. I am a person who doesn't like to talk too much, but if someone makes a mistake I ask them to try not to do it again. *If one of your workers has a personal problem, can they talk about it with you?* Yes, they can ask my opinion. Yes of course they can. That's certain. *Is that part of the family system?* Yes, of course it is. Also, between the workers themselves, it's natural if someone is not suited to another person. I tell them that while working you're not allowed to be like that. Because later we wouldn't be able to operate. Of course, we have to have discussions like that. That's how it is [laughs]…
> *If your workers have a personal problem, a financial problem, can they borrow money from you?* Yes they can. They can take their wages early, take a cash receipt, after that they ask for their wages to be cut a few times. That's fine, they can do that. For as far as I'm able to, I'll help them. And I trust them. It's fine. *What reasons will you accept for requests to borrow money?* Firstly, for family needs. If their kids have school needs or if there is someone sick. It can't just be for nothing. If it's something that is pressing, then that's no problem, that's allowed…
> *So is it a responsibility of business owners to pay the Annual Holiday Bonus?* Yes, it's an obligation. Workers have to be able to enjoy a bit extra. I pay it to workers who have been here for one year or more. But if not, then I give them a parcel, a present, but not cash. Some clothes or cakes. *That's the tradition here?* Yes, yes.

4.3.2 Institutions of Social Identity and their Regulatory Effects

The interview results showed that 'institutions of social identity' (Harriss-White 2010), such as gender, age, marital status, ethnicity and religion, have some clear regulatory effects across the spectrum of formality/informality. The effects are particularly seen in recruitment and work roles, however, we found little uniformity in terms of how 'institutions of social identity' influence work arrangements. Hence we find a number of parallels with the work of Harris-White (see Section 2.4.1.1 above) which emphasises that these social norms rarely constitute society-wide 'rules' on their own. For example, while in some restaurants there was a clear preference for young female waitresses, in others front of house staff were all young males, all middle-aged women, or mixed genders and ages. We were told in one place that cooks were always men, only to find all women cooks in another place. In another, the norm was for only women to work as cashiers, while we occasionally found men working in such roles

elsewhere. Such matters seem to depend largely on the personal preferences of business owners, but also partially on whether workers are given accommodation as it is usually preferred not to house unmarried men and women in the same place.

Marital status was clearly important for women workers, but again there was no clear rule around this. It seemed common for women to stop working once married, but this appeared to be a personal preference about marital relationships and gender roles rather than a rule created or adhered to by business owners. There appeared to be a norm against the employment of women late at night, possibly due to practical fears about their safety when returning home at night or as a reference to older labour law provisions. Previously, the law contained a prohibition on night work, but the law now only requires employers to provide women who work between the hours of 23:00 and 07:00 with a healthy meal and a moral workplace and transport to and from work between the hours of 23:00 and 05:00 (Law no. 13/2003, art. 76).

There did not appear to be an overt preference for workers of a particular ethnicity, even if they were working in an ethnic food restaurant. In particular, in Padang Restaurants it did not appear that the traditional system of employing migrants from Padang and having a profit-sharing system is still in place everywhere (see Section 3.3.1.1 above). A shift to wage labour appeared to have occurred in many, but not all, Padang restaurants, but further research is still needed to confirm this. We also observed that a popular Acehnese chain restaurant in Yogyakarta was advertising for new workers — they were not calling for Acehnese people, but one of the prerequisites was that women waitresses had to wear a headscarf (*jilbab*) in order to qualify (i.e. to fit with Acehnese female modesty requirements). Similarly, the two Javanese women workers in a small Acehnese goat curry eatery were wearing a headscarf while at work, although at least one did not wear it outside of work hours. In other words, the appearance of fitting the ethnicity of the food being served in a particular ethnic food restaurant was sufficient.

Our sample was perhaps too small to draw any strong conclusions about the role of religion in work arrangements in restaurants in Yogyakarta. We did not ask about the religion of the business owner or manager, and so cannot say whether there is a pattern of business owners choosing workers of their own religion, but there did seem to be mixed religious affiliations among workers in at least some restaurants. One workplace where we interviewed had 'interfaith' religious meetings as a way of encouraging workers' religious wellbeing and togetherness. This was given the term *pengajian*, which is more usually associated with Islamic prayer meetings, but the respondents said that it was open to non-Muslim workers as well. In another restaurant, a manager, a Catholic, said that his weekly day off was always scheduled for Sundays to allow him to attend church with his family. All Muslim respondents reported being able to take a few minutes away from work for daily prayer times.

4.3.3 Knowledge of, and Attitudes towards, Indonesian Labour Law

Generally, we found very low levels of explicit knowledge of Indonesian labour laws and standards among informally regulated workers, with greater levels of knowledge among those working in more formally regulated establishments. Workers who had moved around between different restaurants also seemed to have higher levels of knowledge than those who had always worked in one place.

Some labour law standards appeared to have stronger resonance than others. The idea of the 8-hour working day with one hour rest was quite widespread, as was knowledge of the existence of the regional minimum wage (UMR), although only some could accurately state the exact or an approximate figure for the minimum wage in

Yogyakarta.

In some of the interviews with workers in more informal arrangements, the respondents showed a very clear sense of their work arrangements being distinct from those of larger, formally regulated establishments. For example, Ria, a waitress working permanently in a tourist café without a written contract, in response to a question about knowledge of Indonesia's labour laws commented:

> Labour rights depend on the company itself, if it is a big company maybe they really have to pay attention to labour rights, for example, they have to have *Jamsostek* (state social insurance fund) for health. Also, wages have to accord with minimum wage regulations, which in Yogyakarta is 1 million rupiah. If wages don't follow the minimum then it can be taken to court. My wages are above this in total. But here we are not a big company, it is just a small business, so here our basic wages are below the minimum, but in total it depends on how busy it has been [i.e. bonuses may be paid to bring the wage above the minimum].

Another worker, Irwan, a 28-year-old man who had started working for a friend's new café without having any explicit discussion of wages or conditions, expressed a very clear sense that he considered his arrangements to be different to those found in formally regulated establishments. He made the following series of comments in response to questions about his wages, notice, borrowing money, and knowledge of labour laws:

> I just left the issue of wages up to the owner. Whatever he wanted to give me, that was fine. Again, it's that family feeling here. Maybe in other places … well those who are called employees, they sell their services, there is a price on that in other places. Here, it is a … what do you call it … a solidarity system. My boss often helps me, so I should show reciprocity.
>
> Well, about the benefits of working here, the wages are just as they are. Maybe in other places people are paid regional minimum wages, here [the wages] may not be that much, but those other people have to pay rent and eat at their own place. Here it's not like that [accommodation and food are provided].
>
> I would not need to give notice if I wanted to leave. You see, the system here is *kekeluargaan* [family-like, based in kinship]. It's not like other businesses where you could say the treatment is ... [pause] Even though it is not official here it is like family. This is not a limited liability company. Companies have written rules, here we arrange rules ourselves according to how we feel, what we like. We make sure that the boss isn't disappointed, and we as employees may not be let down. Maybe in companies you need to write things down for the boss, here we just talk when we need to.
>
> Oh yes, it is easy to borrow money from my boss. I have done it. Maybe in other places it would be difficult, you might put in a request and it would only be responded to after a few days, only then would you get the money. Here, I just need to ask, so long as the reason is right, if it's appropriate to the situation, then that's fine.
>
> I know that working hours should be eight hours and any more than that then overtime should be paid … but that's the other system. Here the system is the *kekeluargaan* [family] system, so supposing other people are good to us, of course we have reciprocity. So I, actually, don't follow those rules. Maybe other workers follow the rules about working hours and overtime hours.

Another interview respondent, Wawan, who was working as a cook with an oral agreement and other informal arrangements, compared his present work with his previous job in another industry working on three-monthly contracts.

> After three months I didn't feel able to continue working there, because of the situation, and it didn't seem that I could continue working in [another industry], so I returned to working in restaurants. *You said earlier, that when you worked in the [other industry] you had a written contract, and now you don't have one, which system do you prefer?* I prefer it here. When I was at the [other place] it was not possible to move jobs quickly. We must follow the procedure at the company and see out the contract term. *So it is more flexible here?* Yes, that's right. Maybe the wages were higher in the [other place], but one is really tied down there. *If it's not too rude to ask, what is your salary here?* All included, it's Rp 1.3 million per month. *And before, in the* [other place]*?* It was more than Rp 2 million. *So there was a difference?* Yes, but I was much more bound at the [other place].

