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**The Logistics of Neoliberal Slavery:
Legal Production of Illegality**

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The Logistics of Neoliberal Slavery: Legal Production of Illegality¹

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Abstract

Ambalavaner Sivanandan, the Sri Lankan writer and activist, observed several decades ago that the technological revolution in the 20th century had created a new global assembly line and a new hierarchy of production. Sivanandan challenged the ambiguous label of “illegal” that people put on the temporary workers in the service industries. To him, the migrants and asylum seekers are the casualties of the new imperium. ‘There is no such thing as *illegal* immigrants, only *illegal* governments.’ This paper wants to push further Sivanandan’s contention and argue that the logistical chain of the neoliberal slavery system supports the global production-supply-consumption line. At the same time, the legal implementation of local governments concerning the “guest worker program” further reinforces the neoliberal slavery system. This paper challenges the paradox of citizenship and the legitimized internal colonization. Ultimately this paper aims to urge the reconceptualization of the concept of “citizens” — “city-dwellers”— who live and work in the same city should belong to the place and enjoy equal access to the social space.

Keywords: Logistics, Neoliberal Slavery, Internal Colonialism, Unequal Citizens, Border Politics, Citizenship Politics, Civic Exclusion, Migrant Workers

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Introduction: The Sardine Can at Sea



On January 9, 2017, the Indonesian weekly news magazine *Tempo* featured two startling images on its cover—on the right, for the English version, a half-opened sardine can which is stuffed not with processed sardines, but lined-up troops of grey and drooping human forms; on the left, for the Indonesian version, one hand clutching the barred hatch cover. The title of this issue is “Slavery at Sea,” a story about the slavery practiced by the Taiwanese pelagic fishing industry, which mistreated thousands of Indonesian fishers who were sold at sea. (Nakamura et al. 2018a)

This special issue on slavery at sea features several stories about thousands of Indonesian fishers suffering from human trafficking and slavery treatment on Taiwanese fishing vessels. The in-depth reportage in this issue was conducted and collaborated by two research teams, one group is the *Tempo* Magazine research team from Indonesia, and the other group is the team of the independent media *The Reporter* (*Baodaozhe* 報導者) from Taiwan. The Taiwanese special issue on the slavery at sea was published a month earlier, on December 19, 2016, and several follow-up stories were also released on January 10, 2017, and published as a book later in April 2017.² (李雪莉 2017)

From the stories covered by *Tempo* and *The Reporter*, we learned that most of the fishers do not have any legal documents, nor registered as migrant workers either in Indonesia or in Taiwan. They could not obtain juridical protection under the labor law, nor receive any social welfare, such as medical services or insurance benefits. Their average salary is 9,000NT (298

² All the stories covered by *The Reporter* were released on their official website:

<https://www.twreporter.org/topics/far-sea-fishing-investigative-report>. Accessed May 15, 2020. These stories were later published in a book form in 2017. 《血淚漁場：跨國直擊台灣遠洋漁業真相》 by Bao dao zhe wen hua ji jin hui. [報導者文化基金會],

USD) per month, much lower than the basic monthly salary 22,000NT (730 USD) stipulated by the labor law in Taiwan. But many fishers ended up receiving no salary at all after their work for several months, except for a return ticket back to their hometown. (Parhusip 2019)

Shirley Lee (Li, Xue Li , 李雪莉), editor-in-chief of *The Reporter* and the author of this reportage, pointed out that the official record from Taiwan government shows that there are around 9,000 fishers from Indonesia. Still, according to the research team from *The Reporter* and *Tempo*, the number provided by the Port Statistics and various sources of the Indonesian government is about 40,000. (“far-sea-fishing-tempo-report - 報導者 The Reporter” n.d.) The considerable discrepancy of these figures by both governments shows a chain of loopholes from both ends. The selling of the counterfeiting and forged documents for the fishers is a big underground business involving local brokers all over the ports, large cities, and rural areas. Also, these fishers had to work on the fishing vessels up to 20 hours a day, sometimes tortured by the captain or other crew members from different countries, with crude racism, even starved for long hours, and sometimes could not leave the boats for over one month. It is, indeed, a form of slavery. Lee wrote, “The road of border-crossing and voluntary slavery” is a “system of exploitation,” collaborated and configured by the governments from Indonesia and Taiwan, the agencies, and the employers. “Each fishing boat at sea is *a little colony*, both globally implicated and locally confined, ruled by Taiwanese people.” (Li, Xue-Li, 6, emphasis mine)

Shirley Lee’s comment, not surprisingly, points to the truth of modern slavery at sea in the age of neoliberalism. (Nakamura et al. 2018b; Tickler et al. 2018; Marschke and Vandergeest 2016) The corporations of fishing business in extended distant-water territories, through competition and monopoly, clearly present new forms of brutal and primitive accumulations and extractions of natural resources and ocean lives. We could see from several statistic reports which show the rapid acceleration of the ocean fishing industry around the world in recent three decades. Top fishing producing countries are the People’s Republic of China (including Hong Kong and Taiwan), Peru, Japan, the United States, Chile, Indonesia, Russia, India, Thailand, Norway, and Iceland. (“Fishing Industry” 2020) These countries account for more than half of the world’s production. Among them, China alone accounts for a third of the world’s output. According to *Greenpeace East Asia*, Taiwan is the most substantial distant water fishing power in the Western and Central Pacific. 60% of the world’s tuna comes from this region, and overfishing has caused three of the four species of tuna fishing on the red list of the International Union for Conservation of Nature (IUCN). (“Greenpeace East Asia” 2019)

The stories on Taiwanese fishing vessels covered by *Tempo* and *The Reporter* in 2016-2017 is not an exceptional case, but are also common on fishing boats in countries across the world, including Thailand, Indonesia, Bangladesh, South Korea, Philippines, Russia, and China: (Nakamura et al. 2018b) The predators at sea cross territories and sea zones by shifting their flags, not only getting natural resources from the ocean but also living labor force from the land. The contemporary extraction of labor and the maltreatment of the laborers, however, is not drafted by force. Unlike the operation of slavery in the age of colonial and imperial expansion, the current form of slavery is willed voluntarily by the laborers, with their signed

contracts. We could call it a kind of neoliberal slavery.

