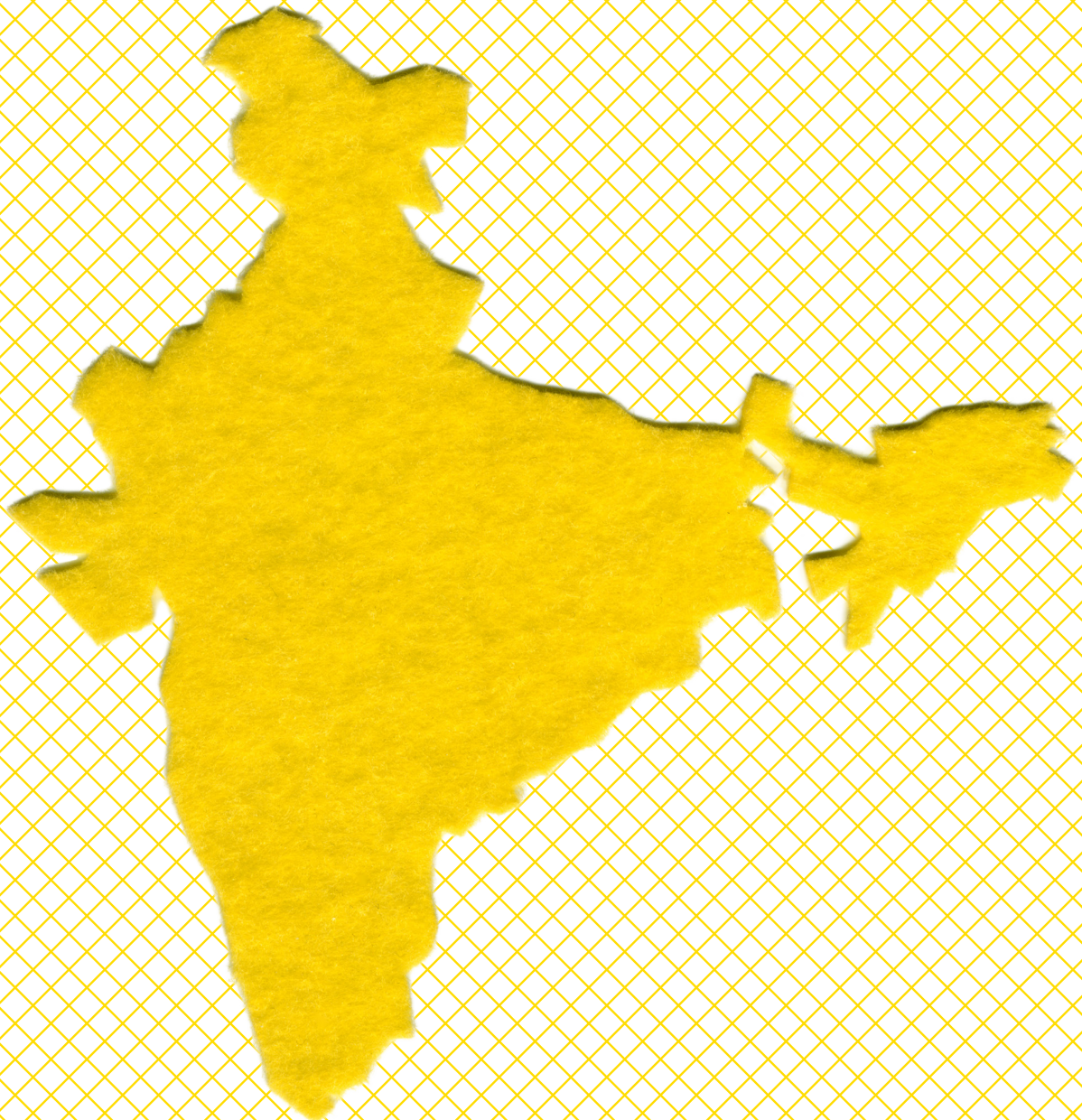




# INDIA

country study 2019



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# LIST OF ABBREVIATIONS

AEPC	Apparel Export Promotion Council
ASK	Association for Stimulating Knowhow
CAP	Corrective Action Plan
CARE-T	Community Awareness Research Education Trust
CBA	Collective Bargaining Agreement
CII	Confederation of Indian Industry
CIVIDEP	Civil Initiative for Development and Peace
EBA	Everything But Arms
ESI	Employees State Insurance
ETI	Ethical Trading Initiative
FDI	Foreign Direct Investment
FLA	Fair Labor Association
FWF	Fair Wear Foundation
GDP	Gross Domestic Product
GLU	Garment Labour Union
GNI	Gross National Income
GRC	Grievance Redressal Committee
GST	Good and Service Tax
HDI	Human Development Index
HWW	Homeworkers Worldwide
IC	Internal Committees
ICC	Internal Complaint Committees
ICN	India Committee of the Netherlands
ILO	International Labour Organization
LWV	Labouring Women and Violence
MMF	Man-Made Fibers
NCP	National Contact Point
NGO	Non Government Organisation
OBC	Other Backwards Classes
OECD	Organisation for Economic Co-operation and Development
OTP	One-Time Pin
PF	Provident Fund
READ	Rights Education and Development Centre
SAVE	Social Awareness and Voluntary Action
SCs	Schedule Castes
SEZ	Special Economic Zone
SLD	Society for Labour and Development
SOMO	Centre for Research on Multinational Corporations
STs	Schedule Tribes
TEA	Tirupur Exporters Association
UNGPs	United Nations Guiding Principles
WB	World Bank
WEP	Workplace Education Programme

# INTRODUCTION

This country study draws on consultations with key stakeholders across India's textile and garment sector. Fear Wear Foundation (FWF) audits and complaints received via the FWF complaints mechanism to detail the unacceptable working conditions faced by many textile and garment workers in India. The study focused on the working conditions of textile and garment workers in the production hubs of Delhi National Capital Region (NCR), Bangalore and Tirupur. From November to December 2018 about 20 stakeholders were consulted in the three regional hubs. Stakeholders largely comprised of NGOs and research centres and few trade unions, business associations, public authority and international organisation. The full list of stakeholders is available in Annex III.

The textile and garment industry is the third largest employer in India<sup>1</sup>, with 45 million workers employed in the sector.<sup>2</sup> While the growth rate of ready-made garments for export has slowed down, the domestic market continues to expand considerably. Several industry-wide trends are shaping working conditions in the textile and garment industry; namely, the increased employment of contract workers and inter-state migrants and the displacement of factories to contain production costs.

Garment factories in Delhi NCR mainly employ male contract workers, receiving virtually no non-wage benefits and in 70 percent of cases no minimum wage. At least half of the workforce of Delhi NCR's garment factories are migrant workers from rural areas as well as poorer North-Western States. Long working hours and forced overtime are also common. The few female workers work in low-paid and unskilled jobs and are isolated when faced by harassment, reflecting the lack of respect they face at home and in the community.<sup>3</sup>

Conversely, Bangalore has a predominantly stable workforce, which is mainly made up of female workers who face widespread harassment and few to no women are employed as supervisors. Factories in Bangalore mostly pay overtime, the minimum wage, and non-wage benefits. However, minimum wage does not match any living wage estimates, overtime is not always paid at the double rate stipulated in Indian law, and Provident Fund (PF) employer's contributions are often not deposited into the worker's account. Due to the local workforces' relatively higher levels of awareness of their labour rights, factories increasingly employ inter-state migrant workers, who are often employed under forced labour working and living conditions, and who are increasingly adolescents.<sup>4</sup>

Tirupur is characterised by a young female low-caste workforce, with an average age range from 16 to 25, with some as young as 14 years old. Workers are mostly from the rural areas of Tamil Nadu, although the inter-state migrant workforce is on the rise. Workers are largely primarily employed as contract labours workers for 12 daily working hours, with four hours of compulsory overtime. Female migrant workers face rampant harassment and forced labour indicators are reported both at the workplace and in the hostels that accommodate workers.<sup>5</sup>

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1 National Sample Survey Organisation, Employment & Unemployment Surveys 2011-12

2 Make in India: <http://www.makeinindia.com/sector/textiles-and-garments>

3 Stakeholders interviews in November 2018

4 Stakeholders interviews in November 2018

5 Stakeholders interviews in November 2018

Stakeholders highlighted two common labour rights risks facing textile and garment workers across the country. Firstly, the lack of trade unions severely compromises industrial relations across India. Secondly, workers face a range of occupational health and safety issues, including anemia due to poor nutrition, physiological problems from the high production targets, as well as a range of problems related to posture and limited access to restrooms. Other than that, the stakeholders reported that the labour rights risks are notably different in Delhi NCR, Bangalore and Tirupur.

Asides from freedom of association – which fails across India – and similar occupational and health issues, FWF audits conducted from January 2016 to December 2018 reflect geographical differences, and similar occupational and health issues were found in Delhi NCR, Bangalore and Tirupur. Out of the 37 audits conducted across the country, 19 audits were carried out in the North, most of which were in Delhi NCR, five in Bangalore and 13 in and around Tirupur. In Delhi NCR, working hours were the most non-compliant issue, especially for security guards that work for a standard 12-hour shift without overtime payment, and general excessive unrecorded overtime for all workers who are not paid at a double rate. Fabricated records on wages and working hours, piece rate workers not having their social security schemes paid for (i.e., Employees State Insurance (ESI) and PF), and a significant proportion of unregistered workers are also areas of non-compliance. In Bangalore, temporary workers are not covered by social security (ESI and PF) and security guards also work 12-hour shifts and are not adequately compensated. In Tirupur, the highest percentage of non-compliance was found to be excessive overtime (four hours daily), which is not compensated as per the law.

From 2016 to 2018, FWF received 56 complaints of which 32 percent were from Delhi NCR, 18 percent from Bangalore, 23 percent from Tirupur, and 27 percent from the rest of India. A significant number of complaints touched upon employment relationships, as well as wages, working hours, and occupational health and safety issues, especially harassment.

To guide member brands on issues of relevance FWF developed a series of documents. *FWF will continue to provide updated information on India at [www.fairwear.org](http://www.fairwear.org) and updates this country study on a periodic basis.*

FWF has been active in India since 2003. 40 FWF members—mostly those in fashion and sportswear—source from over 160 factories. Of these factories, 45 percent are located in northern India, while 55 percent are based in southern India. Significant clusters for factories supplying FWF members include Tamil Nadu (mainly Tirupur), where 48 percent of the factories in India supplying FWF members are located, followed by Delhi NCR (22 percent), Maharashtra (9 percent) and Karnataka (6 percent). FWF conducts factory audits, regularly engages with local stakeholders and operates complaint hotlines in five languages: Hindi, Tamil, Kannada, Bangla and English.

In an effort to guide member brands, FWF has developed a guidance document on the ways to keep the dialogue open with workers. It is called [Worker-management dialogue in Indian legislation- a guiding document](#). To make workers and management aware of the complaints mechanism, FWF provides training through its Workplace Education Programme (WEP). During separate WEP training sessions, local FWF trainers discuss labour conditions together with workers and management. In India, the WEP focuses on the prevention of gender-based violence and the establishment of an Internal Committee (IC), previously known as the Internal Complaints Committee.