In contrast, Dian, a cashier with a fixed-term contract in a formally regulated restaurant, said that she much preferred her current circumstance to when she had previously worked in an informally regulated restaurant:

> *Before you started working here, had you worked anywhere else? In another restaurant?* Yes I had. That was back in East Java. *And why didn't you keep on working there and instead chose to come here?* Back there, the work was overtime — 12 hours. Here it is only 8 hours. Here there are shifts, back in my old place in East Java there were no shifts. Also I had to work every day, there were no days off. Back then, after training for three months, only then could you get a day off. Here, even if you're still training, even if you're casual, we automatically get a holiday for one day per week. Back there, there was no contract system. Here it is more regulated, there are rules. *So at your old work there was no written contract?* Oh no it was just an agreement. *And what was that restaurant like? Was it in a mall like this?* Oh no, it was outside. It was a '*lesehan'* [meaning an informal place to eat where you sit on the floor at low tables]. It had a family menu, similar to this place. But it wasn't in a mall. *So it wasn't formal?* Right. It was relaxed.

4.3.4 Personal Attitudes towards Work

We encountered a couple of concepts used by workers to explain their acceptance of lower standards than they knew they were entitled to. These included the idea of 'looking for experience' (*cari pengalaman*), that is, they viewed their position as being not just for financial gain but also to gain skills that they might one day use in their own business. Others were just happy for the chance to travel and live independently. Many of the interview respondents were from other parts of Java and had moved temporarily or permanently to Yogyakarta. For example, Irwan said 'I'm happy to migrate for work (*merantau*). I guess I'm not happy just staying in my home area. I want to look for new experiences (*cari pengalaman*) as stories I can tell to my children later.' Some interviewees also said that it was better to work in a restaurant rather than as a shop assistant as the breadth of experience that they would gain was wider due to the different work roles available in restaurants compared to retail shops.

Another concept that was mentioned in one interview was that of '*ikhlas*', meaning sincerity and coming from the Arabic with Islamic overtones. It was used to express the idea that if one approaches one's work sincerely, whatever it may be and whatever the conditions, then one will obtain personal rewards and contentment. The idea of *ikhlas* here seems to resonate with the concept of *sabir* or patience in Isik's (2008) study of carpet weavers in Turkey (see Section 2.4.1.1 above).

In another interview, Ammar and Ferdy, two male supervisory level workers [interviewed together], said that they were attracted to work at their particular restaurant because of its perceived religious values. One of them expressed it in the following terms 'the attraction was from a religious perspective. This place has a good approach. When working in a team, we all learn from each other. For me, my salary is only part of it, it is a religious reason'. The other saw the name of the restaurant in a job advertisement and assumed from its meaning that it would be 'good, trustworthy and religious'. Both said that they appreciated the non-denominational religious activities

arranged in their workplace and thought that this made their workplace special.

4.4 Specific Findings from Aspects of the Work Arrangements in Yogyakarta

In the following Sections of the Report, we set out our interview findings arranged by different aspects of the work arrangements, describing and contrasting the formal labour law and any informal norms that appeared to have influence.

4.4.1. Recruitment/Engagement

Indonesia's law on recruitment simply provides that employers may undertake their own recruitment or it can be done through labour placement agencies (Law no. 13/2003, art. 35(1)). The law provides that all workers should have the same opportunities without discrimination to obtain employment, and be treated the same without discrimination by their employer (Law no. 13/2003, arts. 5 & 6), although breach of the provision only attracts administrative sanctions. Other anti-discrimination provisions are found in the Constitution, the Human Rights Law (Law no.39/1999) and the Law on Racial Discrimination (Law no.40/2008).

We encountered two main ways that new workers are recruited; personally and impersonally. Personal recruitment is carried out through social networks such as the employment of the business owner's own relatives and friends, recruitment through friends and relatives of existing workers, or through neighbourhood or place of origin networks. These networks spread knowledge of the job opening but also play a role in the identity of the recruit. We found that neighbourhood recruiting did not always depend on the business owner being a member of that particular community. In one case a business owner was recruiting in a neighbourhood close by their place of business despite not living there themselves. In another, a husband and wife team from Padang in West Sumatra said that they exclusively recruited workers in a particular Javanese village outside of Yogyakarta as they had managed to form lasting ties with the people there. When recruitment occurs personally, the new recruit therefore had some form of pre-existing social tie to the business owner, even if the link was tenuous.

Impersonal recruitment was undertaken through advertising, whether via a poster placed in the workplace itself or advertisements in local newspapers or on the internet, and as a consequence the new recruit usually had no pre-existing social relationship with the business owner or other existing workers.

These two different recruitment modes did not correlate straightforwardly with the formality of regulation of different work arrangements. While workplaces with more formally regulated work arrangements certainly used impersonal advertising for new staff, particularly for skilled or senior staff, there were also a surprisingly significant number of informally regulated workplaces which also used impersonal advertising. For example, Ria and Vina, both waitresses, applied for their positions via newspaper and internet ads, but were employed under informally regulated arrangements. In another case, Dian, a cashier, applied for her job in response to an impersonal ad, but admitted that personal ties helped her to get the job (the friend of her older sister had worked there in the past). Perhaps the most surprising example was a roadside fruit salad vendor who said that she advertised in the local paper when she needed a new worker. She received three applications, tried each applicant out for a week and then chose the one she thought was most appropriate for the job, and that person then moved into her home. Hence,

it seems that business owners with more informally regulated work arrangements were likely to prefer recruiting through social networks, but would advertise impersonally when they could not find anyone that way. In another example, Ida, who was from another Indonesian island and owned and managed a tourist café and bar, would just place a poster in her café when she needed new workers as she did not have a local kin network. One larger restaurant used mixed recruitment methods, that is, impersonal advertising for its senior supervisory staff, but recruited its junior waiting staff though family and friend networks.

Despite principles of anti-discrimination in Indonesia's labour laws, it was generally very common for even formal job advertisements in Indonesia to openly specify gender, age, and sometimes physical attractiveness as prerequisites for applicants. We saw evidence of this in job advertisement posters in restaurants. One business owner said that she had a policy of only employing new people aged up to 25 years.

None of the respondents reported having paid or promised anything in order to obtain their position (it may be that this practice was more prevalent in the civil service in Indonesia, see: Kristiansen and Ramli (2006), although these practices have reportedly decreased in recent years).

4.4.2 Contracts/Work Agreements

Under Indonesian labour law, work agreements can either be written or oral (Law no. 13/2003, art. 51). Work agreements can be either fixed-term (or for a set piece of work) or for an indefinite term. Oral indefinite term agreements must be accompanied by a letter of appointment (Law no. 13/2003, art. 63). Fixed-term contracts, which must be in writing, are limited to work that is seasonal or temporary by nature. The definition of 'seasonal' or 'temporary' is left open to interpretation by District Labour Offices (*Disnaker*) via the requirement for all fixed-term contracts to be registered. Fixed-term contracts are limited to two years maximum duration and may only be extended by one year (Law no. 13/2003, art. 59; Minister for Labour Decision no. 100/2004). Following this an extension of two years is possible providing that a grace period of 30 days has passed (Law no. 13/2003, art. 59(6)). Adherence in practice to these legal limitations on fixed-term contracts is generally weak, with District Labour Offices exercising little oversight (Amengual and Chirot 2016; Landau et al. 2015; Anwar and Supriyanto 2012:13; Tjandraningsih et al. 2010). Labour outsourcing is generally permitted under Indonesian law, but Minister for Labour Regulation no.19/2012 restricted its practice to certain business support services (which are not normally required in the restaurant sector).

The interviewees in Yogyakarta described a range of formality of regulation in terms of their contract or work agreement, ranging from written contracts to oral agreements and unspoken understandings. The formality of the agreement was a fairly good indicator of overall formality of the work arrangement, but this was by no means always straight-forward. So the spectrum here is complicated by the specific restrictions on 'non-standard employment' and the tendency for these to be ignored in practice.