The story of slavery at sea, more significantly, does not refer only to the conditions on fishing boats but serves as an index pointing to the symptomatic circumstances of contemporary neoliberal slavery at large. Kevin Bales' work on modern slavery a decade ago has shown that for the 5000-year human history of slavery has never ceased to exist. Though slavery was abolished 200 years ago, it re-emerged in different forms, with different names, and went underground. (Bales 2012; Griffiths and Bales 2010) The practices of indentured laborers, also called contract laborers, and coolies have transformed into temporary workers or guest laborers in the second half of the 20th century. (Behal 2010) These international temporary workers sign their official contract or the unofficial documents of the agreement and are carried from place to place, following the flow of capital, packed and utilized as the pure labor force in the chain of lean production. They have to endure low wages and low environmental conditions, in a non-citizen status, a position lower than the lowest class in the host societies, often suffering the open violation of labor laws and human rights. The forms of life of the neoliberal slavery system can be observed in the conditions of other legal or illegal migrant laborers in Taiwan and elsewhere, not only in port cities, construction sites, forest areas, but also in domestic space in our neighborhood of the same communities.

The sardine can at sea, therefore, can be conceived as a trope that spells out the conditions of the canned human lives and links up topologically the complex operation of capital through the system of logistics. This system involves a cross-border supply chain, the administration of the shipping of commodities, and the consumption of human labor. People from less developed societies, with desperate living conditions, voluntarily seek job opportunities abroad and sign contracts with local brokers. Either through legal or illegal channels, they are sent to transnational labor employment agencies, dispatched to various companies at different locations, such as ocean industries, construction sites, agricultural farms, municipal services, domestic household services, and so on. Such a chain of free choice in the neoliberal market, connecting the participating and competing sectors, governmental foreign labor offices, local employers, and citizens in large, constitute a vast web of the neoliberal slavery system. In this chain of logistics, the local governments of Indonesia and Taiwan, for example, as well as local city councils, are not necessarily able to assume their responsibilities. The loopholes in the juridical stipulations concerning the distinction between the employment within or outside of borders are the cause for the fact that Taiwan's Labor Standards Act cannot protect the fishers at sea.³ Also, there is no legal prohibition against reopening a business through a proxy that registers as a new company even though these brokers might be ordered to close because have they had convicted of illegal activities. ("2019 Human Rights Report (Taiwan Part)" 2020)

³ According to the Regulations on the Authorization and management of Overseas Employment of Foreign Crew Members, the Labor Standards Act in Taiwan cannot be applied to these foreign fishers employed overseas. These fishers are in a grey zone that no law can protect them. (聯合新聞網 20191003T112800Z; "Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members - Article Content - Laws & Regulations Database of The Republic of China" n.d.)

The domestic household workers, though seemingly living in better household conditions, also are exposed to unsafe conditions and different forms of exploitation and forced labor. The employers of domestic household workers are exempt from regular working hours stipulated in the labor law, such as the eight-hour workday regulation. (“2019 Human Rights Report (Taiwan Part)” 2020) They could abuse the domestic helpers in verbal or physical forms, including demanding long hours of work with no day off, force them to undertake labors beyond the contract, and even keep them in starvation, imprisonment, sometimes suffer from being beaten up, or raped.⁴ According to the report from the Control Yuan, there are more than 100 cases of rape from 2012 to 2018. The victims do not dare to report to the police station either because they do not have adequate knowledge of the law, no appropriate interpreters who know their language, or because they are often under the control of the agents. The agents can easily block the channel for their appeal. (李秉芳 2018; “監察院通過調查報告，促請行政院正視在臺女性勞工遭性侵害案件之處理及維護勞工人權及安全保障” 2018)

The frequent sudden inspection in the streets, pubs, or the places where migrant workers gather to check for their ID cards as if everyone from Southeast Asian regions is a suspect capable of committing crimes. (“加強外勞治安管理 北港警擴大臨檢 - 風傳媒” n.d.; <https://www.facebook.com/TBSCTS> n.d.; “警方回馬槍臨檢 廁所隔間揪逃逸外籍移工 | 社會 | 中央社 CNA” n.d.) Besides the over-enforcement of law against the migrant workers as suspicious criminal, the blank spot in the legal procedure stipulated by law also produce illegal practices at different corners in the society. One problem in the legal process is the lack of arranging proper interpreters for foreign workers in cases of petition or lawsuits. The loopholes in brokers’ or employment agencies’ practices by requesting semi-commissions under various items, also when the migrant workers intend to change a job, made the migrant workers unable to receive a fair amount of salaries, even building more debts. (藍佩嘉 2006; 2005; 孫友聯 2013; 顧玉玲 2013) The deprivation of domestic helpers’ right for holidays also is constituted by the fact that there is no protection from the standard of local Labor Law. Furthermore, a local Taiwanese police officer, with nine shots in a few seconds, caused the death of a young runaway Vietnamese migrant worker in 2017. This scandal exposed the total lack of respect of the law-executor for the migrant worker, another human being, that is not considered a citizen or a human being. (“越勞手無寸鐵倒臥 遭 9 槍擊斃 民團控移工制度殺人 警成幫兇 | 苦勞網” n.d.)