Since 2016, FWF has been leading a strategic partnership between FWF, the Dutch Ministry of Foreign Affairs, and the international arms of Dutch trade unions CNV International and Mondiaal FNV. India is one of the partnerships focus countries. The Strategic Partnership activities in India aim to combat low wages and violence against women and enhance social dialogue. The partnership will continue until 2020.

In India, FWF works with several local partners, through its country representative, programme manager, complaints coordinator, as well as a team of auditors, trainers and complaints handlers.

# 1. HOW TO READ THIS FAIR WEAR FOUNDATION COUNTRY STUDY

*This country study provides a clear and concise picture of the textile and garment industry, labour laws, and working conditions within the industry. The study was prepared through gathering information on national laws as well as local stakeholders' views on the labour issues facing India's garment industry India. If you would like to learn more about the stakeholders interviewed for this study, please click [here](#).*

**Chapter 2. General country information**, provides general country information, describes the economic, social, political, governance and human rights situation, and details labour standards using international indicators. Some of the Chapters sections compare India to other Asian garment producing countries, like China and Bangladesh.

**Chapter 3. Garment industry**, presents a short overview of India's garment industry, including turnover, main areas of production, products, industry trends and challenges, as well as government support schemes and proposed changes to labour laws.

**Chapters 4. Regional Production Hubs**, provides brands with information on the actual and potential labour rights risks identified through desk research, engagement with key stakeholders, FWF audits and the complaints that FWF has received. The chapter focuses on the labour rights risks in the three main production hubs: Delhi NCR, Bangalore, and Tirupur.

**Chapter 5. Access to remedy**, gives an overview of national and international non-judicial access to remedy mechanisms for victims of labour rights abuses by the garment sector.

**ANNEX I** presents an overview of national and international laws, as well as international guidance when available, with relation to labour standards.

**ANNEX II** provides a step-by-step list for brands to self-assess the progress that the company has made in implementing the United Nations Guiding Principles on Business and Human Rights. These principles were introduced in 2011, and are the reference point for companies to know their human rights risks and show what they are doing to prevent, mitigate and remediate adverse impacts.

**ANNEX III** provides a brief description of the stakeholders consulted during the development of this country study.

## 2. GENERAL COUNTRY INFORMATION

India has a diverse population of 1.3 billion people, with 22 major languages spoken, although the official languages used by government are Hindi and English. According to the 2011 Census, almost 80 percent of the population are Hindus, and the largest minority religious group are Muslims (roughly 172 million people). This means India has the third most populous Muslim community in the world, after Indonesia and Pakistan.<sup>6</sup> Other religions such as Christianity, Sikhism and Buddhism are significantly smaller communities.

### 2.1. Socio-Economic indicators

With a GDP of USD 2.5 trillion in 2017, India is the sixth largest economy in the world, according to the World Bank. Within the BRICS block,<sup>7</sup> China is the second largest economy with a GDP almost 500 percent higher than the one of India, although its population is about 7.5 percent larger than India's, and Brazil is the eight largest economy, with only about 16 percent of the population of India.<sup>8</sup> India ranks 20th among the world's exporters of merchandise and, according to the World Trade Organisation, in 2017 India was the 8th largest exporter of services. India primarily exports manufactured goods (accounting for 70.5 percent of total exports), followed by fuel and mining products (13.8 percent) and agricultural products (12.8 percent).<sup>9</sup> The textile and garment sectors export earnings represented 14 percent of the country's total exports in 2016-2017.<sup>10</sup>

India ranks 130th on the United Nations Development Programme's 2018 Human Development Index (HDI), and India is in the medium development category. Of the FWF priority countries in Asia, only China, ranking 86th, qualifies in the high development category.<sup>11</sup> Similarly, China has the highest Gross National Income (GNI) per capita (USD 15,270), while Indians have about 40 percent that amount (6,353 USD) and Bangladesh GNI is 3,677 USD.<sup>12</sup> The inflation rate almost halved from 2015 and reached 3.3 percent in 2017, according to the World Bank.<sup>13</sup>

In 2018, the under-five mortality rate was 43 deaths per 1,000 births, and the child malnutrition rate was 37.9 percent.<sup>14</sup> While these figures are still the highest among countries in Asia

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6 Socioeconomic and Caste Census, 2011: <http://secc.gov.in/stateSummaryReport>

7 BRICS is the acronym for an association of five major emerging national economies: Brazil, Russia, India, China and South Africa.

8 World Bank, Gross domestic product 2017: <https://databank.worldbank.org/data/download/GDP.pdf>

9 World Trade Organisation, India: <http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=E&Country=IN>

10 Make in India: <http://www.makeinindia.com/sector/textiles-and-garments>

11 UNDP, Human Development Indices and Indicators, 2018 Statistical Update: [http://hdr.undp.org/sites/default/files/2018\\_human\\_development\\_statistical\\_update.pdf](http://hdr.undp.org/sites/default/files/2018_human_development_statistical_update.pdf)

12 UNDP, Human Development Indices and Indicators, 2018 Statistical Update: [http://hdr.undp.org/sites/default/files/2018\\_human\\_development\\_statistical\\_update.pdf](http://hdr.undp.org/sites/default/files/2018_human_development_statistical_update.pdf)

13 World Bank, Inflation, consumer prices (annual %): <https://data.worldbank.org/indicator/FP.CPI.TOTL.ZG>

14 UNDP, Human Development Indices and Indicators, 2018 Statistical Update: [http://hdr.undp.org/sites/default/files/2018\\_human\\_development\\_statistical\\_update.pdf](http://hdr.undp.org/sites/default/files/2018_human_development_statistical_update.pdf)



where FWF is active, they represent a ten percent decrease since 2015,<sup>15</sup> despite the fact that public spending on health remained low at just 1.2 percent of the GDP.<sup>16</sup>

Looking at access to education and to the workplace, in 2018 India had significant gender inequalities compared to China and Bangladesh in 2018.<sup>17</sup> While the divide in access to secondary level education is now 24 percent, representing an almost six-point percentage decrease since 2015,<sup>18</sup> female participation at the workplace decreased 1.5 percent compared to 2015, with nearly 52 percent more males than females in the job market according to the HDI.<sup>19</sup> The trend of lower female participation in the labour market has been observed since the mid-2000s,<sup>20</sup> and is related to higher female enrollment in secondary education, rising household incomes, and the decline in employment opportunities for women, who are often segregated to activities such as basic agriculture, sales and elementary services, and handicraft manufacturing.<sup>21</sup> According to a 2016 International Labour Organisation (ILO) study, at the workplace, female discrimination includes a gender pay gap of 40 percent across all sectors and 39 percent gender pay gap in the garment sector. The gender pay gap is higher for women living in rural areas and lower for married women.<sup>22</sup>

According to Credit Suisse, the wealthiest one percent of Indians own 25.7 percent of the wealth and the richest ten percent own 62 percent of the wealth. As highlighted in the table below, this makes India more unequal than China.<sup>23</sup> In 2016, Oxfam calculated that if India stopped inequality from rising further, extreme poverty could be ended for 90 million people by 2019.<sup>24</sup> The latest available census (2011) reports that 73 percent of Indian households live in rural areas, and 75 percent of them earn less than 5,000 INR (USD 71) per month; almost 40 percent are landless. Among Schedule Caste (SC) households, the percentage of landless households is 55 percent, making them dependent on manual casual labour.<sup>25</sup> These figures help to explain the vulnerability and consequently the pressure on rural, especially lower caste, families, to migrate to urban centres to find employment in the garment sector and other industries.

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15 UNDP, 2015 Human Development Report:

[http://hdr.undp.org/sites/default/files/2015\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2015_human_development_report.pdf)

16 Amnesty International, India 2017/2018:

<https://www.amnesty.org/en/countries/asia-and-the-pacific/india/report-india/>

17 UNDP, Human Development Indices and Indicators, 2018 Statistical Update:

[http://hdr.undp.org/sites/default/files/2018\\_human\\_development\\_statistical\\_update.pdf](http://hdr.undp.org/sites/default/files/2018_human_development_statistical_update.pdf)

18 UNDP, 2015 Human Development Report:

[http://hdr.undp.org/sites/default/files/2015\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2015_human_development_report.pdf)

19 UNDP, Human Development Indices and Indicators, 2018 Statistical Update:

[http://hdr.undp.org/sites/default/files/2018\\_human\\_development\\_statistical\\_update.pdf](http://hdr.undp.org/sites/default/files/2018_human_development_statistical_update.pdf)

20 International Monetary Fund, Women Workers in India: Why So Few Among So Many?, March 2015:

<https://www.imf.org/external/pubs/ft/wp/2015/wp1555.pdf>

21 ILO, India: Why is women's labour force participation dropping?, 13 February 2013:

[http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_204762/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_204762/lang--en/index.htm)

22 ILO, Assessing the gender pay gap in Asia's garment sector, March 2016:

[https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_466268.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_466268.pdf)

23 Credit Suisse Research Institute, Global Wealth Databook 2018, October 2018:

<https://publications.credit-suisse.com/tasks/render/file/index.cfm?fileid=777FDF0E-E060-F608-52DAF97E062CC35B>

24 World Economic Forum, Inequality in India: what's the real story?, 4 October 2016:

<https://www.weforum.org/agenda/2016/10/inequality-in-india-oxfam-explainer/>

25 Socioeconomic and Caste Census, 2011:

<http://secc.gov.in/stateSummaryReport>

**Table 2- Income & Poverty indicators- India, China and Bangladesh**

	India	China	Bangladesh
Gini index (0 represents absolute equality, 100 absolute inequality)	35.1	42.2	32.4
Population in poverty defined as 1.90\$ per day (%)	21.2	1.4	14.8
Population living below the national poverty line (%)	21.9	3.1	24.3

Source: HDI 2018

## 2.2. Political & governance indicators

India continues to rank highly in the democracy index compared to other Asia countries such as China and Bangladesh. This is, according to the Economist Intelligence Unit, largely thanks to high scores in electoral pluralism, civil liberties and political participation.<sup>26</sup> Similarly, among the countries in Asia where FWF is active, India is the best performer in the rule of law index. India performs best on open government<sup>27</sup> and the constraints imposed on the government;<sup>28</sup> however, India performs poorly on order and security.<sup>29/30</sup> On perceived corruption, India places itself in between China and Bangladesh and has seen steady improvements in its rank since 2012, according to Transparency International.<sup>31</sup>

**Table 1- Social, Political & Governance indicators- India, China and Bangladesh**

	India	China	Bangladesh
Democracy Index (Rank) <i>(Source: Economist Intelligence Unit 2017)</i>	42	139	92
Rule of Law (Rank) <i>(Source: WB 2017)</i>	53	45	28
Control of Corruption (Rank) (with 0 corresponding to lowest rank, and 100 to highest rank) <i>(Source: WB 2017)</i>	49	47	19
Gender Inequality Index (Rank) <i>(Source: HDI 2018)</i>	127	36	134
Government effectiveness (Rank) (with 0 corresponding to lowest rank, and 100 to highest rank) <i>(Source: WB 2017)</i>	57	68	22

<sup>26</sup> Economist Intelligence Unit, Democracy Index 2017: Free Speech under Attack:

[http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy\\_Index\\_2017.pdf&mode=wp&campaignid=DemocracyIndex2017](http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy_Index_2017.pdf&mode=wp&campaignid=DemocracyIndex2017)

<sup>27</sup> Open Government is defined by the extent to which a government shares information, empowers people with tools to hold the government accountable, and fosters citizen participation in public policy deliberations.