All the workers with written contracts whom we encountered were on a fixed-term contract of one or two years, despite the legal requirement that fixed-term contracts only be used for work of a 'temporary' or 'seasonal' character. Given that restaurant work usually occurs all year round and is unlikely to be construed as temporary or seasonal, this provides general support for the observation of the misuse of fixed-term contracts in Indonesia. Nonetheless, some work arrangements followed the mandated legal maximum duration for fixed-term contracts. For example, at a five star hotel managerial staff members were employed on two-year fixed-term contracts — to keep to the letter

of the law but continue to use fixed-term contracts, after two such contracts workers would have to be 'rested' for at least a month before being re-employed. Another strategy was to transfer managerial staff between hotels within the same chain, presumably with a new contract at each place. At the same hotel, lower level staff members were first employed on a fixed-term contract basis for a year and could eventually become permanently employed. At a restaurant in a mall, the reported pattern was 2-1-2, that is, a two-year contract, followed by a one-year contract, followed by another two-year contract for lower-level staff, while those at captain level and above were taken on permanently. In other places it seemed that the rule against fixed-term contracts was completely ignored.

We found no instance of fixed-term contracts that were not in writing, that is, all oral agreements implied an indefinite period of employment. Some of the oral agreements appeared to have more or less similar working conditions to the written contracts (such as being based on 8-hour working days with one hour rest with overtime payments). Some respondents, at the more informally regulated end of the spectrum, reported having had no, or only brief, discussions with the business owner about the details of their arrangement. For example, Irwan, a server in a small café, who was employed by a friend, said that he had not asked about his wages and conditions when he took the position and was simply prepared to accept what he was given. In other cases, the basic issues of wages, working hours and tasks were discussed, but more detailed issues such as sick leave were left to be discovered or negotiated later.

4.4.3 Probation

Probation periods (*masa percobaan*), or often referred to in the English as '*training*', seemed to be an important element of work arrangements in restaurants in Yogyakarta, with many of the interviewees reporting that they had experienced a probation period in their current position. Under Indonesian law, probation periods are not permitted for fixed-term contracts (Law no.13/2003, art. 58(1)), and for permanent employment may only last for a maximum of three months, during which time workers may not be paid below the minimum wage (Law no. 13/2003, art. 60).

The length of the probation period reported in the interviews varied from usually one to three months. One outlier example was the case of Dian, a cashier in a restaurant in a mall, who said that her company had recently increased the probation period from the previous period of three to six months, up to the current six to twelve months. Dian was on a fixed-term contract of two years. In another popular chain restaurant where the workers were on annual fixed-term contracts the probation period was only two weeks. These examples clearly contravene the prohibition on the use of probation periods for fixed-term contracts. Workplaces with more formally regulated work arrangements had clearer procedures for evaluation and warning systems for poor performance while on probation.

In three of the interviews (with Maya, Yuli (and Anisa), and Ramli), where it was explicitly stated that they had not had probation periods, all had quite informal work arrangements and pre-existing social relationships with the business owner or other workers. In another interview, Ria, a waitress who did not have a written contract, described her training period of three months as 'a formality only'. There seemed to be some correlation between the use of impersonal recruitment methods and the use of probation periods, that is, where the person was not previously known they would be put on probation before being fully employed.

The more informally regulated restaurants did not appear to have any fixed procedures for performance evaluation during the probation period, and in such establishments the 'training' aspect rather than 'probation' was emphasised.

4.4.4 Wages and Allowances

Employers in Indonesia are required to pay minimum wages (Law no. 13/2003, art. 88), although a deferral is possible with the permission of the Minister (Law no.13/2003, art. 90(2)). Minimum wage rates are determined at district and provincial level. Remuneration may consist of both basic wages and bonuses (Law no. 13/2003, art. 1(30)), but basic wages must constitute 75% of the combined total (art. 94). Wages are to be paid at least once per month (Government Regulation no.78/2015). Wages should generally be paid in cash, and any non-cash wages could not exceed 25% of the whole (Government Regulation no. 8/1981 on Wage Protection), although there is no specific regulation on this in the current law (Government Regulation no. 78/2015 on Wages).

It appeared to be standard practice across the spectrum of regulation of work arrangements for wages to consist of various components — a basic fixed wage calculated by the day or by the month, and then various types of bonuses that were paid in addition to this. How such bonuses were calculated was variable — in some cases it was tied to turnover and a bonus was paid during busy periods, in others it was a fixed bonus which was paid daily (while the basic wage might be paid monthly). We found no evidence of any negotiation taking place around wages and bonuses. Rather, remuneration appeared to be offered by the business owner on 'take it or leave it' terms. In a few very informal circumstances, the wage amount was not known at the point of engagement and was left for the business owner to determine after work commenced. Nonetheless, usually at least the starting wage was discussed explicitly.

Wages were paid at varying intervals, with monthly payment appearing to be the standard. In the more informal arrangements there was more flexibility around this issue, with workers able to request more frequent payment in order to meet everyday living expenses, or even less frequent payment as an enforced savings mechanism such as only taking wages when returning to a place of origin. For example, Tomi, a migrant from West Java whose wife and two children were living in West Java, would only take his wages about every three months when he went home to visit them. Some business owners chose to pay daily wages in order to avoid the necessity of ensuring that funds would be available at the end of the month. Most of the interview respondents reported being paid in cash, rather than as bank transfers, with the exceptions being the most formalised workplaces. There may be some correlation between the existence of a written contract of employment and payment of wages by bank transfer rather than in cash.

It was very common for workplaces to provide a meal to their workers during working hours, or a food allowance in lieu of this. One exception to this was the case of Dian, the cashier who worked in a chain restaurant in a mall, who had to source her own lunch. Meals could be cooked separately from the food served in the restaurant (especially where workers were averse to eating the type of food that they handle ever day or where the menu included expensive items), or in some cases workers were expected to just help themselves from the restaurant food. Some workplaces also provided a transport allowance to those workers who commuted to work.

Tipping was mainly only a reality in restaurants which catered to a Western tourist clientele. In the fairly uncommon case that tips were paid then they would generally be collected and divided evenly between all workers.

This study did not set out specifically to understand the role of the Regional Minimum Wage (UMR) in setting wage amounts given respondents' sensitivities around stating precisely how much they earn. The more informally regulated the work arrangements, and particularly where food and accommodation were provided to workers, the

apparently greater acceptance that actual wages would be below the minimum wage. Certainly workplaces with more formal practices paid at the minimum wage or above. We did find that the issue of minimum wages was the most recognised labour right in terms of knowledge among respondents (see also Section 4.3.3 above).

4.4.5 Accommodation

Indonesia's labour law provides that businesses can provide facilities ('*fasilitas*'), or money in lieu of facilities, to some or all of their employees. Further details on this are to be determined in company rules or collective agreements (Government Regulation no. 78/2015).

It was quite common for business owners to provide accommodation to their workers either at the back of the restaurant itself, in the owner's home, or in a separate '*mess*' (boarding house or dormitory for a specific business). There were certain factors which made this more likely, such as whether the worker was single, whether they had moved from outside the city and simply whether the business owner had the room to accommodate them. It appears that where accommodation was provided, it was given freely and did not involve an explicit cut in wages, that is, wages were paid at the same rates to workers who lived in the provided accommodation and to those workers who lived in their own place. This sort of arrangement was commonly referred to as '*fasilitas*' (facilities) which implied that it was freely given or at least subsumed in the calculation of remaining wages. As noted in Section 4.4.4 above, some workers mentioned that they accepted being paid wages under the Regional Minimum Wage as they were also being provided with accommodation and food.

The benefit to businesses of providing accommodation appeared to flow from the fact that workers did not have to commute and that they would arrive to work on time, and probably also be on call for any extra work that might be required of them. It also facilitated recruitment of non-local workers.

It appeared that having a worker living under the business owner's roof increased the *kekeluargaan* or 'family-like' ties that may exist between them. For example, Yuli and Anisa, reported that their workplace accommodated 12 young women workers on the floors above the restaurant including themselves. These young women workers had a night curfew and were expected to be back home every night as if they were the owner's own daughters. In some places it was clear that accommodation would be for all men or all women only, as it would be culturally inappropriate to have mixed sexes living together, and that this in turn impacted on gender recruitment preferences.