The rapid rise of the global flow of capital and the increasing competition of neoliberal markets have exacerbated the extraction of labor and the deceitful shadow economy of the broker system in the form of the neoliberal slavery in the 21st century. This paper wants to argue that the logistical chain of the neoliberal slavery system supports the global production-supply-

⁴ There are numerous reports in recent years from local news about the enslavement of migrant workers and forced laborers. In 2017, the press released the case of an Indonesian female migrant worker who has been imprisoned and forced to work in the Quansheng Laojia (筌聖老家) Food Factory for 14 years, together with other forced workers, without getting any salary nor being permitted to go home. It is only one of more than 50,000 cases of modern slavery in Taiwan. (Media n.d.)

consumption line. At the same time, the legal implementation of local governments concerning the “guest worker program,” particularly in Northeast and Southeast Asia, further reinforces the neoliberal slavery system. The grey zone between legality and illegality, mainly based on the legal ideology of citizenship, produces various forms of illegal practices. This paper, therefore, challenges the paradox of citizenship politics and the legitimized internal colonization, while at the same time aims to urge the reconceptualization of the concept of “citizens” — “city-dwellers”—who live and work in the same city should belong to the place and enjoy equal access to the social space.

Neoliberal Slavery and Global Logistics

The living conditions of the marginalized and exploited migrant workers in the contemporary neoliberal market are not very far from what Karl Marx discussed in *Capital* (Marx 2019). Marx explained, the “free wage-laborers” signed their “voluntary contract” with their free will, sold their labor-power in the form of exchangeable commodities, and became the property of the employers, available for exploitation (*Capital* 188, 195). There are many moments in *Capital*, in which Marx explained the “modern slavery” of wage laborer after the industrial revolution. The urban laborers signed their contracts, in the form of exchangeable commodities, as free men, available for the employers to extract their labor force and became the class in the society. Contrary to the relations of dominion and servitude, that is, the slavery in ancient times, in the middle ages and modern colonies, Marx argued, the capitalistic form of slavery “pre-supposes from first to last, the free wage-laborer, who sells his labor-power to capital” (*Capital* 233).

Jürgen Habermas (1987) pointed out, observing different social practices in another historical period, that it is the overdeveloped rationalization and its bureaucratic administration that called forth “internal colonization” and the reification of the lifeworld. The implementation of institutional subsystems and bureaucratic controls augmented the internal expropriations and conflicts to the extent that some parts of the people in the same society were exploited, excluded, and cannot enjoy equal opportunities to actualize their capacities. For Habermas, this paradox pointed to the question of capitalist modernity. It also brought about both the “colonization of the life-world and its segmentation.” (Habermas 1987: 305, 327–331, 367, 385)

Marx’s analysis of the capitalist slavery in the factory in the 19th century, and Habermas’ critique of the societal rationalization and its bureaucratic administration of the 20th century, reached its apex in the age of global neoliberalism in the 21st century in terms of internal colonization and social segmentation. The difference is, with the contracts they sign voluntarily, the laborers are facing higher unexpected risks, exposed to various kinds of precarious forms of life, involuntarily give up their fundamental human rights, with no citizenship and therefore no legal protections, and status outside of the social stratum in the receiving societies. They do not know what is waiting for them in the future when they decide to sign the contract, but still prefer to choose this path so that they can earn enough money in a short time. They cannot even start a strike through the labor union because, in most cases, there is no law to ensure the

establishment of a labor union by foreign migrant laborers. The non-citizenship status of these foreign migrant laborers forces them to face the mode of life that is constructed by the exclusionary legal procedure, including the Labor Law, Immigration Law, Employment Service Act, Citizenship Act, and so on.

It is helpful to look into the concept of logistics and its network to discuss further the factors that support the neoliberal slavery in the 21st century. As explained by Mezzadra and Neilson (S. Mezzadra and Neilson 2013), the techniques of logistics are no longer merely the mediation of social relations by “things,” but the “organization of global circuits of accumulation.” It is a complex network that includes legal, cultural, linguistic, social, and economic management and practices. (Mezzadra and Neilson 2013, 1,10, 12) This network of management and practices is directly related to the extraction of labor to accumulate surplus profits. As Stefano Harney (Cuppini and Frapporti 2018) pointed out, the Atlantic slave trade, the crudest extraction of human labor, can be considered as the birth of modern logistics and the birth of racial capitalism. A sophisticated logistics system connects all sectors into one apparatus: the operations of management, the study of the movement of the assembly line, encounters, and incorporates supply chains and customers. “This is the new collective working machine. Supply, production, and consumption become linked by capitalist sciences of management, and integrated, at least to some extent.” (Frapporti and Cuppini 2018, 136)

The chain of logistics as a complex system comprises information flow, materials handling, production, packaging, inventory, transportation, warehousing, and security control. In the case of migrant workers, it also involves juridical procedures, institutions, policies, law-executors, brokers, and employers. The State and society need these foreign production forces as cheap as possible. These institutional dimensions of the chain of logistics that recruit low wage laborers from less developed countries and thus stigmatize in the very beginning the immigrants reveal to some degree petty racism supported from top to the bottom of the society. The deprivation of fundamental labor rights and even human rights through these legal procedures, as Balibar (Balibar 2006) puts it, displays itself as “bio-political management of illegality.” (Balibar 2006, 5)

Geo-economics in the context of East and Southeast Asia

The establishment of the production cycle from leader countries to follower ones in East and Southeast Asia after the Second World War can illustrate the particular regional strategies of political-economic logistics. After WWII, through the US’s policy to support the industrial as well as the nuclear power plant project in East and Southeast Asia, Japan’s economy boomed first. This trend of economic development was followed by the so-called “four dragons” (Hong Kong, Singapore, South Korea, and Taiwan), and later joined by the “little dragons/tigers” (Indonesia, Malaysia, the Philippines, and Thailand) that provided outsourcing services and served as world factories. The communist converted capitalist countries, including China and Vietnam, also joined this path from the 1990s on. Faced with the 1997-1998 Asian financial crisis, the ASEAN leaders reinforced their governance policies for economic stability as well

as economic security. However, with their rhetoric of inclusion, ASEAN countries further liberalize and deepen the engagement of international capital and global markets, benefit only the political and economic elites, and hence further aggravate regional and local inequalities. (Gerard, Kelly 2017; Carroll and Jarvis 2015)

The flow of migration in East and Southeast Asia demonstrates the geo-economic map of the distribution of capital in this region. According to the migration statistics provided by the UN, the major destinations for the migrant workers from Cambodia is Thailand, those from Indonesia are Malaysia and Singapore, from Malaysia is Singapore, those from Myanmar is Thailand and Malaysia, from Lao PDR is Thailand. The immigrants in Malaysia are mostly from Indonesia and Myanmar, those in Vietnam are from Thailand, Myanmar, Indonesia, and Lao PDR, those in Thailand are from Myanmar, Lao, and Cambodia, and those in Cambodia are mostly from Vietnam and Thailand. The colonial histories in the past, the religious and geographical affinity, and the economic hierarchization are the primary reasons for the people to seek opportunities in specific locations among the intra-ASEAN countries. Taiwan and South Korea, due to the early industrial development through the aids from the US, also are the primary destinations for Southeast Asian migrant workers.