<sup>28</sup> Constraints imposed on the government measures the extent to which those who govern are bound by law. It comprises the means, both constitutional and institutional, by which the powers of the government and its officials and agents are limited and held accountable under the law.

<sup>29</sup> Order and security measures how well a society assures the security of persons and property.

<sup>30</sup> World Justice Project, Rule of Law Index 2017-2018:

[https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2018-June-Online-Edition\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2018-June-Online-Edition_0.pdf)

<sup>31</sup> Transparency International, Corruption Perception Index 2017:

[https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017](https://www.transparency.org/news/feature/corruption_perceptions_index_2017)

## 2.3. General human rights situation

According to the 2017/2018 Amnesty International report for India, caste-based discrimination continues. Notably, there were 40,000 reported crimes against Schedule Castes (SCs) in 2016, and Dalits were especially targeted for not respecting the “unwritten rules” for access to public and social spaces. The Muslim community is targeted by vigilante cow protection groups, who allegedly enjoy the protection of some members of the ruling Bharatiya Janata Party, resulting in Muslim men being lynched and injured. Adivasi communities continue to be displaced by industrial projects, especially mining and hydropower projects. Police violence (rape) against Adivasi girls is also reported. Deaths in police and judicial custody remain high, with 74 and almost 900 deaths respectively in the first eight months of 2017 alone. Amnesty International reports attacks against freedom of expression with journalists being arrested, imprisoned and killed, and university students being arrested and beaten by police while protesting. Similarly, the space for human rights defenders is steadily shrinking with some NGOs not being allowed to receive foreign funding. Rape within marriage is not a crime, and there were 110,000 cases of reported violence by husbands and relatives in 2016. In August 2017, the Supreme Court banned the triple talaq (Islamic instant divorce) practice,<sup>32</sup> and depenalised same-sex intercourse<sup>33</sup> and adultery<sup>34</sup> in two groundbreaking judgments in September 2018, making these offenses no longer criminal.<sup>35</sup>

With the exceptions of the International Convention on the Protection of All Migrant Workers and Members of Their Families and the two optional protocols to the International Covenant on Civil and Political Rights, India has ratified most international human rights conventions. In 2017, India ratified two ILO Core Conventions on child labour, namely C138 and C182, following amendments to the national child labour law, which were broadly critiqued.<sup>36</sup> This leaves only two out of the eight ILO Core Conventions without ratification, namely on freedom of association (C87) and collective bargaining (C98).<sup>37</sup> More information on international laws is available in Annex I.

With regard to business and human rights, India expressed its support for an internationally binding treaty on transnational corporations and other business enterprises concerning human rights in 2014.<sup>38</sup> India has come out with the zero draft of the National Action Plan on Business and Human Rights.<sup>39</sup> Those commitments follow the obligation imposed on businesses with specific characteristics<sup>40</sup> of spending two percent of their average net profit on Corporate Social Responsibility activities since 2013.<sup>41</sup>

32 Amnesty International, India 2017/2018: <https://www.amnesty.org/en/countries/asia-and-the-pacific/india/report-india/>

33 Penal Code, section 377: <https://indiankanoon.org/doc/1836974/>

34 Penal Code, section 497: <https://indiankanoon.org/doc/1833006/>

35 Indian Express, Gay sex decriminalised: History owes apology to LGBT community and kin, says Supreme Court, 6 September 2018: <https://indianexpress.com/article/india/supreme-court-verdict-adultery-law-live-updates-section-497-5376498/> and Indian Express, SC verdict on adultery law HIGHLIGHTS: It's an anti-women decision, says DCW Chairperson Swati Maliwal, 27 September 2018: <https://indianexpress.com/article/india/supreme-court-verdict-adultery-law-live-updates-section-497-5376498/>

36 Amnesty International, India 2017/2018: <https://www.amnesty.org/en/countries/asia-and-the-pacific/india/report-india/>

37 ILO, Ratifications for India: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:102691](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102691)

38 OHCHR, Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights: <http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOntNC.aspx>

39 [http://www.mca.gov.in/Ministry/pdf/NationalPlanBusinessHumanRight\\_13022019.pdf](http://www.mca.gov.in/Ministry/pdf/NationalPlanBusinessHumanRight_13022019.pdf)

40 Every company having a net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year

41 The Companies Act, 2013, Article 135: <http://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf>

## 2.4. Labour Standards Indicators

FWF Code of Labour Practices	Statistics for India
<b>Employment is freely chosen</b> Forced labour (number of people)	8 million
<b>There is no discrimination in employment</b> Gender pay gap (garment sector) Global Gender Gap Index Rank (2017) Unemployment rate (2017): - Among people with disabilities - Among Schedule Castes - Among Schedule Tribes	39 % 108/144 3.5 % 74 % 4.5 % 4.6 %
<b>No exploitation of child labour</b> Child labour (number of people) Hazardous child labour (number of people)	8.2 million (5-14 years old) 5.8 million (5- 17 years old)
<b>Freedom of association and the right to collective bargaining</b> Trade unions density rate (garment industry)	<5%
<b>Payment of a living wage</b> Living wages estimates (2018)	23,588 INR (US\$ 336) 17,950 INR (US\$ 256) for Delhi NCR or 19,840 INR (US\$ 283) for Bangalore 14,670 INR (US\$ 209)
<b>No excessive working hours</b> Legal daily and weekly working hours Average overtime daily and weekly in the garment sector (2018)	8 hour per day (max 9 hours) and 48 hours weekly (max 60 hours with overtime) 2 to 4 hours daily and 70 to 100 hours weekly
<b>Safe and healthy working conditions</b> Injuries and deaths at work rate (2011)	Injuries 29,837; Deaths 1,433
<b>Legally-binding employment relationship</b> Workers in the informal sector (%) (2018) No written contracts (%) (2014) Workers enjoying ESI and PF (%) (2014)	80.9% and 64.3% in non-agricultural sector (87.8% Southern Asia) 79% 72%

### 3. GARMENT INDUSTRY OVERVIEW

*This section gives a general description of the garment industry, but not of the labour relations and risks to labour rights. The aim of this section is to give an analysis of the local garment industry and the possibilities for improving the labour situation.*

The textile and garment industry contributes to two percent of India's GDP, seven percent of industrial production, and about 14 percent of India's export earnings in 2016-2017, the latter being a figure that has been in continuous decline in the recent years. India has a total workforce of 520 million people<sup>42</sup> and the textile and garment sector is the third largest employer in the country after agriculture and construction,<sup>43</sup> employing 45 million people.<sup>44</sup> India is the second largest textile and garment exporter worldwide after China and the sixth largest exporter of garments globally. In November 2017, India's textile and garment sector had a total turnover of USD 150 billion, the largest portion of which went to the domestic market<sup>45</sup> and USD 36 billion of which was in the form of exports.<sup>46</sup> Ready-made garments constitute the largest sub-sector, accounting for 43 percent of total textile exports in the first nine months of 2016-17.<sup>47</sup> While the EU and the US are the main export markets, making up 47 percent of all textile and garment exports,<sup>48</sup> China represents the main import country and accounts for 16.6 percent of all textile and garment imports to India.<sup>49</sup>

India is the largest producer and the second largest exporter of cotton;<sup>50</sup> it accounts for 25 percent of the world's cotton production. This is linked to India's ready-made-garments production, which is mostly cotton garments,<sup>51</sup> accounting for 58 percent of total cloth production, followed by non-cotton cloths (25 percent of total cloth production) and blended cloths (16 percent).<sup>52</sup> The top-ten readymade garment items produced in India are: 1) cotton T-shirts, singlets and other vests; 2) non-cotton T-shirts, singlets and other vests; 3) cotton male shirts; 4) man-made fibers (MMFs) female blouses and shirts; 5) cotton female blouses and shirts; 6) cotton female dresses; 7) cotton baby garments and clothing accessories; 8) synthetic female dresses; 9) MMFs female garments; and 10) shawls, scarves and veils.<sup>53</sup>

Garment production in India is mainly located in hubs, which are characterised by the specific products that are manufactured. The main three hubs are Delhi NCR, Bangalore and Tirupur. The first hub is known for its female and children's fashion wear; the second for its male and female readymade garments, especially trousers, including jeans and jackets; and the third one for its t-shirts, knitwear and hosiery production. Other production hubs are Indore, Ludhiana, Mum-

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42 World Bank, Labor force total: <http://data.worldbank.org/indicator/SL.TLF.TOTL.IN>

43 National Sample Survey Organisation, Employment & Unemployment Surveys 2011-12

44 Ministry of Textile, Annual Report 2017-2018: [http://texmin.nic.in/sites/default/files/ar\\_14\\_15\\_english.pdf](http://texmin.nic.in/sites/default/files/ar_14_15_english.pdf)

45 IBEF, Textile Industry & Market Growth in India: <https://www.ibef.org/industry/textiles.aspx>

46 Ministry of Textiles, Annual Report 2017-2018: [http://texmin.nic.in/sites/default/files/ar\\_14\\_15\\_english.pdf](http://texmin.nic.in/sites/default/files/ar_14_15_english.pdf)

47 Ministry of Textiles, Annual Report 2017-2018: [http://texmin.nic.in/sites/default/files/ar\\_14\\_15\\_english.pdf](http://texmin.nic.in/sites/default/files/ar_14_15_english.pdf)

48 Ministry of Textiles, Annual Report 2017-2018: [http://texmin.nic.in/sites/default/files/ar\\_14\\_15\\_english.pdf](http://texmin.nic.in/sites/default/files/ar_14_15_english.pdf)

49 World Trade Organisation, India: <http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=E&Country=IN>

50 Make in India: <http://www.makeinindia.com/sector/textiles-and-garments>

51 TEA, Vision 2020

52 Ministry of Textiles, Variety-wise Production of Cloth: [http://texmin.nic.in/sites/default/files/prod\\_variety\\_cloth.pdf](http://texmin.nic.in/sites/default/files/prod_variety_cloth.pdf)

53 UN Comtrade, <http://comtrade.un.org/db/mr/daReportersResults.aspx?r=699>

bai, Kolkata, Jaipur and Bareilly.<sup>54</sup> Out of a total of 223 operational Special Economic Zones (SEZs), six are textile and apparel specific, two of which are dedicated only to apparel. However, garment factories are included in more SEZs, which group multiple sectors.<sup>55</sup>

The stakeholders consulted for this study reported some general **trends** observed in the industry across India in recent years: 1) increased employment of inter-state migrant workers; 2) increased percentage of contract workers; and 3) displacement of factories from urban to rural areas in the south and other States that provide incentives, such as Rajasthan and Jharkhand, in the north. The displacement aims at reducing real estate and labour costs, as new locations have lower rentals, subsidies for electricity and water costs and lower minimum wages.<sup>56</sup> According to many stakeholders, industrial relations continue to be tense and having civil society and manufacturers engage in meaningful conversations is a challenge for organisations conducting multi-stakeholder engagement.<sup>57</sup> Industrial dynamics are adversely impacted by the legal requirement to create a trade union inside a factory,<sup>58</sup> distrust towards unionisation by factory management, and the entrenched belief that workers should be grateful to the employer for providing a job and should not raise complaints.<sup>59</sup>