4.4.6 Annual Holiday Bonus

An important theme that emerged from the interviews was the payment of a bonus to workers at Idul Fitri (also often called Lebaran) at the end of the Islamic fasting month of Ramadan. This payment practice seemed to indicate an instance of interaction and mutual influence of norms in both directions over time, from informal regulation to formal law (Badan Pembinaan Hukum Nasional 1994:23) and then back again into informal practices.

This payment is translated here as Annual Holiday Bonus, or in Indonesian it has its own acronym, THR, short for *Tunjangan Hari Raya*. It is actually a legal requirement for companies to pay this bonus to all their workers, although its legal basis is somewhat shaky, and there are currently no clear legal sanctions for a breach of the requirement.

The idea of the THR first appeared in a regulation in 1954[22] which allowed for wage advances to be given to civil servants for the holiday on request (Suryomenggolo 2009:206). A series of Ministerial Regulations in the 1960s and early 1970s introduced the compulsory bonus for private sector workers[23] but it was then abolished in 1972 and replaced with a union negotiated bonus[24] as it was considered a burden to investors by the New Order government (Suryomenggolo 2009:209). Then, in 1994 in the context of widespread industrial action, a Ministerial Decision again made this bonus compulsory.[25]

The 1994 Ministerial Decision declared that it was just giving effect to a norm which had already arisen in labour practice. Various historical sources suggest that indeed the norm had been around for quite some time, at least as early as the 1950s, but took various discretionary forms, sometimes new clothing would be given or a small sum towards the expenses of travelling to one's home village for the holiday. For example, Ingleson (1981) makes mention of the expectation of wage advances for Lebaran in the 1923 railway workers strike (although this was not specifically identified as a bonus). Unions in the early 1950s made demands for the holiday bonus to be paid, and they were basing their claim on existing practices in some companies (Suryomenggolo 2009:204). Demands for holiday bonuses were also made via the government dispute resolution institution of the era, and decisions recognised that it had become a custom to give holiday bonuses (Suryomenggolo 2009:207). Willner (1958) also noted that Lebaran bonuses were customary in government, industry, and domestic work and where not given in cash were given as gifts of clothing. Aiz (2011) noted that in the mid-1950s various strike demands included for Lebaran gifts and bonuses. Bastos (1968:34) wrote that 'The Lebaran Bonus is a strictly observed tradition upon celebration of the end of Ramadan'. By the early 1980s, female factory workers were being paid the Annual Holiday Bonus of between 8,000 to 35,000 rupiah (Wolf 1991:141). A more recent study by Oey-Gardiner et al. (2007:264) found that 77% of batik homeworkers surveyed received an Annual Holiday Bonus from sub-contractors, although the bonus was often deducted from earlier wages.

According to the details of the 1994 rule, the bonus must be equal to one month's wages and should be paid to all workers who had worked in the business for more than three months. For workers who had been there between three and twelve months then a proportional bonus should be paid. It is supposed to be paid to Muslims at the end of Ramadan and to Christians at Christmas. Business owners who felt unable to pay the bonus were to apply to the Department of Labour two months ahead of time to be granted an exemption. Originally, sanctions for failing to pay the bonus (according to Law no. 14/1969) was a three month term of imprisonment or a small fine of IDR 100,000 (Hernawan 1999:147).

Although the umbrella law that this 1994 decision was passed to implement (Law no.14/1969) was overturned in 2003, and there is no mention of the requirement to pay the Idul Fitri bonus in the current 2003 Labour Law,[26] the 1994 rule is still being treated by the Ministry of Labour as a binding requirement although enforcement efforts are weak.[27] As the 1969 law was abolished in 2003, there are no longer any legal sanctions attached to the requirement

22 Peraturan Pemerintah no. 27/1954 tentang Pemberian Persekot Hari Raya kepada Pegawai Negeri (Government Regulation no. 27/954 on Giving a Holiday Advance to Civil Servants).
23 Minister for Labour Decision no. 16/1968 on the Annual Holiday Bonus in Private Companies, Minister for Labour Decision no. 209/1969 on the Annual Holiday Bonus in Private Companies, Minister for Labour Decision no. 202/1970 on the Annual Holiday Bonus in Private Companies.
24 Minister for Labour Decision no. 2877/MM/1972 on the Replacement of the Annual Holiday Bonus.
25 Minister for Labour Decision no. 04/1994 on the Annual Holiday Bonus for Workers in Companies.
26 The Annual Holiday Bonus was also not included in the never implemented 1997 labour law (Law no. 25/1997).
27 'Pengusaha Diimbau Bayar THR Tepat Waktu' [Business Owners Encouraged to Pay Annual Holiday Bonus on Time] *Hukumonline.com,* 19 July 2013, at http://www.hukumonline.com/berita/baca/lt51e92c7d45d20/pengusaha-diimbau-bayar-thr-tepat-waktu [accessed 20 May 2014].

to pay the bonus, although the Ministry of Labour may sometimes use 'moral sanctions' such as 'name and shame' tactics to promote adherence to the regulation. A Circular Letter from the Ministry of Labour in 2013 directed that the Annual Holiday Bonus be paid seven days before the holiday. It also directed district governments to set up Annual Holiday Bonus desks so that workers could complain about employers who fail to pay the bonus.[28]

We found in the interview data in Yogyakarta that almost every worker we spoke to, no matter how formally their work conditions were regulated, expected to be paid an Annual Holiday Bonus, but there was some variation in how it was being calculated. At the formal end of the spectrum workers tended to be paid a bonus exactly equal to one month salary. There were also some interviews where the worker said that they accepted that they would be paid a smaller bonus as they had not been there for the whole preceding twelve months. Ira, a café owner, explained that she had to scrimp and save carefully in order to be sure of being able to pay her workers their bonus, and that she did not pay it to workers who had been there for less than three months.

Further towards the informal end of the spectrum there was more variation in terms of amounts paid, and more acceptance that the business owner could determine the amount based on how well the business was faring and how pleased they were with the worker's efforts that year. In one case, Nita, a female cashier with a written fixed-term but automatically extendable contract, was certainly paid a bonus equal to one month salary at Idul Fitri, even though technically as she was Christian her bonus should have been paid at Christmas rather than at Idul Fitri.

There was no sense at all in the interviews that the rules around this bonus were enforceable at any level, but nonetheless there was quite a lot of consensus around this issue, indicating that the detail of the 1994 rule was having strong normative effects even in more informally regulated work arrangements.

4.4.7 Daily Working Hours

Indonesian law provides for a standard 40-hour week which can be arranged either as a 6 day week of 7 hours each day, or a 5 day week of 8 hours per day (Law no. 13/2003, art. 77), although some economic sectors are regulated separately. With regards to religion, workers are to be given time to carry out their religious duties (Law no. 13/2003, art. 80).

We found variable working hours (*jam kerja* or *waktu kerja*) across the different restaurants. The main factor involved was the opening hours of the restaurant itself. Generally the opening hours were fixed by the owner, with some possible extension if the restaurant was still busy towards closing time. There was usually a small adjustment made to opening hours during the fasting month of Ramadan (usually opening a little later in the morning than usual). Many restaurants used two shifts of around 8 hours to cover the full day from morning through to evening. A few places reported having a split shift schedule where workers would work in the morning, rest in the afternoon, and come back for the dinner shift. One small informally managed eatery was open 24 hours per day and used two shifts of 12 hours to cover the entire day, but this seemed to be an outlier in terms of long working hours, with most respondents working between 8 to 10 hours in the more informally regulated places, and 8 hours exactly in the formally regulated workplaces. All respondents reported that it was acceptable to take a break during the working day, either as a one hour break for those with more formally regulated work arrangements, or just to rest

28 Circular Letter of the Minster for Labour and Transmigration SE.03/MEN/VII/2013 on the Payment of Religious Annual Holiday Bonuses and Appeal for Lebaran Travel Home.

during the quieter times of the day for workers with informally regulated work arrangements. All also reported being able to take toilet and prayer breaks at their own discretion.

4.4.8 Overtime Payments

It is possible for workers to be legally employed beyond the 40-hour week, providing that the worker agrees and they do not work more than three extra hours in one day or 14 hours in one week (Law no. 13/2003, art. 78). Work on a weekly rest day or a national holiday is also deemed to be overtime. Overtime wages must be paid which are calculated as 1.5 times the normal hourly wage for the first hour, and 2 times the normal hourly wage for every subsequent hour (Minister for Labour Decree no. 102/2004 on Overtime Work and Pay, art. 11).