Civic Exclusion and Internal Border Politics

What we are facing now is the sophisticated techniques of logistic coordination through which raw materials, parts of the manufactured products, commercial goods, as well as human bodies, are managed and moved from place to place, along with the flow of capital. It happens not only in Asia but also globally. Such transportations and circulations also involve multiple forms of border crossing and border erecting. Borders are no longer merely geographical and horizontal borders, but “geopolitical line of separation.” In Mezzadra’s words (Sandro Mezzadra 2013), borders split the geopolitical zones and urban space into racialized and segregated components, as vertical borders from within, or as live zones and death zones, according to labor markets (Mezzadra 2013, 2-3)

The borders we observe in our daily life and our neighborhood, along with the rapid increase of foreign workers, are the politics of civic exclusion based on the legal ideology of citizenship. To spell out the link between the legal ideology of citizenship and the neoliberal slavery system, we need to move to the question of the “guest worker policy.” The practice of “guest workers program” has been adopted by many Asian countries to recruit low-wage laborers, especially starting from the 1990s, while Germany ended its *Gastarbeiter* program in 1973. (龔尤倩 2008; 張志偉 2019) Due to the high competition in the neoliberal global market in the post-Cold War era, the rise of local labor salary and rising shortages of domestic labor, Taiwan began to accept more and more temporary migrant workers from Southeast Asia since 1989. Taiwan officially launched the policy of the guest worker in 1992. The system of “guest worker” practiced in Taiwan, a program borrowed from the German policy of *Gastarbeiter*, prescribes that these foreign workers would only stay as temporary workers and cannot share the same salaries nor the protection of Labor Law in Taiwan. This change of employment policy intends

to drive down the wages and to reduce the necessary cost of production. From the beginning, this category has never been included in the laws relating to immigrants. Different from the case in Germany, where migrants eventually changed their status as permanent residents, Taiwan deliberately avoided this path and adopted a rigid control policy. It sets the limit of 12 years of stay so that the migrant workers cannot apply for permanent residency, which requires a continuous stay of 15 years.

The grey zone of the illegal practices by the agents produced by the legal regulation of the guest worker program is apparent. The local labor law of Taiwan does not protect the fundamental labor rights of temporary migrant workers. These migrant workers cannot ask for a family reunion during their stay in Taiwan, nor can they get permanent residency even if they have worked there for more than 14 years. The most infamous controversies of the guest worker program are the often-reported maltreatment and violation of basic human rights while they cannot request to change their employers. It was not until 2016 that the Ministry of Labor modified the regulation and allowed the foreign workers to change their employers (中華民國勞動部 2016). Nevertheless, this policy has missing links because it would not be easy for foreign workers to find another job or employer within due time. The commission the brokers request to arrange works for the foreign workers turn out to be another form of exploitation. (“仲介狂收買工費 台灣形同蓄奴國？ | PNN 公視新聞議題中心” n.d.)

Taiwan follows the *jus sanguinis* principle in the nationality and citizenship law that determines the right to citizenship based on a person's ancestry, and not by place of birth. It would be impossible for the off-springs of migrant workers to obtain citizenship in Taiwan. According to Mei-Yu Wang of the Control Yuan in 2017, there are 3003 non-citizen newborn babies, from 2007 to 2011. The number had reached 6681 by the end of August 2016. The number of missing female foreign workers, however, is unknown, and the exact number of stateless orphans is still a myth. (聯合新聞網 20191110T194024Z) In 2019, the National Immigration Agency of the Ministry of the Interior released the statistics that there are 9,381 international infants by May 2019, among which the status of the mother of 754 infants cannot be identified because they ran away from their previous employers.⁵ (“【新聞剪報】移民局局長宣布關於「無國籍」兒童的數據報告 | 財團法人台灣關愛基金會” n.d.)

These stateless orphans are discarded by their mothers either because of rape or because they are pregnant and do not want to be sent back to their home countries. In most cases, local churches or NGOs offer these stateless orphans' shelters, but they have no social welfare, no medical services, nor educational support.

The foreign workers in Taiwan are mostly from Indonesia, the Philippines, Vietnam, and

⁵ According to Jie-yu Yang (楊婕妤), the director of Harmony Home Foundation Taiwan (台灣關愛基金會) which provides shelters for the stateless orphans, there are around 1000 stateless children in Taiwan. Some of them were born in the mountains or at homes, with no medical care from the hospital. Forum on Stateless Persons. June 19, 2020. Wistaria Teahouse. Taipei.

Thailand. They work in various sites of productive industries and social welfare, such as agriculture, forestry, fishing and animal husbandry, manufacturing, construction, nursing, and housework, spreading from the north to the south of Taiwan. According to the statistics of the Workforce Development Agency, the total number of migrant workers in Taiwan had reached up to 718,531 by the end of March 2020.⁶ That means the population of foreign workers is a lot more than the people of the indigenous people in Taiwan, which is 572,675 by the end of March 2020.⁷ Migrant workers in Taiwan can be seen almost everywhere in different corners of different cities, such as community parks, central stations, hospitals, or in the streets at 8:00 pm when the garbage trucks came to pick up garbage bags.