The business associations consulted for this country study mentioned some of the **challenges** facing the industry, namely: 1) textile has traditionally been exempted from taxation in India (i.e. only the yarn was taxed, but not fabric and cloths), but in July 2017 the government introduced the **Good and Service Tax (GST)** on garments. However, taxes are fully refunded by the government if the garment is for export. Nonetheless, factories have to pay upfront, increasing their administrative costs, and delays in the refund process have been experienced. Although refunds should happen within 30 days, in reality for the first nine-ten months since the introduction of the measure no refunds were received due to the manufactures' lack of knowledge of the new set of documentation to be submitted.<sup>60</sup> India produces a more limited selection of garments compared to China due to limited domestic production of fabrics made from **man-made-fibres**, mainly due to a lack of downstream facilities of MMF yarn and fabrics. This makes India dependent on imports, which is taxed at higher rate for importing the yarn (18 percent) and a lower rate (5 percent) for importing the fabric. Following pressure from the industry, the government lowered the higher rate of tax from 18 to 12 percent.<sup>61</sup> 2) The lack of a **trade agreement** with the European Union, resulting in their being an additional 9.6 percent tax on garments produced in India compared to those produced in countries such as Sri Lanka, Cambodia and Bangladesh, which enjoy the Everything But Arms/Generalised

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54 Ministry of Textiles, Inflow of Foreign Direct Investment in India at a Glance:

[http://texmin.nic.in/sites/default/files/fdi\\_data\\_inflow\\_glance\\_ermiu\\_akb.pdf](http://texmin.nic.in/sites/default/files/fdi_data_inflow_glance_ermiu_akb.pdf)

55 Special Economic Zones in India, Operational SEZs in

<http://sezindia.nic.in/upload/uploadfiles/files/Operational-SEZs-list.pdf>

56 Stakeholder interview with ILO on 29 November 2018 and ETI on 17 December 2018

57 Stakeholder interviews with ILO on 29 November 2018 and ETI on 17 December 2018

58 Once the legal number of workers to form a trade union is reached in a factory, a list of its members, among other information, is to be sent to the Department of Labour in the relevant state. As a mean of verification, the latter sends the list with the names of workers to the factory management, which then dismisses the workers. Consequently, as the names on the list are no longer of employees of the factory, the trade union cannot be registered.

59 Stakeholder interviews in November- December 2018

60 Stakeholder interviews with AEPC on 26 November 2018 and CII on 29 November 2018, and Ministry of Textiles, Implications of Goods and Services Tax for Indian Textiles Sector

<http://texmin.nic.in/sites/default/files/GST-%20Indian%20Textile%20Sector.pdf>

61 Stakeholder interview with CII on 29 November 2018

Scheme of Preferences scheme.<sup>62</sup> 3) The garment industry, especially small and medium-sized factories, traditionally paid workers in cash, so the 2016 demonetisation had a significant impact on manufacturers that had to implement short- and medium-term solutions while working on the long term one of setting up bank accounts for workers. Tirupur Export Association (TEA) reports that in the months immediately following demonetisation, factories set up accounts in shops where workers could buy items to meet their primary needs. In the medium-term factories used the “RuPay card”, issued by the bank where the factory has an account to all factory workers, allowing them only to withdraw their salaries at ATMs.<sup>63</sup> However, Rights Education and Development (READ) reports that about 55 percent of workers in the Tirupur area are still paid in cash.<sup>64</sup> However, the Community Awareness and Research Education Trust (CARE-T), report that in small factories virtually all workers are paid in cash, and about 60 percent workers in large and medium-size factories are paid in cash.<sup>65</sup> 4) Brexit, which lead to the unpredictability of import tariffs for garments and consequently put on hold an expected expansion in production by British brands. This resulted in a six percent decrease in exports between 2017 and 2018,<sup>66</sup> as the United Kingdom is one of India’s main export markets. While exports have not grown as much as expected, domestic production has steadily increased since 2008, as Indian domestic chains are growing, and some international brands are also looking at India as a consumer market.<sup>67</sup>

In an effort to support the garment and textile industry the Indian government has approved various schemes. These schemes include: 1) payment of the employer’s contribution to the PF (12 percent of wages) by the government from 2016 to September 2019 for employees hired after 2016;<sup>68</sup> 2) no import taxes on fabric if the garment is for export (the fabric mostly comes from China, including Hong Kong); 3) 15 percent off the cost of machinery refunded by the government for modernising, plus an additional ten percent, if 70 jobs are created by every ten million INR (USD 142,560) invested from July 2016; and 4) the creation of fix-term appointments, easy to hire and fire, giving factories more flexibility.<sup>69</sup> [FWF has prepared a [FAQ](#) for its member brands and their suppliers on fixed-term employment] Additionally, several States, including Jharkhand, Odisha, Madhya Pradesh, Andhra Pradesh, Telangana and Gujarat announced textile and garment specific policies to attract industry investments.<sup>70</sup> However, despite the abovementioned measures, the Apparel Export Promotion Council reports few new substantial jobs were created against the target of 70 new jobs for every ten million INR (USD 142,560) invested since 2016.<sup>71</sup> Global Production Networks (GPN) Studies remarks that a more stable and better-treated workforce would translate into increased productivity.<sup>72</sup>

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62 Stakeholder interviews with CII on 29 November 2018 and TEA on 4 December 2018

63 Stakeholder interview with TEA on 4 December 2018

64 READ, SDGs and Labour- A Compendium, July 2018

65 Stakeholder interview with CARE-T on 3 December 2018

66 AEPC, Note for Niti Aayog

67 Stakeholder interviews with GPN Studies on 28 November 2018 and CARE-T on 3 December 2018

68 Stakeholder interviews with AEPC on 26 November 2018 and KSHITIJ on 30 November 2018

69 Stakeholder interviews with ILO on 29 November 2018 and AEPC on 26 November 2018

70 Stakeholder interviews with CII on 29 November 2018

71 Stakeholder interview with AEPC on 26 November 2018

72 Stakeholder interview with GPN Studies on 28 November 2018

Despite the government's efforts,<sup>73</sup> Foreign Direct Investment (FDI) into the apparel and textile sector is negligible, amounting to less than 1 percent of FDI in India from 2000 to 2018.<sup>74</sup> Most FDI is directed into the service, IT, construction and automobile sectors.<sup>75</sup>

The government proposed four **labour codes** for simplifying labour laws by striking down 44 laws that, as of the time of writing (December 2018), are waiting to be discussed in Parliament. The codes are on: 1) Industrial Relations (replacing three laws), 2) Wages (replacing 15 laws), 3) Social Security and Welfare (replacing 15 laws), and 4) Occupational Safety and Health and Working conditions (replacing 16 laws).<sup>76</sup> The general strike organised against the proposed labour reforms by trade unions on 5 January 2019 received the support of the International Trade Union Confederation.<sup>77</sup> Some of the proposed changes include: 1) the threshold of the number of workers in a factory to be increased to 300, which means that without permission from the government, lay-offs and closures can easily take place in companies employing under 300 workers.<sup>78</sup> 2) The review of the equality principle contained in the Inter-State Migrant Workmen Act, legitimising a hierarchy of wages between migrant and local workers.<sup>79</sup> 3) No non-workers or retired workers will be permitted to take leadership positions in trade unions. 4) Opening the social security system up to privatisation.<sup>80</sup>

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73 The government has allowed 100 percent of FDIs into the garment and textile sector since 2014. Make in India: <http://www.makeinindia.com/sector/textiles-and-garments>

74 Department of Industrial Policy and Promotion, Fact Sheet on Foreign Direct Investment from April 2000 to June 2018: [https://dipp.gov.in/sites/default/files/FDI\\_FactSheet\\_23August2018.pdf](https://dipp.gov.in/sites/default/files/FDI_FactSheet_23August2018.pdf)

75 Department of Industrial Policy and Promotion, Fact Sheet on Foreign Direct Investment from April 2000 to June 2018: [https://dipp.gov.in/sites/default/files/FDI\\_FactSheet\\_23August2018.pdf](https://dipp.gov.in/sites/default/files/FDI_FactSheet_23August2018.pdf)

76 The Week, Labour reforms: The cost of optimising Indian economy, 6 August 2018: <https://www.theweek.in/news/biz-tech/2018/08/06/labour-reforms-cost-optimising-india-economy.html>

77 International Trade Union Confederation, India: Alarming Erosion of Labour Laws, 16 November 2018: <https://www.ituc-csi.org/india-alarming-erosion-of-labour>

78 Stakeholder interview with GLU on 1 December 2018

79 Stakeholder interview with ILO on 29 November 2018

80 The Week, Labour reforms: The cost of optimising Indian economy, 6 August 2018: <https://www.theweek.in/news/biz-tech/2018/08/06/labour-reforms-cost-optimising-india-economy.html>



## 4. REGIONAL PRODUCTION HUBS

*This chapter presents potential and actual labour rights risks in the three main garment production hubs: Delhi NCR, Bangalore and Tirupur. Risks were identified through desk research, stakeholder engagement, FWF audits and FWF complaints received.*

### 4.1. Delhi NCR

*This section highlights the potential and actual risks to labour rights risks in Delhi NCR.<sup>81</sup> The section starts with information on the location and size of factories, production activities and workers employed by the garment industry in Delhi NCR.*

Garment factories in Delhi NCR are mostly located in Okhla, Gurgaon, Faridabad, and Noida, where the only Special Economic Zone (SEZ) with garment factories is located.<sup>82</sup> SEZs are exempted from compliance with several labour laws and, according to Le Circle, are characterised by a failure to enforce labour laws. Only employees can enter the SEZs, trade unions are banned and the right to strike is limited by means of a 45-day notice requirement.<sup>83</sup> No textile mill is present in this region.<sup>84</sup>

Most factories are medium sized, employing 400 to 500 workers, with a limited number of small factories with 100 to 400 workers and very few large factories with 1,000 to 3,000 workers.<sup>85</sup> There are also sweatshops with 20 to 30 workers, which are not registered and operate entirely in the informal sector, predominantly employing piece-rate workers.<sup>86</sup>

Production in Delhi NCR is made up of cotton garments with a high level of embroidery and embellishments that are mostly fashion wear, female attires, followed by children's and male garments, home furnishing, accessories, and leather garments.<sup>87</sup> According to several stakeholders, in recent years garment factories have reduced their outsourcing or made it less visible.<sup>88</sup> Production in Haryana State, where Gurgaon is located, contributes to 17 percent of the total garments exported.<sup>89</sup> In this region, the vast majority of workers are male, who migrate from villages and other Northern States, and about 70 percent are employed as contract workers (thikedar), including those paid a piece-rate.<sup>90</sup> Daily-wage workers represent about ten percent of workers and around 20 percent are permanent workers; however, as explained in the Stakeholders Engagement section, this does not correspond to the entitlements that these workers should receive.<sup>91</sup>

81 The National Capital Region includes cities such as Delhi, Gurgaon, Noida, Faridabad, Sonapat, Bahadurgarh, Ghaziabad, Muzaffarnagar and Meerut.