We found widespread recognition of the idea of overtime payments (*lembur*) for work beyond the standard eight hours. In some cases this covered the two extra hours where the shift was consistently 10 hours long. In others it was only paid in the case of a worker covering an extra shift when a colleague was away. The rate of overtime payment did not appear to be negotiated but rather was set by the business owner. Some respondents said that they did not know exactly how their overtime premium was calculated, while others knew exactly the amount of extra payment that they were due. Additional food allowances were also sometimes paid together with overtime.

While the formally regulated workplaces had clearer policies with regards to overtime, the payment of overtime was certainly not restricted to those with written contracts and other formal labour protections. For example, in the case of Ria, who had an oral agreement to work as a waitress, the standard in her café was eight hour shifts and any additional hours worked during peak season were always paid with an overtime premium. She was also paid additional bonuses when there was a higher daily turnover as a matter of shared informal expectations.

4.4.9 Holidays and Various Types of Leave

Workers are entitled to one or two rest days each week depending on whether they work a five or six day week. They are also entitled to 12 days annual paid leave, and two months leave after six years of continuous service (Law no. 13/2003, art. 79). Workers do not need to work on official public holidays (of which there are currently 15 per year), except for certain necessary industries where overtime must be paid (Law no. 13/2003, art. 85). Workers are also entitled to paid sick leave of 100% pay for the first four months, 75% for the subsequent four months, 50% for the subsequent four months, and 25% for the subsequent four months (Law no. 13/2003, art. 93(3)). There are also miscellaneous other types of paid leave available including menstruation leave and different types of family leave, including maternity leave.

There are two main relevant terms used for taking time off work in Indonesian. The first, *libur* (holiday), refers to regular scheduled days off such as weekends, but is also sometimes used to refer to public holidays (*libur nasional*, *tanggal merah)*. The second, *cuti* (leave), refers to various types of extended leave, including annual leave, sick leave and personal leave.

Most restaurants were open every day of the week and often on many or all of the national public holidays. Only a few establishments where we interviewed had a regular day of closure each week. Usually some form of rotating holiday schedule was in place. Again, the spectrum of formality applied here. In the more formally regulated workplaces workers had at least one weekly rest day as specified in their contract (in accordance with the legal requirement in the 2003 Labour Law). In the middle of the spectrum, workers got between two to four

days off (*libur*) per month, while some got no regular days off but would still often have the right to travel home occasionally and be away for a week or more at a time. Regular holidays (*libur*) appeared to be mostly part of an explicit agreement at the beginning of the work arrangement and was determined by the business owner in terms of numbers of days off, but was often negotiated as to exactly when those days were taken.

In the more informally regulated workplaces time off was negotiated on a needs basis. This was generally not discussed at the point of engagement but was assumed between the parties. It appeared that days taken as *libur* were still paid when the person received a monthly wage, but usually not paid if they were paid on a daily basis. In the most informally regulated workplaces there seemed to be no clear distinction between taking regular and irregular time away from work. For example, the following extract is taken from the interview with Nur, a woman in her 50s who had been employed in the same eatery since she was young:

> *Do you take days off (libur)?* Yes, if I have something that I need to do, then I take a day off (*libur*). *Ah, so you don't necessarily take a day off each week?* No. It's just if I have a need, then I have a holiday (*libur*). *How do you arrange to take a holiday?* Yeah, I just directly say so. I directly say what it is that I need to do. I just say it plainly. *And you're always given permission?* Oh yes. *Does that include if you want to go home to your village?* Yes, if I need to do something there then I will be given a lift. But even if I don't have a need to go, at least once per year I surely go home to the village.

As of 2013, Indonesia had 15 days of public holidays (*tanggal merah*) per year covering the major religious holidays of the six officially recognised religions and several other national days. Many restaurants remained open on these days as there were often increased numbers of customers, although it was common for Muslim-operated businesses to close for a few days sometime during or at the end of Ramadan, or, for example, at Christmas where the owner is Christian. The more formally regulated workplaces either paid overtime for work on public holidays, or allowed their workers to take days off in lieu of working on public holidays. The more informally regulated workplaces appeared to have far fewer explicit rules with many making no special provision for work on these days.

In the more formally regulated workplaces annual leave (*cuti tahunan*) was calculated precisely as a certain number of days per year (the legal requirement was for 12 days of leave after twelve months of employment). This pattern was found in the cases of Yenny and Firman, for example. For most of the informally regulated workers, some form of leave would be granted for religious holidays, most often sometime during or at the end of Ramadan, but there was no precise calculation of entitlements made.

All interview participants said that they could take sick leave (*cuti sakit*) when unwell. Usually if on sick leave workers would be paid their basic wages as usual (unless the person was paid on a daily basis), but bonuses would often not be paid for the days that they were away sick. In one case, that of Wati, a 41-year-old woman who had an oral employment agreement, time taken off for illness had to be made up at some other occasion. All participants reported that some form of notification to their boss was required, and sometimes they would also need to notify colleagues who would need to cover their shift. The main point of difference between the more formally and informally regulated workplaces was whether a doctor's letter was needed or not. Most of the interviewees with formal arrangements said that they needed to provide a doctor's letter as evidence that they were sick. An exception to this rule, was Nita, a 32-year-old cashier with a fixed-term employment extendable contract of one year, who reported that she did not need to provide a letter from a doctor but only to let the boss know. Another exception was Dewi, who generally had an informally regulated work arrangement, but said that she would need to provide a doctor's letter to take sick leave.

It was also very common for workers to be granted 'needs-based leave' in the event of illness of a child or relative, bereavement leave (e.g. death of relatives and neighbours), leave to get married, if some other urgent matter arose or even for just vaguely defined 'tiredness'. Again, the most formally regulated workplaces would allow this in accordance with the 2003 Labour Law (Art. 93(4)) which provides for two days leave to get married or two days bereavement leave for the death of a close relative. In other cases time away was counted as annual leave. Some of the more formally regulated workplaces, however, were also likely to allow other forms of ad hoc compassionate leave when workers had a good reason for needing it and a reasonable amount of time was requested (up to a week). The ability to take this kind of leave was rarely if ever discussed at the time of engagement but was negotiated later as the need arose.

The final type of leave is maternity leave. The 2003 Labour Law provides for fully paid leave for 1.5 months prior to the birth of a child and 1.5 months after the birth or miscarriage (arts. 82 and 93). We found fairly widespread acceptance that women can take maternity leave with their basic pay for up to three months, although daily bonuses would often not be paid during this time. One exception was Yenny, a 21-year-old woman employed in a fast food chain who had a contractual agreement that she would not get married during her first year of employment (presumably as a way of reducing the possibility of needing to pay for maternity leave). In the more informally regulated workplaces the possibility of maternity leave was not discussed explicitly at the time of engagement but negotiated should a female worker become pregnant. Where there had not been anyone who had taken maternity leave, interviewees tended to be unsure of how long it could be taken for. Fathers are usually granted paternity leave of just two or three days as per the 2003 Labour Law.

4.4.10 Discipline and Dismissal for Misconduct

Indonesia's labour law provides that if a worker breaks the provisions in their employment agreement, company rules or collective agreement, they can only be dismissed after first having been given a first, second and third warning (Law no. 13/2003, art. 161(1)). Each written warning letter is valid for six months before expiring (s. 161(2)). Employers are permitted to cut the wages of their employee as a fine for an offence stipulated in a collective agreement or company rules (Government Regulation no. 8/1981 on Wage Protection, art. 20, Government Regulation no. 78/2015 on Wages).

We found this system in place in the more formally regulated workplaces including the five star hotel. In some of the more informally regulated workplaces, oral warnings were used with much less definite time periods in which the worker has the chance to change their behaviour. In the most informally regulated arrangements, reprimands and eventual firing were entirely at the discretion of the business owner.

Most respondents made a distinction between deliberate flouting of rules and accidental rule breaking due to circumstances outside their control such as being late to work due to traffic. In many cases, a genuine reason for being late would be accommodated by business owners. Accidental mistakes, such as breaking a plate or giving back incorrect change, were usually responded to with an admonition to be more careful next time. One exception was Maya, a waitress with an oral work agreement and other informal arrangements, who said that she had once made a mistake with the cash and her wages were cut. However, other times that she had made mistakes her boss just got angry and told her to be more careful.