Though visible in the statistic figures and various sites, what is not visible is the living conditions of the migrant workers. The dormitories for construction migrant works are known to be crowded and unbearable. Numerous stories of maltreatment by employers are reported from time to time.⁸ The situations of domestic helpers could be much worse because they live under the same roof with their employers to take care of the elders, the disabled people, or the young kids in the families. According to the statistics of the Ministry of Labor, 262,951 people are working in the category of social welfare⁹. That is, more than 262,951 families or disabled people required such labor force either in their domestic space as household helpers or as caretakers in nursing homes.

The worst conditions of these domestic helpers are that most have been denied of their holidays, deprived of their private space, delayed with their salaries, some forbidden to use cellphones to communicate with their friends, under surveillance with in-house monitors, and even were sexually harassed or raped. The legal procedure for appeal is too tricky and complicated for these migrant workers because of the lack of translators and the blockage of the complaint by the intermediary agencies. These problematic conditions caused a quick increase in the number of runaway migrant workers. According to the National Immigration Agency of the Ministry of Interior, there are 50,181 missing migrant workers in Taiwan. They might find a job in the mountains or the cities as illegal workers, fearing of being arrested at any moment in their daily life. Whether legal or illegal, these temporary migrant workers are the disposable life of our time, or what Jacques Rancière and Alain Badiou addressed as *part des sans-part*, part-of-no-part, that is, the ones that live here, work here, but are not counted as a part in the community,

⁶ Ministry of Labor, Republic of China (Taiwan). <http://statdb.mol.gov.tw/html/mon/212010.htm>. Accessed May 8, 2020.

⁷ Ministry of the Interior, Department of Statics. https://www.moi.gov.tw/chi/chi_site/stat/index.aspx Accessed May 8, 2020.

⁸ The Kaohsiung Migrant Workers Riot in 2005 was the first time that the questions of migrant worker maltreatment drew public attention. Ping guo ri bao du hui Zhong xin. [蘋果日報都會中心], 〈高市捷運兩百外勞暴〉 (2005/08/22) Accessed September 30, 2017. <<https://tw.appledaily.com/headline/daily/20050822/1994908/>>. There are many similar cases since then.

⁹ Ministry of Labor, Republic of China (Taiwan). <http://statdb.mol.gov.tw/html/mon/212010.htm>. Accessed May 8, 2020.

and occupy no space in the society.¹⁰ (Ranciere 2006; Rancière 1995; Badiou 2009b; 2009a)

The civic space functions as the delineation of the arena defined by the legal status of “citizenship.” Without this legal status, these temporary migrant workers are exposed to the violation of their basic human rights. The neoliberal slavery that we witness in daily life is not only the inhuman chain of logistics and the operation of capital as analyzed by Mezzadra and Neilson that drove people from place to place, as commodities to be bought and exchanged, and shaped their precarious forms of life. It is, in fact, the juridical apparatus that supports each employer, law-executor, broker, and ordinary citizens to make the sovereign decision at each moment to discriminate or exclude these human beings from equal participation in the social space. In other words, in the chain of biopolitics and logistics, it is the individuals in the civil society who can exercise authority to execute the power of domination and decide whether others can live in a sub-human form or to die.

The logistics based on the apparatus of biopolitics brings foreign laborers to our neighborhood and our domestic space. It is particularly reinforced by the form of border politics and the legal ideology of our time. This form of legal and civic exclusion, a civilized way of racism in public and private space, is legitimized by the politics of citizenship and, therefore, creates a space that sharply distinguishes citizens and non-citizens. Through such division, these migrant workers, as non-citizens, often cannot obtain the protection of fundamental human rights and could even be turned into the form of bare life, stripped of all legal protection, as described by Agamben.

Politics of Denial through Propagandas of Multiculturalism

The actions of civic exclusion are support with the politic of denial. The cultural activities involved with migrant workers in different sectors in Taiwan demonstrate the politics of denial and inclusive exclusion underpinned by the legal ideology of citizenship.

To show the hospitality of the society toward foreign workers and to highlight the harmonious communications among multi-ethnic groups, the Labor Bureau and the Department of Cultural Affairs of major cities regularly organized cultural festivals featuring exotic cultural practices. Taoyuan City, New Taipei City, Taichung City, and Kaohsiung City, four major cities to many industrial parks and tech company headquarters, with the most significant foreign worker population in Taiwan, have hosted a series of cultural events over the past decades. These cultural events include the Reunion Carnivals for Southeast Asian Migrant Workers and the Multi-ethnic Carnival Events, the competition of creative cousins and basketball games, and various cultural exhibitions highlighting different ethnic groups from the Philippines, Indonesia, Thailand and Vietnam, and so on. The Department of Cultural Affairs of the New Taipei City Government, organized the *Songkran* festival, literally “astrological passage,” known as

¹⁰ Jacques Rancière and Alain Badiou have discussed this question in several of their writings, for example, Rancière, *Politics of Aesthetics* 12; Rancière, *La méésentente* 20-31, 71-72, and Badiou, *Theory* 8-12, 32-36; Badiou, *Logics* 45-46.

traditional Thai water fight by splashing water on each other in the streets for spiritual purification, for the Thai New Year's holiday. The mayor of New Taipei City stressed that the purpose of this event is to present the feeling of happiness of the citizens and to uphold citizen's understanding of international culture. Also, the festival will facilitate the citizens to experience the multi-cultural society in Taiwan, and to highlight the spotlight of tourism to accelerate the development of the industry of cultural tourism in this area. The mayor of Taichung City Lin Jia Long (林佳龍) announced in front of the officials of the Economic and Cultural Offices from Indonesia, Philippines, Thailand, and Vietnam at a carnival that the purpose of the festival is to build a city of hospitality and multiculturalism. Kaohsiung City in the south also has organized various cultural festivals over the past years, such as the Vietnam Cultural Festival, Thai Cultural Festivals, Indonesian Cultural Festivals, and so on. The Civil Affairs Bureau of Kaohsiung City Government emphasized too that Kaohsiung City is a happy city with diversity and shall try its best to assist new settlers in incorporating themselves into society.