82 Stakeholder interview with Labouring Women and Violence on 26 November 2018.

83 The Circle, Fashion Focus: The Fundamental Rights to a Living Wage, May 2017:

<https://thecircle.ngo/project/a-living-wage/>, accessed on 12 November 2018 and University of Pennsylvania, Trade Union Rights in Law and Practice: <http://tur.la.psu.edu/country/356>

84 Stakeholder interview with Labouring Women and Violence on 26 November 2018

85 Stakeholder interview with ASK on 27 November 2018 and GNP Studies on 28 November 2018.

86 Stakeholder interview with Nari Shakti Manch on 28 November 2018

87 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and GNP Studies on 28 November 2018

88 Stakeholder interviews with Labouring Women and Violence on 26 November 2018, ASK on 27 November 2018 and GNP Studies on 28 November 2018

89 Stakeholder interview with AEPC on 26 November 2018

90 Stakeholder interviews with Nari Shakti Manch and GPN Studies on 28 November 2018

91 Stakeholder interview with Nari Shakti Manch on 28 November 2018

## 4.1.1. STAKEHOLDERS ENGAGEMENT

*In November 2018, eight stakeholders were consulted to gather information on this regional hub, of which three NGOs, two research centers, one business association, one public entity and one international organisation. For more information please see Annex III.*

The percentage of **migrant workers** employed in the garment industry in Delhi NCR is rising, with some indications now showing that migrant workers constitute 70 percent of workers in the sector.<sup>92</sup> Migrant workers come from both the rural areas of Delhi NCR as well as other States - primarily Bihar and Uttar Pradesh but, to a lesser extent, also West Bengal, Odisha and Madhya Pradesh.<sup>93</sup> Migrant workers are from Schedule Tribes (STs), SCs, Other Backward Classes (OBC) or are Muslim.<sup>94</sup> These groups face limitations in accessing education,<sup>95</sup> hence the government set up vocational skills training programmes within the framework of the Government of India's National Skill Development Mission. Few training centres are actually run by the government, and several are owned by private individuals.<sup>96</sup> The NGO Association for Stimulating Knowhow (ASK) reports that these programmes have only had limited successes, due to difficulties in placing workers into the job market, and because of the word of mouth of previous recruits that reported poor working conditions.<sup>97</sup> Female workers generally migrate to Delhi NCR with their family, and when they migrate alone, women normally share a room with a friend or a relative, as it is difficult to rent a room as a single woman and it is generally also economically unviable.<sup>98</sup> Migrants find rental accommodation in the local community close to the factory,<sup>99</sup> generally a room in quarters. Caste discrimination plays a role in the living dynamics, with migrant workers often belonging to lower castes. For example, upper caste workers reserve one bathroom in the quarter for their caste's use only, resulting in low caste workers spending more time in queues for the few remaining restrooms.<sup>100</sup> Often the owners of these accommodation force migrant workers to buy vegetables from their shop, which has higher prices than the local markets.<sup>101</sup> Migrant workers are employed as contract workers and are either full-time or piece-rate workers.<sup>102</sup> Following a growing anti-Muslim movement since 2014, Muslim workers are more vulnerable in the communities where they live. This peaked with mob violence against Muslims by cow vigilantes, which means Muslims are now less likely to speak up both in the workplace and in the community.<sup>103</sup>

The percentage of **female workers** employed in the garment industry in Delhi NCR is low. Women are largely employed in semi-skilled and unskilled positions, such as thread cutting (the lowest paid job in the industry), and only ten to 25 percent of machine operators are

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92 Stakeholder interview with GPN Studies on 28 November 2018

93 Stakeholder interviews with GPN Studies and Nari Shakti Manch on 28 November 2018, ASK on 27 November 2018 and KSHITIJ on 30 November 2018

94 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and Nari Shakti Manch on 28 November 2018

95 Stakeholder interview with Labouring Women and Violence on 26 November 2018

96 Stakeholder interviews with ASK on 27 November 2018 and KSHITIJ on 30 November 2018

97 Stakeholder interview with ASK on 27 November 2018

98 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and Nari Shakti Manch on 28 November 2018

99 Stakeholder interview with Labouring Women and Violence on 26 November 2018

100 Stakeholder interview with Labouring Women and Violence on 26 November 2018

101 Stakeholder interview with GPN Studies on 28 November 2018

102 Stakeholder interview with ASK on 27 November 2018

103 Stakeholder interview with Labouring Women and Violence on 26 November 2018

female. Virtually all supervisors are male,<sup>104</sup> with a few exceptions in the thread cutting section,<sup>105</sup> as women are rarely promoted.<sup>106</sup> Garment factories in Delhi NCR are increasingly recruiting female workers, which now represent between 15 and 40 percent of the workforce in Gurgaon.<sup>107/108</sup> The NGO KSHITIJ suggests that the low female employment ratio in Delhi NCR is partially due to cultural reasons, where women are retracted from social life (e.g., veil their face with the saree when out of their homes) and partly because of the widespread belief among factory managers that women are less productive than men.<sup>109</sup>

Women are the first workers to be terminated in the low season<sup>110</sup> and are made to have a break in service, which hampers their ability to qualify for gratuity that requires five years of continuous service.<sup>111</sup> Although a gender pay gap has not been reported (this is mainly due to the low percentages of women in the sector and their segregation in lower paid jobs),<sup>112</sup> GPN Studies reported that when women are assigned to a skilled position (i.e., tailors), they are categorised as semi-skilled workers in terms of payroll, whereas men are correctly classified. This incorrect categorisation is a form of wage theft.<sup>113</sup> While male workers are employed in the factories until 40 to 45 years of age, female workers are dismissed when they reach 35 years of age, because they are then considered unable to keep up with production targets and if they stay in the factory they are normally assigned to the finishing or checking departments.<sup>114</sup>

The proposed 2011 Factories Act amendment, which is yet to pass, would allow, for women to work night shifts (22:00 pm to 05:00 am), provided that they are offered adequate safeguards.<sup>115</sup> However, the Factories Rules of some States already allow women to work night shifts (i.e., Karnataka and Tamil Nadu).<sup>116</sup> In 2017, the Haryana government, where Gurgaon is located allowed women to work night shifts.<sup>117</sup> In 2018, the Uttar Pradesh government, where Noida is located, did the same.<sup>118</sup>

Although child labour is not visible in garment factories,<sup>119</sup> it is present in illegal sweatshops in and around Delhi, where, according to the Global March Against Child Labor, an estimated 100,000 children work for more than 14 hours a day.<sup>120</sup> Factories only require the Aadhar card

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104 Stakeholder interviews with Nari Shakti Manch and GPN Studies on 28 November 2018

105 Stakeholder interview with Labouring Women and Violence on 26 November 2018

106 Stakeholder interview with GPN Studies on 28 November 2018

107 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and KSHITIJ on 30 November 2018

108 Stakeholder interview with Nari Shakti Manch on 28 November 2018

109 Stakeholder interview with KSHITIJ on 30 November 2018

110 The garment industry in India mostly serves the spring/summer fashion season, hence it experiences fluctuations in production volume.

111 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and Nari Shakti Manch on 28 November 2018

112 Stakeholder interviews with Labouring Women and Violence on 26 November 2018, Nari Shakti Manch on 28 November 2018 and ASK on 27 November 2018

113 Stakeholder interview with GPN Studies on 28 November 2018

114 Stakeholder interview with GPN Studies on 28 November 2018

115 The Factories Act, 1948: <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/32063/64873/E87IND01.htm>

116 Stakeholder interview with KSHITIJ on 30 November 2018 and Nari Shakti Manch on 28 November 2018

117 S.S. Rana & Co., India: Night Shift For Women In Haryana, 6 November 2017:

<http://www.ssrana.in/Admin/UploadDocument/Article/India-Night-Shift-for-women-in-Haryana.pdf>

118 Business Standard, After Maharashtra and Haryana, UP allows women on night shift in factories, 23 March 2018: [https://www.business-standard.com/article/economy-policy/after-maharashtra-and-haryana-up-allows-women-work-night-shift-in-factories-118032300646\\_1.html](https://www.business-standard.com/article/economy-policy/after-maharashtra-and-haryana-up-allows-women-work-night-shift-in-factories-118032300646_1.html)

119 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and GPN Studies on 28 November 2018

120 Asia Foundation, Forced Labor and Child Trafficking in India's Garment Sector, 20 September 2017:

<https://asiafoundation.org/2017/09/20/forced-labor-child-trafficking-indias-garment-sector/>

(and identification card available to all Indians) as a means of age verification and, contrary to national law, no medical certificate is required.<sup>121</sup> According to Nari Shakti Manch, instances of fake ID result in adolescent workers joining the industry.<sup>122</sup> Children are also employed in embroidery and the finishing of cloths within households<sup>123</sup> and in addas,<sup>124</sup> to supplement their family's income or repay debt. According to Save the Children, children working in addas are often migrants from Uttar Pradesh, Bihar and West Bengal, do not attend school and work long hours (on average between six and ten hours per day). Children in addas are mostly paid piece rate wages, ranging from 1,000 INR (USD 14) to more than 5,000 INR (USD 71) per month. Children working within their household are generally enrolled in school, work fewer hours and typically do not get paid or receive between just 100 INR (USD 1.4) and 500 INR (USD 7) per month from their parents. Most of the working children belong to SCs or OBCs, or are Muslim, and are exposed to health and safety dangers due to needles, cutters, sharp tools, cramped space, poor light and limited ventilation.<sup>125</sup>

The consulted stakeholders unanimously agreed that trade unions are not present at the factory level, unionisation of workers is virtually non-existent and that there are no collective bargaining agreements. There have been a few incidences of tensions between workers and factory management erupting in unorganised strikes, which have included violence, police intervention and the arrest of workers.<sup>126</sup> However, strikes are rare because of the repercussions that the workers of previous strikes received – the workers actively participating in trade unions activities were dismissed, transferred and separated from other organised workers.<sup>127</sup> Additionally, the Committees mandated by law either do not exist, or exist only on paper and are not functional, with very few exceptions according to ASK.<sup>128</sup> A further factor hampering unionisation is that the labour force in Delhi NCR is largely composed of contract workers, which is an unstable workforce as they change jobs frequently.<sup>129</sup>

In 2017, Labouring Women and Violence (LWV) and the Garment and Allied Workers Union (GAWU) reported the non-payment of the revised minimum wage to garment workers in Haryana, where Gurgaon is located.<sup>130</sup> Additionally, Nari Shakti Manch have reported that about 70 percent of the factories in Gurgaon do not pay the minimum wage.<sup>131</sup> The increase in the minimum wage is one of the factors that is making factories explore moving their operations to other locations, including Rajasthan and Jharkhand States.<sup>132</sup> The Centre for Labour Stud-

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121 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and GNP Studies on 28 November 2018

122 Stakeholder interview with Nari Shakti Manch on 28 November 2018

123 Stakeholder interviews with GNP Studies on 28 November 2018

124 Addas refers to a cot on which a large piece of handloom is laid out for embroidery. Several workers collectively work on an Adda to ensure quick completion of work. Colloquially, small household based units, where a group of workers, children and adults unrelated to each other worked together (e.g., embellishment, embroidery etc.) are called Addas.