While many of the respondents reported that no worker had been fired in their workplace and that workers had always left of their own volition, in some of the interviews respondents reported that workers had been fired in

their workplaces. The reasons for this included: corruption through pretending they had paid more for goods at the market than they actually had, dishonesty, lack of discipline, failure to change bad behaviour after lots of warnings, often arriving late to work and not heeding warnings, and doing what they liked and not accepting supervision. In Yuli and Annisa's workplace, which employed all young women and housed them on the premises, one worker had been fired for breaking curfew rules, indicating that the business owner's rules extended beyond actual working hours.

The interview data indicated that there are no formal or informal dispute resolution systems outside the workplace influencing the work arrangements of the respondents. That is, there was no indication that a village head or someone in a position of authority would step in on a worker's behalf in cases of a workplace dispute. Although the balance of power was generally swinging more in the business owner's direction, it was clear that many workers felt that they could vote with their feet and leave to find alternative employment, or less commonly to act individually to improve their situation such as by working slowly as a form of protest. Business owners still needed to keep up with local standards of pay and conditions to ensure that they did not lose their workers.

4.4.11 Termination of Work by Employers for Economic Reasons (Redundancy)

The law allows employers to terminate fixed-term contracts only if they pay out the remainder of the salary due under the contract. For permanent employees, dismissal due to redundancy is permitted (Law no. 13/2003, art. 164(3)) but if a redundancy package is not agreed by the employee then approval is required from the Industrial Relations Court.

In the cases where workers were on fixed-term contracts, it appeared that this provided employment security though to the end of the contract term. In some places, in the middle of the formality spectrum, there was a presumption of contract renewal for as long as the worker wanted. In the more formally regulated workplaces, particularly in chain restaurants, workers could be laid-off at the end of their contract term. For example, an interviewee who had formerly been employed at McDonald's reported having been laid-off at the end of his contract following a change in management and a policy of downsizing.

In the more informally regulated workplaces, there was the presumption of permanent employment. None of the workers employed in such places expressed any fear that they might be let go in tough times, and the business owners that we questioned on this issue also said that they bear all of the risk of this occurring and would not downsize. At the most they would not replace workers who had resigned. On the evidence here, it appeared that within informally regulated workplaces there was greater employment security. This point could bear further investigation as the sample of business owners interviewed was small, and there is a need to ask more probing questions about past practices particularly during times of economic crisis. Of course, if a business fails completely then the owner will be forced to let all their workers go.

4.4.12 Termination of Work by Workers (Notice)

Under Indonesian labour law, workers may end fixed-term contracts early providing that they compensate their employer for the time remaining on the contract (Law no. 13/2003, art. 62). Permanently employed workers can resign providing that they give 30 days' notice (Law no. 13/2003, art. 162(3)).

As noted above in Section 4.4.2, written contracts tended to be fixed-term, usually of one or two years, and there

was strong pressure on workers to see out the end of their contract before leaving. In others, the existence of a written contract did not seem to hold workers in the same way, and there was little sense that penalties would be applied for leaving early.

Few informally regulated arrangements specified a notice period. In the more informally regulated workplaces we received conflicting stories on the issue of resignation and notice. On the one hand workers reported that they would give proper notice to the business owner if they intended to leave. Many said that they would politely approach the owner in person and explain their reasons for leaving and said that they would probably play a role in finding their own replacement and training them before eventually leaving. Acceptable reasons under such circumstances could include for a female worker getting married or pregnant, or workers leaving to start their own business. The period of acceptable notice varied from around one week to one month, this was not always an express agreement, but relied on what the worker felt was personally appropriate so as not to inconvenience the business owner. On the other hand, many respondents also reported that in the past former workers had often simply failed to come to work and had not bothered to give notice.

Despite the existence of written contracts, there appeared to be little to no expectation that written contracts would be enforced against a defaulting worker (as indeed is the case in many other parts of the world). Many of the interview respondents reported that other workers in their workplace had gone home to their village for holidays and simply not returned to work without any particular repercussions. For example, Robi explained the situation in his large restaurant which used written contracts:

> *If a worker runs off, how can they be chased up?* Yes, that's a problem. Well for most of the workers here, if they get a new job, then they directly run off. They don't write a letter of resignation as they should. That's one of the bad things here [laughs]. *So even though there's a written contract* … yes maybe it's because the workers themselves don't understand it properly, they don't understand the contents. *So there's no attempt made to enforce the contract?* No, if there's no particular problem then a legal case is not made of it. Usually we would just phone them up, to ask them why they haven't come to work. We would say, if you're leaving why didn't you just say so? Where are you now? If they say 'I'm far away from Yogya' well that's just the end of it. *Does this happen often?* Well not that often. On average the workers here are happy.

This account seemed rather at odds with many of the assertions made in other interviews that workers would definitely give their business owners notice and even assist with finding and training a replacement before leaving. While some business owners reported acceptance that the occasional worker would simply disappear, in one fast food chain restaurant it was reported that original school diplomas were held as a guarantee that workers would see out their fixed-term contract. In another more formally regulated restaurant, the owners would take sight of ID cards, and noted down very detailed personal particulars (the same kind of information needed for opening a bank account) including the names and addresses of the worker's parents.

4.4.13 Workplace Related Injury or Illness

Generally, employers in Indonesia have a general duty provide a safe workplace (Law no.13/2003, art. 86). More detailed provisions are found in Law no.1/1970 on Workplace Safety. Indonesia's former social security program (*Jamsostek*) had workplace injury insurance for private sector workers based on employer contributions, but this was only compulsory for workplaces with 10 or more employees (Law no.3/1992, art. 19(2)).

Although workplace safety was included on our interview question list, we did not tend to focus on this topic in any detail. This was partly driven by the lack of interest shown in the question by interviewees themselves who felt that safety was not really an issue for them (the implication being that restaurants are generally safe). When pressed on the issue of burns and cuts in the kitchen most agreed that this happened sometimes but it was not a big concern. Many of the restaurants had first aid kits available. Many of the more informally regulated workers commented that 'safety just come from ourselves, from common sense'. Responses indicated a greater focus on food handling and cleanliness than worker safety, and sometimes the two issues were conflated in respondents' answers to questions about safety. Specific safety rules and procedures were certainly more evident in the more formally regulated workplaces. There was also a very general sense that business owners across the formality spectrum feel morally responsible for costs associated with workplace injury or sickness, and that workers expected that the medical costs of any workplace injury or sickness would be covered by the business owner.

Nonetheless, in some of the more informally regulated workplaces there was an expectation that business owners would provide some form of direct financial assistance for medical costs of the worker. In some cases, especially where the worker was living with the business owner, then the medicine might be bought directly by the owner. In others they cover the cost fully, or provide 50% of the cost. It seemed that these arrangements were not always part of any explicit agreement made at the start of the work relationship, but workers often found out about it later. A couple of the respondents said that any medical treatment that they sought would be through the free *Puskesmas* (health centre) system and hence they did not need assistance from the business owner.

4.4.14 Security for Unexpected Personal Financial Needs

Many of the interview respondents reported being involved in *arisan* (rotating credit associations, see Section 3.3.1.2 above), either in the workplace itself or in neighbourhood groups. *Arisan* involve regular meetings where each person contributes a set amount and a lottery is conducted to determine which member takes home the pool. Once a member has 'won' the money, their name is removed from the lottery. In this way each person eventually takes home the same amount that they put in. Respondents reported that there was some benefit to this kind of enforced saving, but that mostly *arisan* are about being friendly and building social relationships. These did not appear to be deliberately determined policies for facilitating workplace relations or the feeling of family-ness (*kekeluargaan*), but rather arose on the initiative of workers themselves. A small number of interview participants also reported being involved in types of neighbourhood credit cooperatives (*simpan pinjam*), where each member contributes an initial amount, and then members may borrow from the pool at low interest and members may also make a small profit from the interest.