These cultural activities and the avowed objectives in building up multicultural societies not only do not bridge the understanding between the local communities and the migrant workers but paradoxically function to the extent that they erase the real conditions of these invisible communities. On the surface, these cultural festivals feature multicultural experience and harmonious societies, in reality, they serve only as exotic and touristic events, limited in time and space, facilitating merely cultural exchanges on the surface. At the same time, it further fixates the stereotypical images of Southeast Asian cultures. The assumption of unifying cultural traits for people from the Philippines, Indonesia, Thailand, and Vietnam is erroneous in itself because it neglects the complex ethnic composition and the internal hierarchical power relations within each of the countries from where these people came. Moreover, making these cultural traits as showcase exhibition is precisely the double-bind mentality of distinction as a civilized way of inclusive exclusion and the negative side of which is the apparent racist discrimination against those people.

The ceremonial rituals and cheerful cultural festivals that I discussed above, I want to point out, serve as a mask of disavowal. The act of disavowal denies the fact that we do not see or hear these people, do not consider them as a part of our society, and thus do not acknowledge the equal rights they could share with us. The exotic cultural carnivals and food festivals, viewed from this perspective, not only feature Southeast Asian culture as a showcase and fixate people's stereotypical images of people but also erase the individual differences people would expect from the migrant workers.

Legal Ideology of Citizenship and Legitimized Violence

As the flip side of the coin, parallel to the cultural festivals and the claim to be a city of hospitality, Taiwanese citizens formed solidarity group, with a very nationalist manner, to protest against the government's attempt to improve policies for migrant workers. On the social media or Facebook pages for the "Taiwan Foreign Workers Employer Self-help Federation," numerous racist, offensive language and hate speech emerge through the forms of protests,

manifesting an underlying resentment against a hybrid and heterogeneous society. Concerning the welfare for the stateless infants, people said: “Why does the government use the taxpayers’ money to raise foreigners’ children?” “Don’t help those foreign workers in the name of human rights!” “All Taiwanese, stand up, and save ourselves.” “Enforcing the physical test of pregnancy for all female migrant workers!” “We don’t want too many newborn babies with Southeast Asian blood!” Concerning the holidays and change of employers the domestic helpers requested, these employers complained that the contract they signed in the beginning already specified no holidays and no shift of employers. They even forbid domestic helpers from the use of mobile phones. If they do, employers should ask them to pay 100 NTD per hour for the charge of electricity.¹¹

There are, of course, continuous supporting systems organized by local NGOs, such as Taiwan International Workers’ Association, Taiwan International Migrants Mission, Brilliant Time bookstore, Taiwan Judicial Interpreters Association, and New Immigrants Labor Rights Association. Besides, church-affiliated societies such as VMWBO, Catholic Hope Workers Center, and Migrant Workers’ Concern Desk, also provide substantial help and shelters for the illegal migrant workers. Through the efforts of these groups, the migrant workers’ rights to have basic salaries, holidays, and other human rights have been slowly and gradually voiced in public and obtained through law modifications. Nevertheless, these NGO groups are often threatened by the enterprise unions and occupation unions of different kinds.

Here we are faced with the question of the ambiguity of the issue of self-righteousness and aggressiveness based on the citizen identity and legal ideology. Citizen identity demonstrates the imaginary relation they identify with the society guaranteed by their citizenship. What comes with the status of citizenship is not only the protection of the fundamental human rights, but also the assurance of the social right, political rights, civil rights, and the equal access to the social space. Such civic identity, however, often is a disguise of the legitimation for their acts of discriminatory xeno-racism and act of exclusion against other humans. Populist sentiments could also trigger the automatic mechanism of exclusion in the name of safeguarding the interest for the community of the citizens and the nation. These nationalistic emotions became so self-justifiable to the extent that they motivate people to judge and act spontaneously and unconsciously. To be more specific, it is the engine of nationalism side by side with the logic of capitalism that co-figured the regime of the visible and the sensible, and supported the subject as his citizenship position and participated with the sense of community with spontaneity. Therefore, this site of the citizenship regime is not an external monitoring machine, but the common consensus upheld from within, reinforced by unconscious individual inclination and judgment.

The bi-polar complex of the demands of foreign labor side by side with the xeno-racist discrimination is co-figured with the logistics that push these migrating laborers away from their hometown and into the precarious and even enslaving conditions in the receiving cities.

¹¹ Taiwan Foreign Workers Employer Self-help Federation. <https://www.facebook.com/helper995>

As Balibar points out, each society produces its own kind of “indigenous” or “citizens” and its own kind of strangers or cultural strangers, with its own “neo-imperialist ethnocentric practice,” which combined legacies of different types of “empires” (Strangers as Enemies, 5). The legal ideology of citizenship is reinforced by the *jus sanguinis* principle in the nationality and citizenship law and displayed by the general mentality of Taiwanese citizens. Underneath the practices of inclusive exclusions among Taiwanese citizens, through the legal ideology, as in other societies, is the “neo-imperialist ethnocentric practice” that exists not only in the European colonial past but also in contemporary new forms of empires in East and Southeast Asia.