125 Save The Children, The Hidden Workforce- A Study on Child Labour in the Garment Industry in Delhi, 2015:

<https://www.savethechildren.in/sci-in/files/20/20de51ee-ef61-4334-9ee2-697ff04eed29.pdf>

126 Stakeholder interviews with Labouring Women and Violence on 26 November 2018, GPN Studies on 28 November 2018 and ASK on 27 November 2018

127 Stakeholder interview with Nari Shakti Manch on 28 November 2018

128 Stakeholder interviews with ASK on 27 November 2018 and GPN Studies on 28 November 2018

129 Stakeholder interview with GPN Studies on 28 November 2018

130 Stakeholder interview with Labouring Women and Violence on 26 November 2018 and News Click, Garment Workers Union in Haryana Launch Campaign for Minimum Wages, 20 September 2017:

<https://www.newsclick.in/garment-workers-union-haryana-launch-campaign-minimum-wages>

131 Stakeholder interview with Nari Shakti Manch on 28 November 2018

132 Stakeholder interviews with AEPC on 26 November 2018 and ASK on 27 November 2018

ies of the National Law School of India University explains that each State has its own way of calculating the Dearness Allowance component of the minimum wage, with repercussions on the adjustment of the minimum wage to inflation (i.e., with Haryana not fully incorporating inflation and Uttar Pradesh, where Noida is located, being an example of where this is calculated properly).<sup>133</sup> The Centre further articulates the inadequacy of many of the calculations used to determine the current minimum wage, which is viewed as insufficient. Workers are currently paid an average minimum wage of 8,000 to 9,000 INR per month (USD 114 to 128),<sup>134</sup> which, according to the ILO, is a poverty wage with a negative impact on industrial relations.<sup>135</sup> Existing minimum wage levels in Delhi NCR remain distant from the living wage set by the Asia Floor Wage, which amounts to 23,588 INR per month (USD 336)<sup>136</sup> or even from the more conservative estimate of the Centre at 17,950 INR per month (USD 256).<sup>137</sup> According to KSHITIJ, following the demonetisation in 2016, workers are paid into bank accounts, which are set up via the factories facilitation. However, workers lack banking literacy and do not know how to use the ATM nor how to make online transactions.<sup>138</sup>

Stakeholders report that the average overtime is two hours per day and could go up to four hours per day<sup>139</sup> without the weekly days rest (i.e., Sunday) in the high season.<sup>140</sup> The Centre for Labour Studies of the National Law School of India University reports an average of about 70 hours of work per week, with some workers doing up to 100 weekly working hours.<sup>141</sup> The general pattern of payment of overtime that emerged from the conversations with stakeholders is that overtime is paid at a single rate,<sup>142</sup> or not paid at all if production targets are not met.<sup>143</sup> However, LWV states that the first two hours of overtime are not paid at all, while Nari Shakti Manch reports instances where the first hour of overtime is paid at double rate and the following hours at single rate.<sup>144</sup> Sundays are paid at double rate.<sup>145</sup> GPN Studies reports that overtime is forced, as workers that decline overtime requests face repercussions, such as the loss of their job.<sup>146</sup> Forced overtime is one of the ILO indicators of **forced labour**.<sup>147</sup> Several civil society organisations report a recent trend of female workers being less likely to be asked for overtime than male workers,<sup>148</sup> and in cases where women are held back after 20:00 pm, the

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133 Centre for Labour Studies National Laws School of India University, May 2018. Critiquing the Statutory Minimum Wage- A case of the export garment sector in India, accessed on 20 December 2018

134 Stakeholder interview with GPN Studies on 28 November 2018

135 Stakeholder interview with ILO on 29 November 2018

136 Asia Floor Wage, <https://asia.floorwage.org/what>

137 Centre for Labour Studies National Laws School of India University, May 2018. Critiquing the Statutory Minimum Wage- A case of the export garment sector in India, accessed on 20 December 2018

138 Stakeholder interview with KSHITIJ on 30 November 2018

139 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and Nari Shakti Manch on 28 November 2018

140 Stakeholder interviews with GPN Studies and Nari Shakti Manch on 28 November 2018

141 Centre for Labour Studies National Laws School of India University, May 2018. Critiquing the Statutory Minimum Wage- A case of the export garment sector in India, accessed on 20 December 2018

142 Stakeholder interviews with GPN Studies on 28 November 2018 and ASK on 27 November 2018 and Centre for Labour Studies National Laws School of India University, May 2018. Critiquing the Statutory Minimum Wage- A case of the export garment sector in India, accessed on 20 December 2018

143 Stakeholder interview with ASK on 27 November 2018

144 Stakeholder interview with Nari Shakti Manch on 28 November 2018

145 Stakeholder interviews with GPN Studies on 28 November 2018 and ASK on 27 November 2018

146 Stakeholder interview with GPN Studies on 28 November 2018

147 ILO, ILO indicators of forced labour:

[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_203832.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf)

integrity of the woman is often put in to question by her family and community alike, implying a sexual connotation to the longer stay.<sup>149</sup> Additionally, the Society for Labour and Development (SLD) reports that female workers employed during night shifts in the high production season are at risk of robbery, harassment and other crimes on their way back home.<sup>150</sup>

In garment factories, the most common **occupational health problems** are back, leg, joint and stomach pain as well as swellings from either sitting or standing for long hours. Additionally, according to several civil society organisations, urinary tract infections as a result of having limited access to restrooms, anemia and reproductive health problems (i.e., irregular periods and excessive bleeding), mental health issues (e.g., depression and anxiety), respiratory diseases due to exposure to chemicals and cloth dust, and eye problems and headaches are also common.<sup>151</sup> Workers are not provided with protective equipment such as gloves for cutters and masks for protection against cotton dust.<sup>152</sup> Nari Shakti Manch and GPN Studies report fainting among female workers due to several factors: 1) poor nutrition based on daal (lentils), roti (bread) and potato curry, which is linked to the workers' low income; 2) women often skip breakfast due to household chores; 3) performing excessive working hours with regular overtime; 4) mental stress due to high production targets; and 5) heat in the summer season, due to the factories' lack of adequate ventilation.<sup>153</sup> The only treatment provided to female workers that experience fainting is a glucose drip in local clinics with untrained doctors.<sup>154</sup>

The stakeholders consulted unanimously agreed that female workers do not enjoy **maternity benefits**. Pregnant women stop working once they are five or six months pregnant due to the harassment that they face at the workplace. This harassment includes: 1) not being provided adequate restroom breaks, 2) increased workload, 3) making them stand for long periods of time; and 4) psychological pressure from female co-workers, linked to the societal belief that pregnant women should not work.<sup>155</sup> Additionally, pregnant workers are often terminated under other pretexts or illegally terminated by being denied access to the factory by security guards.<sup>156</sup> SLD reports that even permanent workers are forced to quit during pregnancy and are made to re-join (often in low-wage roles) afterwards, hampering their ability to qualify for gratuity (i.e., five years of continuous work)<sup>157</sup> Another obstacle for young mothers is the lack of crèches facilities inside the factories or their existence only on paper or during audits and brand visits.<sup>158</sup> As a result of these barriers, pregnant women generally turn to home-based employment in the finishing of the product.<sup>159</sup>

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148 Stakeholder interviews with Nari Shakti Manch and GPN Studies on 28 November 2018

149 Stakeholder interview with Labouring Women and Violence on 26 November 2018

150 Society for Labour and Development, Gender based violence in garment global production networks India, 2018

151 Stakeholder interview with Labouring Women and Violence on 26 November 2018

152 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and GPN Studies on 28 November 2018

153 Stakeholder interviews with Nari Shakti Manch and GPN Studies on 28 November 2018

154 Stakeholder interview with GPN Studies on 28 November 2018

155 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and Nari Shakti Manch on 28 November 2018

156 Stakeholder interview with Nari Shakti Manch on 28 November 2018

157 Society for Labour and Development, Gender based violence in garment global production networks India, 2018

158 Stakeholder interviews with Nari Shakti Manch and GPN Studies on 28 November 2018

159 Stakeholder interview with GPN Studies on 28 November 2018

High production targets often trigger verbal and physical harassment from supervisors.<sup>160</sup> Harassment includes the use of abusive language or tone, physical harassment (e.g., slapping, beating, throwing clothes, scissors or whatever is handy to the supervisor),<sup>161</sup> insistent advances (e.g., requests of meetings outside of working hours), improper touch (e.g., while giving instructions), groping and rape.<sup>162</sup> Nari Shakti Manch reports that abuses are largely perpetrated by supervisors, line masters, and middle management (e.g., production manager).<sup>163</sup> Female workers are easier targets of harassment because supervisors fear scuffles with male workers.<sup>164</sup> According to LWV, work in the garment sector is stigmatised due to the widespread belief that sexual favours are rampant in the industry. Recruitment is also sexualised, as prettier and less skilled women are more likely to be recruited rather than older or less attractive female workers with more experience. This makes some female workers desexualise themselves after joining a factory by wearing glasses, not dressing up or saying that they are married with kids.<sup>165</sup> Inside the factory, SLD reports that younger and elder female workers are kept on different floors, rendering young workers more vulnerable to abuse.<sup>166</sup> Nevertheless, while sexual harassment may be more common among younger workers, Nari Shakti Manch reports that virtually every female worker faces sexual harassment at the workplace.<sup>167</sup>

The lack of respect that women experience in their families and communities results in accepting some forms of abuse at the workplace, especially verbal abuse (e.g., shouting for having committed a mistake), which is normalised.<sup>168</sup> Women are victims of domestic violence. For many women the use of mobile phone is restricted by their male family members, due to the policing culture of women's public interactions, which keeping them isolated.<sup>169</sup> Isolation continues at the workplace, where there is no peer solidarity for victims of sexual harassment, who are perceived as having done something wrong or having deserved it, or because other victims are afraid to speak out for fear of losing their job.<sup>170</sup>

Although the law prescribes that each factory must have an IC, previously known as the Internal Complaints Committee,<sup>171</sup> this only exists on paper.<sup>172</sup> According to LWV, female workers are instead encouraged to refer their complaints to the human resources department, and in one factory workers refer to the human resources manager as Samasya Madam (Problems Madam).<sup>173</sup> However, the lack of functional grievance mechanisms and support from peers and the wider community leads to sexual harassment complaints not being raised and women

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160 Society for Labour and Development, Gender based violence in garment global production networks India, 2018

161 Stakeholder interview with Labouring Women and Violence on 26 November 2018

162 Stakeholder interview with Nari Shakti Manch on 28 November 2018

163 Stakeholder interview with Nari Shakti Manch on 28 November 2018

164 Stakeholder interview with Labouring Women and Violence on 26 November 2018

165 Stakeholder interview with Labouring Women and Violence on 26 November 2018

166 Society for Labour and Development, Gender based violence in garment global production networks India, 2018

167 Stakeholder interview with Nari Shakti Manch on 28 November 2018

168 Stakeholder interviews with KSHITIJ and BSR's HERproject on 30 November 2018

169 Stakeholder interview with Labouring Women and Violence on 26 November 2018

170 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and Nari Shakti Manch on 28 November 2018

171 The Repealing and Amending Act 2016, <https://www.kelphr.com/pdf/amendment-on-posh-act.pdf>

172 Stakeholder interview with KSHITIJ on 30 November 2018

173 Stakeholder interview with Labouring Women and Violence on 26 November 2018

being forced into changing factories when the level of harassment becomes unbearable.<sup>174</sup> In cases of sexual harassment a recent welcoming change is that sometimes perpetrators are dismissed and not only the victims, as it was in the past and still widely common.<sup>175</sup>