A far more prevalent form of social security found across the interviews was the ability to borrow money from the business owner or to ask for wages to be paid early (practices both known in Indonesian as *kasbon*). It seems that this facility was not talked about at point of engagement but rather was accepted as a possibility across the restaurant sector irrespective of the formality of other work arrangements. It is probably also widespread in other sectors. Acceptable reasons for a loan seemed to cover unexpected events or costs ranging from money for a wedding, to pay medical or education costs for a family member or just to pay a particular bill. The loan would then be paid back through negotiated cuts to the worker's wages over time and there was no indication that interest would ever be charged. This ability to borrow money seemed to function as a form of social security. It also reinforced ties of debt and obligation, but the existence of these types of loan implied quite a lot of trust on the part of the business owner given how easy it can be for workers just to get up and leave one day.

There was some variation in this, mainly around where the business owner was based far away and wage payment was made from a distance, say from Jakarta; in such cases the worker felt that they could not approach the business owner for a loan. In some instances respondents said that they would feel more comfortable borrowing from a colleague rather than from their boss. However, the majority of workers felt that this option was open to them and many had made use of it. In another exception, in a medium-sized workplace, that of Dewi, the workers themselves had requested the formalisation of the borrowing process through the creation of an in-house credit union. Dewi described the scheme in the following terms:

> We each put aside a small amount of our wages to be circulated, to be lent to our colleagues. *And later, wages are cut a little to pay the debt back?* Yes, that's right. For example, if someone needs Rp 500,000 then we give that to them. But they have to put in a request a month ahead and what they need it for, for example, if their child is sick. Then we can give it to them with low interest, to help them. We usually don't have that big a pool — maybe just Rp 3,000,000 so we decide who can borrow Rp 200,000 or Rp 300,000. Besides that we also have workers' savings accounts. They can save Rp 10,000 each month. So that money can be lent to their fellow workers. Then, if the employee wants to resign then we calculate their savings and we return it to them.

There is no legal basis for borrowing arrangements between business owner and worker in Indonesia's labour laws. The particularly interesting thing was that we even found such practices in even the most formally regulated workplaces, including those which already enrolled their workers in the national social insurance scheme (*Jamsostek*) and provided them with the full range of legally required benefits. In the five star hotel, for example, dedicated funds were put aside at the departmental and hotel levels to provide workers with this borrowing facility. The respondent there said that one of the reasons for the existence for the funds was to deal with gaps in coverage under *Jamsostek* (for example, some forms of medication were not covered). This appeared to be an instance of informal norms complementing part of the formal system. Of course, based on the limited evidence gained through this pilot project, it is difficult to say exactly where the practice of *kasbon* originated, and this is something that could be pursued in further research.

In one unusual eatery with some not-for-profit objectives, the business made regular contributions to education funds for all workers with children. These funds could later be accessed for school costs.

4.4.15 Security in Unemployment and Retirement

As noted in Section 3.2 above, although Indonesia's social security schemes for private sector workers (*Jamsostek*) included accumulation retirement benefits, employer contributions to these funds were only compulsory for workplaces with 10 or more workers. Beyond this, there were no state-provided unemployment benefits available. Only the most formally regulated workplaces — the five star hotel and a couple of chain restaurants — provided workers with *Jamsostek* coverage. This finding accords with wider analysis of the limited reach of *Jamsostek* in Indonesia.

We found no contributions for retirement benefits nor the expectation of such contributions in any other work arrangement. *Kekeluargaan* principles did not extend so far as providing for a worker beyond the end of their work arrangement. Workers tended to say that it was their own responsibility to put aside money for when they are too old to work. For example, Robi a management level worker, explained that he had started an egg production business on the side as an effort to fund his eventual retirement.

4.4.16 Workplace Organising

The Indonesian law on trade unions guarantees the right to form a trade union and prohibits dismissal, reduction in pay, or intimidation on the basis of union membership or leadership (Law no. 21/2000, art. 28). Law no. 13/2003 also confirms the right to form a trade union (art. 104). Employers may not fire someone on the basis of union membership or involvement (art. 153(g)). In the interviews, there was only one workplace with a union and this was the five-star hotel restaurant where the union covered the entire hotel staff. Beyond this, interviewees expressed little knowledge or interest in labour unions or any other worker organisations, or in collective bargaining.

5. Conclusions

This pilot project has produced a set of empirical interview data that give us a range of insights into the complex spectrum of work regulation in one city in Indonesia (Yogyakarta), in one sector (restaurants and eateries) and at one point in time (2013). It has demonstrated that there is a spectrum of work arrangements ranging from the formally regulated to the informally regulated. There is a complex interface between Indonesia's formal labour laws and informal modes of work regulation which are usually based around the idea of *kekelargaan* encompassing the fictive family, patron–client relations and ideals of reciprocity. It appears that different aspects of the work relationship may be regulated more or less formally than others in particular workplaces and for individual workers. We have observed that informality of regulation does not necessarily lead to insecurity of position or of poor social security cover, but any guarantees are based in feelings of moral responsibility rather than enforceable rules. Various informal institutions contribute to worker social security in Indonesia including the ability of workers to borrow money from business owners and to take leave when family situations arise. At the same time we found evidence of apparently formally regulated workplaces flouting or bending some of Indonesia's formal labour laws.

This research on restaurants in Yogyakarta has confirmed many of the insights drawn from the wider literature review of informal work arrangements from around the world presented in Section 2.4.1. It is clear that informal norms and institutions are specific to place, time and sector. The research supports the conclusions of Harriss-White (2010) on India that 'institutions of social identity' play important roles in determining work arrangements, but do not necessarily function in any definitely predictable way. Patron–client type relationships continue to exist in Indonesian work arrangements, often mixed with ideals of the family and the creation of fictive kinship links. We found evidence of kinship and native place networks particularly in the recruitment of new workers. Religion is also an important facet of informal work arrangements affecting choice of workplace and personal attitudes towards work. Religious rituals are sometimes a feature of workplace relations. This study also noted that workplaces sometimes regulate the work arrangements of some workers more formally than others. We did not observe the existence of any kind of semi-formal labour code as found by Yoruk (2009) in Turkey, but rather identified various norms and institutions as well as a degree of fluidity and differences across workplaces. We found little evidence of agency and resistance in this pilot study, but this is probably a result of the limitations of the particular methodology used.

We have extended the findings in this small body of existing literature on informal work arrangements to include analysis of the interface between formal and informal modes of regulating work. We found evidence of informal norms and institutions, such as the ability of a worker to borrow money from the owner of the business, also being available in more formal settings and being complementary to formal regulation. In other cases the informal norms and institutions were entirely or partially regulating work arrangements where formal labour law was unenforced and ineffective. Formal laws and institutions were also having effect beyond the actual scope for enforcement, particularly in the middle of the formality spectrum. On some of the issues covered in this Report, in particular that of the Annual Holiday Bonus, we found some evidence of regulatory mutual influence, that is, of norms moving between the formal and informal spheres over time. We intend to explore all of these issues further as we extend the project beyond a pilot study to other field locations.

Our final observation is a comment on the effectiveness of our research methodology in this pilot project. We found the semi-structured interview method worked very well for discovering the reality of regulation of work arrangements, as did the aim to interview across different workplaces. However, we found little evidence of workplace disputes in our interviews. It is acknowledged here that our sample may have been skewed given that we tended to interview happily employed workers rather than anyone who might have left their workplace as the result of a serious dispute. Our method of using one-off interviews might also have inhibited the kind of trust needed to encourage participants to speak of disputes and complaints. It may be that our methodology could be expanded and complemented with attempts to gain greater insights into dispute processing perhaps through ethnographic methods or through the targeting of people involved in specific labour disputes for interviews.