Paradox of Citizenship and the Apparatus of the Production of Illegal Practices through Legality

The ambiguity of citizenship rights is demonstrated most clearly by the differential citizenship that most Southeast Asian countries have practiced. Under this differential citizenship, fundamental human rights such as the right to life, liberty and property, freedom of expression, the pursuit of happiness, and equality before the law can all be denied. (Ju-lan 2012; Anwar 2013; Pietsch and Clark 2014; Arboleya 2017; Berenscho, Nordholt, and Bakker 2017) Even though issues of political participation are loud and visible in the public sphere,¹² citizens fail to use their democratic freedoms to end the practices of the dominance of oligarchic elites, clientelist politics, and differentiated citizenship. Berenschot also pointed out that citizenship has rarely been a topic in both public and academic debates in Southeast Asia. (Berenschot, Nordholt, et al. 2017)

The citizenship education in Malaysia, for example, is based on the practice of the ‘nation-of-intent.’ The political leaders and social engineers have produced through all levels of education good and obedient citizenship who serve the interests of the community and the state. Also, the Malays, as the majority, are regarded as an official ‘nation-of-intent.’ The contesting and competing nations-of-intent, however, is still an unresolved question in Malaysia and has created continuous tension within the Malaysian society. (Ahmad and Abdullah 2017) Even the campaigns against *hudud*- and *Syariah*-based regulations in Malaysia as well as in Indonesia are not about defending individual rights, such as women’s rights. Moreover, the practice of New Order since the 1970s, the concept of an Islam state, its institutionalized ethnically structured model of citizenship, as well as the institutional discrimination, have caused anxieties of unequal citizenship among non-Muslim communities.¹³ (Pietsch and Clark 2014; Berenscho, Nordholt, and Bakker 2017)

¹² For example, the anti-corruption movement in Indonesia and Malaysia, the Red versus Yellow protest in Thailand, and the anti-SEZ protest in Vietnam.

¹³ For example, the constitution of the federalist politics in Malaysia explicitly privileges the Malays by guaranteeing particular positions of Malays and the Malay language (Article 153) and favoring the adoption of Islam as the national religion (article 3) and establishing a Council of Rulers, composed of ethnic Malay Sultans (Article 338, 181). (Arakaki, 2009, 81; qt. Pietsch 2014, 306)

Most countries in Southeast Asian countries share this form of differentiated and unequal citizenship. The discourse of privileges and prioritizes local indigenous ethnic groups while restrains “non-indigenous” communities from full and equal participation in the societies. These ethnic groups have inhabited the same place for several hundreds of years. The distinction between the indigenous or *pribumi* and the non-indigenous people, furthermore, was enforced through a range of politico-legal institutions established during the colonial era and continued into the postcolonial era, intersected through violent processes of independent movement and state-building.¹⁴ (Taylor 2008, Ehrentraut 2011, Thung 2012, McHale 2013, Schaffar 2017)

The paradox of citizenship is pushed to the extreme in the cases of migrant workers and refugees. Even though they live here and work here for many years as citizens (city-dwellers), they do not have legal protection and are often exploited with inhuman treatment due to their lack of citizenship status in the host countries. The thin and arbitrary line of “legality” can justify the vices and brutality in human nature against the “guest workers.” This new underclass is driven from peripheries to peripheries, at the bottom of the new hierarchy of production, and became the causalities of the new imperium. Their ejection from their countries, as Sivanandan once put it (Sivanandan 2008), is “both economic and political at once,” triggered by the “global assembly line.” They perform “arduous, unskilled, dirty jobs in the ever-expanding service sector,” as invisible workers, “the cheap and captive labor force” without which post-industrial society cannot run. (Sivanandan, pp. 210-211)

The question of the juridical and discriminating division among people who live and work in the same societies is a pressing question for us today, especially when we face the rapidly increasing international migrations that have drastically changed the composition of contemporary communities in the 21st-century. According to the United Nations Statistics Division (UNSD), the estimate of the total number of international migrants had amounted to 272 million in mid-2019, up from 173 million in 2000. Compared to 70 million international migrants in 1960, the figure has increased by 200 million. Among the total number of international migrants, about 100 million international migrants were from Asia, and 83 million migrating within Asia. (“International Migration 2019: Report,” n.d., 201; “The Number of International Migrants Reaches 272 Million, Continuing an Upward Trend in All World Regions, Says UN” 2019) The escalation of the global communities and the impacts upon local societies have attracted critical scholarship both in the humanities and social sciences in recent years. The ambiguity in the legal production of various forms of illegal practices concerning the migrant workers takes center stage of the current debates.

“Citizenship,” even though a “Western” concept, is a convenient technique for the post-colonial states in Southeast Asia to stabilize their regimes through a reversed mode of divide and rule,

¹⁴ For example, the Dutch government categorized all foreigners, such as Chinese immigrants, as “Foreign Orientals.” The indigenous communities, on the other hand, are termed as “*Inlander*.” This arbitrary categorization bestowed these groups of people with different political statuses. It is the foundation for the racialized and ethicized constitution of political identity in Indonesia. (Thung, 145-146).

a form of internal colonialism. The heavy traffic of migration through sea commerce across the Bay of Bengal, South China Sea, Indian Ocean, from the ancient time in history and down to the colonial period as coolies or transnational merchants or mediators, have contributed to a highly hybridized societies in Southeast Asia. Even though being a multi-ethnic and multi-religious society, the “citizenship act” in these countries established in the post-WWII era turned out to be the foundation to prioritize the indigenous people or particular religion and created a model of differentiated citizenships. It is the cause to expel people who have resided in the region for hundreds of years. Rohingya and Khmer Krom are only two well-known cases, among many others. The status of Chinese Indonesians or Chinese Malaysians also offers clear examples. The precarious conditions of contemporary migration, either concerning migrant workers or refugees, are often intensified through such exclusionary practice of citizenship.