Engagement with stakeholders indicated high levels of **informality**, which relates to both the establishment/factory and the worker. Larger units are more likely to be registered with the authorities, and permanent workers receive more benefits than contract and daily workers, although a very limited number of permanent workers receive all of the benefits to which they are entitled by law. The large majority of the garment and textile workforce in Delhi NCR is made up of contract workers (estimates range from 80<sup>176</sup> to 90<sup>177</sup> percent), which are paid on a daily, monthly or piece rate basis.<sup>178</sup> SLD reports that contract workers are generally given lower wages and rarely receive any non-wage benefits.<sup>179</sup> Nari Shakti Manch reports that there are some exceptions in bigger units that provide PF and ESI contributions, bonuses and pay-slips to contract workers.<sup>180</sup> Short-term contracts make the hiring and firing of workers straightforward, and, accommodates the seasonal nature of production in Delhi NCR as well as buyers' pressure on lowering the prices paid to suppliers.<sup>181</sup> According to many of the stakeholders consulted, most of the findings from a 2012 SLD study on unlawful practices in employing contract workers in the garment industry in Gurgaon remain valid.<sup>182</sup> The main violations are: 1) wage theft, as the contractor pays workers less than what the company pays the contractor for the worker's wage; 2) companies deduct workers' contribution to ESI and PF from wages, but fail to deposit them in the workers social security accounts or do not pay their contribution,<sup>183</sup> with GPN Studies noting that only permanent workers receive the employer's contribution to the PF (i.e., 12 percent of their wage)<sup>184</sup>; 3) workers are regularly engaged in the factory's core activities; 4) contractors supply more workers than what they are granted a licence for, or do not have a licence declaring that they supply factories with fewer than 20 contract workers a day; 5) companies employ more contract workers than they declare to labour authorities; 6) multiple records are kept by factories providing different figures on the number of contract workers employed, the rate of wages paid, nature of work; 7) contract workers are paid on a monthly basis only for the actual number of days worked in a month or on a piece rate basis; 8) workers are terminated by the contractor without notice or compensation; 9) workers lack documentation of their employment; and 10) workers are deprived of paid leave,<sup>185</sup> which is not provided to any type of worker. Consequently, workers are forced to have a break in service while on holiday, hampering their ability to qualify for gratuity (i.e. requiring five years of continuous service).<sup>186</sup>

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174 Stakeholder interview with Nari Shakti Manch on 28 November 2018

175 Stakeholder interviews with Labouring Women and Violence on 26 November 2018, Nari Shakti Manch and GPN Studies on 28 November 2018

176 Stakeholder interview with GPN Studies on 28 November 2018

177 Stakeholder interview with Labouring Women and Violence on 26 November 2018

178 Stakeholder interview with Labouring Women and Violence on 26 November 2018

179 Society for Labour and Development, Gender based violence in garment global production networks India, 2018

180 Stakeholder interview with Nari Shakti Manch on 28 November 2018

181 Society for Labour and Development, Gender based violence in garment global production networks India, 2018

182 Stakeholder interviews in November 2018

183 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and GPN Studies on 28 November 2018

184 Stakeholder interview with GPN Studies on 28 November 2018

185 Society for Labour and Development, A Study of the Contract Labour System in the Garment Industry in Gurgaon, 2012: <http://sldindia.org/a-study-of-the-contract-labour-system-in-the-garment-industry-in-gurgaon/>

186 Stakeholder interviews with Labouring Women and Violence on 26 November 2018 and Nari Shakti Manch on 28 November 2018



The garment and textile industry increasingly employs daily wage workers through contractors and sub-contractors that recruit workers in rural areas. Daily wage workers are mostly women and are picked up at chowks (designated gathering points) from 08.30 am to 10:00 am, and work for ten to 12 hours without benefits nor the minimum wage. Workers are paid from 250 INR (USD 3.5) to a maximum of 300 INR (USD 4) per day, some contractors, which are now known by the workers, do not pay workers at all. Daily wage workers receive extra pressure for reaching higher production targets and are scolded for long (i.e., five to ten minutes) toilet breaks.<sup>187</sup> Termination of workers is illegal, as workers are simply not allowed inside factory premises from one day to another.<sup>188</sup>

#### 4.1.2. FWF AUDIT FINDINGS

*From January 2016 to December 2018, 19 audits were carried out in the North of India, most of which were in Delhi NCR.*

Audits found signs of **forced labour** in 26 percent of the audited factories in Delhi NCR. In one of the factories, the standing orders<sup>189</sup> were not compliant with the law, as the company's policy on termination eluded to forced labour. In another factory, there was no system to monitor working hours workers were dismissed forcefully during layoffs. Advance registers were not maintained and personal documents, like bank passbooks, were withheld. Furthermore, in one of the factories, there was no proper record of the workers living in the dormitory.

Audits captured **discrimination** in 53 percent of the audited factories. In one factory, there was no written policy on anti-discrimination. Additionally, in the same factory, female workers were not included in fire training and were employed in unskilled jobs. Notably, there were no female supervisors and the most common reasons given by factory management for this discrimination was that women do not have leadership qualities or the skills to be a supervisor, or that female workers do not aspire to be supervisors.

There was an indication of **child labour** in 36 percent of the audited factories. Although no child workers were seen during audits, there was no policy on child remediation and no signage of "No child labour encouraged" was displayed at the entrance of the factories.

**Freedom of association** was not evident in 74 percent of the factories audited. None of the factories had a trade union in their premises. The most common reasons given by management were: 1) fear that corrupted or politically allied trade unions would bring unrest to the factory; and 2) the belief that workers have no grievances or that they could voice them directly with management as they have an "open door policy" where a worker can walk in and share their grievance. Factories did not have proper documentation on the Collective Bargaining Agreement (CBA) although they had a related policy. Workers were not aware of their right to unionise or to bargain collectively. In one factory, management opposed the CBA that was being negotiated.

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187 Stakeholder interview with Nari Shakti Manch on 28 November 2018

188 Stakeholder interviews with Nari Shakti Manch and GPN Studies on 28 November 2018

189 Standing orders are rules of conduct for workmen employed in industrial establishments. The object of displaying the same is to ensure employers in industrial establishments formally define conditions of employment under them.

In 78 percent of the audited factories, there was no functional grievance mechanism available to workers, and workers never used suggestion boxes. The elected worker representatives were not aware of the Committees that they belonged to, their roles and functions as representatives, and documentation on the election of various Committees was inconspicuous. The IC meant for receiving complaints of sexual harassment of women workers was ineffective with a lack of external representation and follow-up meetings.

In 47 percent of the audited factories, the minimum wage was not paid. Wage records were not maintained and pay slips were also not provided to workers. Wages for two or more categories of workers were not in compliance with the law, as workers received the wage of the lower category. Payment details of piece rate workers could not be verified, as no record was maintained. Attendance and payment records of hired trial workers (on-the-job training workers) were also not maintained. Additionally, the number of casual leave workers did not comply with the law in one of the factories audited.

Excessive overtime was reported in 79 percent of the audited factories. Overtime records were either not maintained or falsified in 12 out of 19 factories. Overtime registers did not capture all of the overtime hours worked, as the management wanted overtime to be under the legal permissive hours. Moreover, there is no systematic practice or provision in place that makes overtime voluntary, and payment at double rate for overtime could not be verified as overtime records were not maintained correctly. Workers were found to occasionally work on National holidays without any compensatory benefits.

None of the factories audited had functional crèche facilities. There was a lack of fire management in one factory. Other issues related to occupational health and safety included: 1) insufficient or inappropriate fire extinguishers, and evacuation maps not being displayed; 2) Material Safety Data Sheet not being posted or not being in the local language, and no health check-up for workers in hazardous jobs; 3) loose wires or objects close to the electrical panels; 4) no secondary exit or an unsuitable exit,<sup>190</sup> and exit signs not in the local language; 5) no needle guard or eye shield or maintenance cards; 6) chairs with no backrest, lack of sitting arrangements, no provision of anti-fatigue mats, and no training on the usage of personal protective equipment; and 7) improper disposal of hazardous waste. Verbal abuse was also reported in one factory.

Audits found that no legally binding employment (employment relationship) was available to workers in 47 percent of audited the factories. Employees were not provided with appointment letters in 32 percent of the audited factories. Records of piece rate workers were hardly maintained and there were unregistered workers. In the case of contracted workers, factories rarely had the registration certificate, as per the contract labour act. Workers were hired and fired at the management's will and they were not paid lay off benefits. Social security was also not paid to all workers.

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<sup>190</sup> An unsuitable exit is one with a spiral staircase; opening on a flight staircase or inward, or with a door not meeting the legal standards for width and height.

### 4.1.3. FWF'S COMPLAINTS RECEIVED

*From January 2016 to December 2018, FWF received 18 complaints from Delhi NCR.*

In September 2016, a **sexual harassment** complaint was lodged by two female workers who were working with a male colleague in the basement of the factory's storage unit. At lunch-time the male colleague was called back to the factory and two managers came in the storage unit and molested the female workers. The workers complained to the supervisor and were dismissed on the same day without due process. FWF conducted an off-site and on-site investigation of the complaint and concluded that both women had to receive full and final payment, regardless of the complaint. Despite the indications of sexual harassment, due to the lack of witnesses or other proof, it was not possible to confirm the workers' claims. As a result, the workers were paid in October 2016. In November 2017 during an FWF verification audit, FWF recommended no further investigation of the indecent to avoid causing the victims additional distress or creating problems in their private life, as one of the complainants had been subject to domestic violence due to her involvement in the complaint. Complainants decided not to pursue legal actions. The details of the complaint can be found [here](#).

Seven complaints from one factory were received in the last two years (five in 2017 and two in 2018) pertaining to **discrimination, working hours (excessive overtime), and employment relationships** (illegal termination without adequate compensation). One complaint regarded a female worker who was made to sign a blank piece of paper on termination without a specific date being mentioned. The worker's final settlement only included payment of the number of days worked and overtime paid at single rate. During the investigation, it emerged that the worker was on probation and the employer is not obliged to provide notice pay when terminating this category of workers. For more information, please click [here](#). Another complaint was raised on **discrimination, working hours, and employment relationships**. A verification audit was conducted to monitor the progress on the issues raised, as well as a brand follow-up on audit findings at the end of October 2018 to check on the progress on these issues. The actions showed during the Corrective Action Plan (CAP) highlighted follow-up improvements such as overtime being kept within legal limits, no favouritism being made and appointment letters being provided to all workers. For more information, please click [here](#).

In December 2017, a worker employed as a security guard, who had resigned from his job due to harassment from his supervisor, filed a complaint pertaining to **wages and working hours**. Five days of his wage were cut from his salary by the agency that contracted him, and he was not paid for the four hours of daily overtime worked, as the shift was 12 hours (08:00 am to 08:00 pm). FWF's investigation found that the complaint was grounded and recommended that the brand/supplier paid the outstanding wage payment along with the payment for overtime and bonus. In January 2018, the worker received the payment for the five days and decided not to pursue the complaint on overtime payment and the bonus. [Click](#) to read more on this complaint.

In January 2018, a worker filed a complaint over the failure to increase production workers' wages following a factory's displacement from Delhi to Faridabad in Haryana State at the end of 2016. Workers were also unclear whether the move had any adverse impact on the continuity of their service in the factory. Based on the information provided during FWF's investigation of the complaint, it was not possible to assess whether the complaint was grounded.