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Glossary

Adat	Custom, tradition, customary law
Angkringan (Javanese)	Small roadside stall selling snacks and drinks
Arisan	Revolving Credit Association
Askesos	Social Welfare Insurance
ASTEK	Worker's Social Security Scheme (1978–1992)
Badan Hukum	Legal Entity
Bagi Hasil	Profit sharing
Becak	Pedicab
Cari Pengalaman	To look for experience
Cuti	Leave
Cuti Hamil	Maternity Leave
Cuti Tahunan	Annual Leave
Cuti Sakit	Sick Leave
Fasilitas	Facilities, work benefits additional to wages
Gotong-Royong (Javanese)	Mutual Assistance, communal labour
Gratifikasi	Dividend, bonus
IDR	Indonesian rupiah
Ikhlas	Sincere, wholehearted
Jam kerja	Work hours
Jamsostek	National Workers' Insurance Scheme (1993–2013)
Karyawan	Private sector worker
Kasbon	The practice of borrowing money from a business owner and paying back the loan through agreed wage cuts
Lembur	Overtime
Libur	Holiday, scheduled day off work (such as a weekend)
Masa Percobaan	Probation Period
Mess	Boarding house for workers of a particular business
Merantau	To migrate (usually for work or to seek one's fortune).
Ngenger (Javanese)	To serve, traditional form of patron-client employment
Pasar	Market
Pedagang Kaki Lima	Street peddler
Pegawai Negeri	Civil Servant
Perseroan Terbatas (PT)	Limited Liability Company
Preman	Gangster, thug
Puskesmas	Community Health Centre

Rumah Makan	Restaurant/Eatery
Rp	Indonesian Rupiah
Restoran	Restaurant
Simpan Pinjam	Credit Cooperative
Sistim Kekeluargaan	Family-like/kinship System
Surat Izin Tempat Usaha (SITU)	Licenses for a Business Place
Tanggal Merah	Red Calendar Day — Public Holiday
Tunjangan Hari Raya (THR)	Annual Holiday Bonus
Upah Minimum Regional (UMR)	Regional Minimum Wages
Warung	Eatery
Warung Padang	Padang Restaurant/Eatery
Warung Tegal	Tegal Eatery
Warung Tenda	Roadside Tent Eatery
Zakat	Islamic alms-tax for distribution to the poor

Appendix: Semi-Structured Interview Questions

Consent

- Do you consent to being interviewed about your personal background, work history and current work arrangements?
- Do you consent to this interview being audio-recorded?
- Or in the alternative, do you consent to written notes being taken as a record of this interview?

Biodata

- Age:
- Gender:
- Birthplace:
- Ethnicity:
- Nationality:
- (If not a citizen/resident) Type of Visa:
- Religion:
- Highest education level:
- Marital Status:
- Do you have children or other dependents? Where do they live?
- How long have you lived in this city?
- Where else have you lived?

Work Placement and History

- What is your role in this workplace?
- What sort of business form does this workplace have? (prompt: limited liability company, franchise, informal business).
- What are the different work roles in this workplace? (prompt: business owner, supervisor, chef, waiter…)
- How long have you worked in your current position?
- Where have you worked previously?
- Why did you leave your previous employment?
- Do you have a written contract of employment?
- If yes, what does it say? (prompt: is this a permanent, casual, part-time arrangement, hours, leave, responsibilities, duration, pay...)
- If not, what did you agree with the business owner about your work position? (prompt: hours, leave, responsibilities, duration, pay...)
- What did you and your boss expect your job to be like?
- Was there anything that was not written or said explicitly, but you assumed about your position?
- Are you a member of a trade union? How long have you been a member?
- Are you a member of any other associations? (prompt: associations that give you advice about work or other forms of social/economic support)
- Is this the only employment that you have at the moment, or do you also work elsewhere?
- Can you compare the conditions in this job with other jobs you have held?

Knowledge

- What do you know about this country's labour laws?
- What do you know about your rights at work? (prompt: pay, time, leave, dismissal, social security, right to join a union etc.).

- What do you know about other rules /customs about employment in workplaces like this one? (prompt: e.g. everyone knows that in restaurants like this one wages are paid daily, everyone knows that overtime is never paid etc.)
- Where did you learn all of this?

Recruitment

How did you get your current position? (prompt: friends, relatives, through an agency)
How did you know that the position was available?
Why did the business owner choose you, and not somebody else, for this position?
Why did you choose this place to work and not another?
Do you have any relevant training? Or were you provided with training after starting work?
Are you related to, or have other social ties to the business owner or any other worker here? (prompt: same village of origin, friend of a friend etc).
Did you have to pay anything/promise anything to get this position?
Did you have a probation or trial period?

Employment Arrangements

- What are your hours and days of work?
- How are your work hours determined?
- Are these hours flexible? Can you ask to change them? Does the business owner change them sometimes/ often?
- Do you take holidays? How are they decided?
- Do you work overtime? Under what circumstances do you work overtime?
- How often do you get breaks on a normal workday?
- Are you given time at work for personal activities? (prompt: prayers, visiting the bathroom, cigarette break etc).
- How do you know what tasks to perform each day?
- Who decides what tasks you perform?
- What other rules are there that you have to follow while at work?
- Do you have the same workload/worktimes as others workers here? If not, why not?

Remuneration

- How do you get paid? (prompt: cash, cheque, transfer, with payslip)
- How does the business owner decide how much to pay you?
- How often are you paid?
- Are you paid the same as other workers doing the same work?
- Are you always paid on time?
- Have you not been paid sometimes? If yes, what did the business owner or manager tell you? What did you do?
- What would happen if you weren't paid on time or weren't paid in full? (e.g. if the business was experiencing temporary difficulties?)
- Would you be paid more if the business is doing well? (prompt: bonuses)
- Are you provided with anything other than wages? E.g. travel money, work clothes, meals, accommodation, holiday bonuses, tips…
- Do you get paid for any overtime or weekend work? How is it calculated?
- What happens during public holidays? (prompt: Ramadan). Does the business close? Are you paid less or not at all?
- Have you ever taken holidays on this job? Do you get paid when you go on holidays?
- What happens when you are sick? Do you take time off? Who pays your medical costs?
- What happens if someone in your family is sick?

- Are taxes or other deductions made from your pay? (prompt: social security, superannuation, penalties for being late)
- Does your pay meet your basic needs? If not, how do you meet your needs?

Discipline

- Have you ever made a mistake/done something wrong at work? What was it? What was the business owner's response? How did other workers respond?
- Do you know of any instances where other workers have made mistakes at work/broken the rules? What was the business owner's response?

Social Security

- Have you ever borrowed money from the business? Could you do so if you needed to?
- Have you ever borrowed money from another worker? Why did you do so?
- Have you ever given or loaned money to another worker or to the business owner? If so, why, or why not?
- Are you enrolled in a social security scheme (prompt: Jamsostek, superannuation?)
- Would the business owner pay some other kind of pension if you needed it?
- Are you a member of any kind of economic support group (prompt: arisan (revolving credit group), an ethnic or migrant support group? If yes, what are the benefits of being a member? If not, why not?
- For women: what would happen if you were pregnant? Would you lose your job? Could you take maternity leave? Could you bring the child to work after it is born, or be given time off to breastfeed? Would medical or any other costs be covered?

Safety

- Do you feel safe at work?
- Who makes sure that the workplace is safe?
- Did you get any Occupational Health and Safety (OHS) training?
- Are there any OHS notices at your workplace? Do you understand them?
- What would happen if you suffered an injury at work?

Workplace relations

- How would you say you get along with your boss? (prompt: Do you think you owe him/ her anything? Has he/ she assisted you in any way outside of work, eg by lending you money, finding accommodation etc)
- How do you get along with your co-workers? Do you generally work the same shifts with the same people?
- Do you know if the other workers are working under the same conditions? (prompt: get the same hourly pay? Leave conditions etc)
- Have you ever been bullied or discriminated against by your boss or colleagues? If yes, how did you respond? If not, how would you respond if it happened?

Disputes

- Have you ever had a dispute or argument with the business owner?
- Have you ever had a dispute or argument with other workers?
- What happened? How was it resolved?
- Have you ever wanted to dispute something at work, but been reluctant?
- If you had a dispute with the business owner, but couldn't resolve it, where would you go? Would your family/other workers/union leader/ village head/religious leader etc act on your behalf?

Ending Employment

- What would happen if you decided you didn't want to work here anymore? Could you just leave? Would you need to ask permission to leave? Would you need to give notice? Would you feel ashamed to leave?
- What would happen if you were fired? Could you dispute the decision?
- Has anyone else ever been fired here? What happened? Where did they go?
- Is it likely that you could be fired?
- Could you work here until you are old and ready to retire?
- Would you be given severance pay if you were fired?
- If you lost your job, how would you support yourself until you found a new one?

Evaluation

- Are you happy working here?
- What possibilities are there for you to be promoted in this workplace?
- What factors determine promotion? (prompt: experience, hard work, personal connection to the boss)
- Do you plan to continue working here in the future?
- Do you feel vulnerable at work?
- What changes would make you feel more secure with regards to your employment arrangements?

Final Admin Matters

- Are you interested in reading the report of this research once it is completed?



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