Concluding Remarks

On 28 June 1996, 300 undocumented Africans occupied Saint Bernard church in Paris to protest against the Debré laws that threaten to separate the children from their undocumented parents. (Emmons 1997) The occupation lasted for fifty days until riot police broke down the church doors with axes, using tear gas on women and babies, and dragged everyone out. The *Political Organization* (Organisation Politique, OP), established in France by Alain Badiou, Sylvain Lazarus, and Natacha Michel, denounced the Saint Bernard roundup and pointed out the political claim of the occupation is to challenge “the laws in exception from the general idea of law.”¹⁵ (DP 17-18 (1)) (Nail 2015)

For us, the great importance of the Saint-Bernard movement is that it rejects the designation “illegal” [*clandestine*]: the *sans-papiers* are not illegal, this is what the movement makes intelligible. They are people who live here and who do not have papers. This is the fault of the government and the laws that prevent them from obtaining them. (DP 17-18 (3); qt. in Nail 2015: 113)

This statement echoed the frequently repeated prescriptions made by the OP: “*quiconque vit ici est d’ici*” (whoever lives here, is from here). (DP 12 (1); qt. in Nail 2015: 112)

In response to the criminality of the violent act by the police in Saint Bernard Church, sixty-six filmmakers called for a massive civil disobedience protest against the Debré laws. Shortly after, daily newspapers published lists of writers, artists, scientists, university teachers, journalists, doctors, and lawyers who offered to accommodate foreigners without asking for papers. 100,000 people demonstrated in Paris against the government in February 1997. The *sans-papier* movement in France influenced the global network of the “No One Is Illegal” initiated in Germany as “No Person is Illegal” in 1997, which later spread to other countries

¹⁵ Alain Badiou was involved in the *sans-papiers* movement since the first hunger strikes of the workers without papers in 1972. Alain Badiou, *Peut-on penser la politique?* (Paris: Seuil, 1985) qtd. Nail note 23, p. 127.

till today, including Switzerland and Canada. (“No One Is Illegal - Toronto | STATUS FOR ALL!! ACCESS WITHOUT FEAR!!” n.d.)

Observing the disorganic development of the new forms of imperialism since the 1970s, the Sri Lankan writer and activist Ambalavaner Sivanandan (Sivanandan 2008) remarked that the technological revolution had created “a new global assembly line and a new hierarchy of production.” (p. 211) Sivanandan also pointed out the problematic and misleading label of “illegal” that people put on the “rightless, rootless, peripatetic and temporary” workers in the service industries:

These ‘new circuits of imperialism’ are being facilitated by a globalizing mass culture, war (low intensity or direct invasion) and the imposition of conducive regimes. Today’s migrants and asylum seekers are the casualties, political and economic at once, of the new imperium. ‘There is no such thing as *illegal* immigrants, only *illegal* governments.’ (p. 177). Elie Wiesel once also stated: “you who are so-called illegal aliens must know that no human being is illegal. That is a contradiction in terms. Human beings can be beautiful or more beautiful; they can be fat or skinny; they can be right or wrong, but illegal? How can a human being be illegal?” (“Elie Wiesel: ‘No Human Being Is Illegal’” n.d.)

OP, NOII, Sivanandan, and Wiesel’s positions all pointed out the same question: Who has the right to label these immigrants, migrant workers, or aliens as “illegal”? That is, what kind of governments and through what juridical policies that have set up the line of division, designating a particular group of people as “illegal,” and tolerating all different forms of human rights violation applied to non-citizens? Who has the right to decide the “legality” of the order of any society and to exercise violent forms of inclusive exclusion?

We need to reconsider the concept of citizenship. “Citizen” initially indicates “burgher” or “city-dweller,” meaning all residents or ordinary people who inhabit a city or a town. “Citizen” in the modern state, however, is also associated with the status recognized as a member of a state. He has the legal rights and obligations, often interchangeable with the status of his or her nationality. Citizens often equate with nationals. Some states demand exclusive loyalty from its citizens and deny their citizens with multiple citizenships. The irony is that the status of “citizenship” often is defined according to one particular ethnic group, while the majority of contemporary states are multi-national composition. The concept of national citizenship can easily preclude citizenship with multiple nationalities. To prioritize national citizenship and citizen right is contradictory to human rights, particularly in the cases of migrant workers or irregular immigrants.

How to reconsider the concept of citizenship is an urgent issue for us to engage. Can citizenship be under constant construction or reconstruction? Can it be free from its national limits and its juridical ideology? Can we consider the concept of citizenship as a connective process basing on its location? (Clarke, Coll, and Dagnino 2014)

In this paper, I have questioned the apparatus of the logistics supported by the statist division of the people into “citizens” and “non-citizens.” The central contention of the labor import countries and the financial poverty and the need for a foreign exchange through the migrant worker of the labor export countries—co-figures the logistical chain of the neo-liberal slavery system in our age. The legal production of illegal practices can be witnessed in every point of the logistic chain and is legitimized by the legal ideology of citizenship and aggravate the precarious conditions of the migrant workers in the host societies. Ironically, the politics of citizenship from both countries further reinforces this logistical chain of the neoliberal slavery system. The politics of citizenship, to be more precise, justifies and even speeds up the connection and transportation of cheap labor force in the name of maximization of profit and increase of wealth at the price of the deprivation of the fundamental human rights of the migrant workers through the legal procedure. This paper argues that the logistical chain of the neoliberal slavery system, empowered by citizenship politics, constitutes a form of internal coloniality that produces the invisible and disposable communities in the neighborhood and highlights the paradox of citizenship.

The internal borders in the society, be it the border of race, class, gender, and so on, are the effect operated through the distinction functioned by the dominant consensus. Moreover, this operative apparatus of the internal border is especially tricky to detect when it collaborates with the capitalist logic in the neoliberalist age. It functions with the excuse that the society must be defended against its enemies and must thrive and prosper through demanding more goods and bodies to be circulated for our service. Every individual is a liberal agent in the chain of logistics. The juridical processes support this operation and reproduction of capital and lines of demarcation seamlessly to the extent that the operation of capital becomes entirely invisible in our societies. To resist the brutalization of the automatic operation of logistics, to loosen the trap of the ethnocentric nationalism and the *jus sanguinis* citizenship, it is necessary to think the question of citizenship in terms of a “droit de cite,” a right of residing with rights and the right of belonging (Balibar 2014). It is a movement toward constant symbolic and institutional relocation and re-constitution for co-citizenship, a form of citizenship in the world, and a vision for cosmopolitanism. (Balibar, *Equaliberty* 276)

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