An audit was conducted in the factory in October 2018 to check on the issues raised in the complaints (three more complaints came in the same year on **wages and employment relationships**), and the audit found that the factory had made considerable improvements in its HR systems. However, on other labour issues, like social security, only partial improvements were made. To find out how this complaint was addressed please click [here](#).

## 4.2 Bangalore

*This section highlights potential and actual labour rights risks in Bangalore. The section starts with information on the location and size of factories, production activities and workers employed by the garment industry in Bangalore.*

Garment factories are located in Peenya, Bommanahalli, Mysore Road and Hosur Road (North, South-West and South-East of the city).<sup>191</sup> About 50 kilometres from Bangalore, in Doddaballapur, there is a SEZ exclusively for garment production, where a few garment factories are located.<sup>192</sup> A recent trend, reported by the Garment Labour Union (GLU) and Cividep, is the relocation of garment factories to rural areas in Karnataka, Andhra Pradesh and Tamil Nadu to decrease production costs. Production costs are lower in rural areas because of lower wages and rental prices than in urban and peri-urban areas as well as additional incentives, such as electricity and water subventions.<sup>193</sup> Although some factory owners are relocating to cheaper rural areas, others are closing down their factories and placing their investments in steel and real estate, which are more profitable and less labour intensive.<sup>194</sup>

Bangalore has 1,200 garment factories (only 750 of which are registered with the government)<sup>195</sup> and produces an estimated 20 percent of garments and eight percent of all Indian garment exports.<sup>196</sup> Bangalore has about ten big garment factory owners that each employs a total workforce of between 5,000 and 80,000 people spread out in several production units.<sup>197</sup> Export production units often employ anywhere from 500 to 4,000 workers.<sup>198</sup>

In total, Bangalore employs about 500,000 workers in the garment industry, though some estimates put the number to about 800,000 workers,<sup>199</sup> 80 percent of which are female and from rural or tribal areas in Karnataka and Tamil Nadu.<sup>200</sup>

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191 Stakeholder interview with GLU on 1 December 2018

192 Cividep and Framtiden i våre hender, Mind the Gap, February 2015: [http://cividep.org/wp-content/uploads/2017/04/FIVH\\_CIVIDEP\\_Mind\\_the\\_gap\\_2015-20-ilovepdf-compressed-ilovepdf-compressed.pdf](http://cividep.org/wp-content/uploads/2017/04/FIVH_CIVIDEP_Mind_the_gap_2015-20-ilovepdf-compressed-ilovepdf-compressed.pdf)

193 Stakeholder interview with GLU on 1 December 2018 and Cividep on 4 December 2018

194 Stakeholder interview with GLU on 1 December 2018

195 Stakeholder interview with GLU on 1 December 2018

196 India Committee of the Netherlands (ICN), Garment Labour Union and Clean Clothes Campaign, Labour without Liberty - Female Migrant Workers in Bangalore's Garment Industry, January 2018: <https://cleanclothes.org/resources/publications/labour-without-liberty-2013-female-migrant-workers-in-bangalores-garment-industry-full-version-1>

197 Stakeholder interview with Cividep on 4 December 2018

198 Stakeholder interview with Cividep on 4 December 2018 and GLU on 1 December 2018

199 Stakeholder interview with GLU on 1 December 2018

200 India Committee of the Netherlands (ICN), Garment Labour Union and Clean Clothes Campaign, Labour without Liberty - Female Migrant Workers in Bangalore's Garment Industry, January 2018: <https://cleanclothes.org/resources/publications/labour-without-liberty-2013-female-migrant-workers-in-bangalores-garment-industry-full-version-1>

## 4.2.1. STAKEHOLDERS ENGAGEMENT

*In December 2018, five stakeholders were consulted to gather information on this regional hub, of which one NGO, one trade union, one business association, one public entity and one international organisation. For more information please see Annex III.*

Inter-state migration has risen over the past five years, and an increasing number of workers are migrating from rural and more impoverished eastern and central states with job scarcity, including Odisha, Jharkhand, Assam, Uttar Pradesh and Bihar.<sup>201</sup> Inter-state migrant workers often belong to Scheduled Tribes (Adivasi), SCs (Dalits) or Other Backward Classes (OBCs).<sup>202</sup> The availability of vocational training opportunities, such as stitching and the use of sewing machines, attracts young workers into the industry. These training programmes are funded by the government as part of the Government of India's National Skill Development Mission, although the vocational training centres are run by private individuals, and typically last a couple of months.<sup>203</sup> One reason why inter-state migrant workers are generally preferred to workers from Bangalore is that they are generally less aware of their labour rights and are consequently more compliant, inclined to work longer hours and for lower wages than local workers. Additionally, while there is high industry turnover among local workers who frequently change factories hoping to find better working conditions, migrant workers are less prone to do so. Migrant workers that are not recruited through the training centres are recruited through agents that they met in their village of origin or were introduced to by family members already working in Bangalore. Migrant workers have their freedom of movement limited to the factory or textile mills that they are assigned to and the hostels where they are accommodated. Migrants are Hindi speakers and are less likely to navigate the job market without knowledge of the local language (Kannada). This communication gap also results in migrant workers signing contracts that they do not understand the content of, and of which they do not receive a copy. In turn, this affects migrant workers daily performance at the workplace, resulting in harassment by supervisors (e.g., being shouted at and pushed to work faster to meet hourly or daily production targets) and a lack of training opportunities. Migrant workers are also more likely to be subject to forced overtime, sexual harassment, wage theft as a result of deductions to their ESI and the PF, and deductions to cover accommodation, electricity and water costs, than local workers.<sup>204</sup> According to a factory-based study conducted

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201 Scroll, Locals have become too aware of their rights': Why Bengaluru garment factories are hiring migrants 9 May 2017: <https://scroll.in/article/835994/locals-have-become-too-aware-of-their-rights-why-bengaluru-garment-factories-are-hiring-migrants> and India Committee of the Netherlands (ICN), Garment Labour Union and Clean Clothes Campaign, Labour without Liberty - Female Migrant Workers in Bangalore's Garment Industry, January 2018: <https://cleanclothes.org/resources/publications/labour-without-liberty-2013-female-migrant-workers-in-bangalores-garment-industry-full-version-1> and stakeholder interview with GLU on 1 December 2018

202 India Committee of the Netherlands (ICN), Garment Labour Union and Clean Clothes Campaign, Labour without Liberty - Female Migrant Workers in Bangalore's Garment Industry, January 2018: <https://cleanclothes.org/resources/publications/labour-without-liberty-2013-female-migrant-workers-in-bangalores-garment-industry-full-version-1> and stakeholder interview with GLU on 1 December 2018

203 According to GLU, the training institutes approach the panchayat (i.e. village council) with the request of a certain number of women to attend their vocational training for a month plus the promise of additional training once in Bangalore, which fails to happen, for the cost of 1,500-2,000 INR (US\$ 20-25).

204 Scroll, Locals have become too aware of their rights': Why Bengaluru garment factories are hiring migrants 9 May 2017: <https://scroll.in/article/835994/locals-have-become-too-aware-of-their-rights-why-bengaluru-garment-factories-are-hiring-migrants> and India Committee of the Netherlands (ICN), Garment Labour Union and Clean Clothes Campaign, Labour without Liberty - Female Migrant Workers in Bangalore's Garment Industry, January 2018: <https://cleanclothes.org/resources/publications/labour-without-liberty-2013-female-migrant-workers-in-bangalores-garment-industry-full-version-1>

by various NGOs in Bangalore, migrants do not receive the salaries promised at the time of recruitment, at least for the first month, and generally earn a minimum wage for unskilled labour (despite undergoing formal training). Payslips, when received, and salary deductions are generally not understood by migrant workers.<sup>205</sup>

Accommodation in hostels, which became present in Bangalore from 2014-2015, present various abuses such as poor living conditions and hygiene, overcrowding, no access to information channels (i.e., no TV, no newspapers and limited use of mobile phones), and freedom of movement being restricted outside of the hostel and factory. Women are allowed out of hostels for only a few hours on Sundays, which are used for buying basic necessities.<sup>206</sup> SWASTI reports that because migrant workers are made to pay for sanitary napkins provided by the factory, they instead use leftover scrap cloth as pads. Additionally, contagious diseases are easily spread in the hostels due to the poor living conditions that the workers face.<sup>207</sup> Even for workers renting shared houses in the neighbouring areas of the factories, the living conditions are poor, with no running water and unhygienic communal toilets.<sup>208</sup> According to GLU, for the past four years, the hostels have been run by Janodaya NGO without any notable improvements in the workers' living conditions.<sup>209</sup>

Various NGOs and trade unions report that out of the eleven ILO indicators of forced labour<sup>210</sup>, five apply to migrant workers in the industry in Bangalore. These are: 1) abuse of young female migrant workers that are vulnerable because of their low caste/tribal background, language barriers, young age and limited awareness of labour rights, and being women in a patriarchal society; 2) deception and/or false promises by agents that recruit workers on wages lower than what was initially promised and often do not include accommodation and food for free as promised; 3) restriction of movement outside of the hostel and factory; 4) intimidation and threats by supervisors on production targets; and 5) abusive working and living conditions, such as unpaid overtime if workers fail to meet production targets, a highly stressful environment, and living in overcrowded hostels.<sup>211</sup>

Female discrimination primarily translates into the lack of career opportunities for women, who, according to Cividep, are not promoted into supervisory positions such as sample tailors or quality checkers.<sup>212</sup> Munnade reports a gender pay gap in the machine operator category of about 200 INR (USD 3) per month.<sup>213</sup> Moreover, the difference between the salary of a sen-

205 India Committee of the Netherlands, Garment Labour Union and Clean Clothes Campaign, Labour without Liberty - Female Migrant Workers in Bangalore's Garment Industry, January 2018: <https://cleanclothes.org/resources/publications/labour-without-liberty-2013-female-migrant-workers-in-bangalores-garment-industry-full-version-1>

206 India Committee of the Netherlands, Garment Labour Union and Clean Clothes Campaign, Labour without Liberty - Female Migrant Workers in Bangalore's Garment Industry, January 2018: <https://cleanclothes.org/resources/publications/labour-without-liberty-2013-female-migrant-workers-in-bangalores-garment-industry-full-version-1>

207 SWASTI, Our lives are not as strong as the threads we weave, 13 October 2016: <http://swasti.org/our-lives-are-not-as-strong-as-the-threads-we-weave/>

208 Labour behind the Label, Do we Buy it?, February 2016: <http://labourbehindthelabel.org/report-do-we-buy-it-a-supply-chain-investigation-into-living-wage-commitments-from-ms-and-hm/>

209 Stakeholder interview with GLU on 1 December 2018

210 ILO, ILO Indicators of Forced Labour: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_203832.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf)

211 India Committee of the Netherlands, Garment Labour Union and Clean Clothes Campaign, Labour without Liberty - Female Migrant Workers in Bangalore's Garment Industry, January 2018: <https://cleanclothes.org/resources/publications/labour-without-liberty-2013-female-migrant-workers-in-bangalores-garment-industry-full-version-1>

212 Stakeholder interview with Cividep on 4 December 2018

213 Munnade Social Organisation, Study on Gender Discrimination among Garment Factory Workers

ior female tailor with more than 20 years' experience and the salary of a male worker at entry-level amounts to only 500 INR (USD 7) per month, because promotions and subsequent pay rises are not provided.<sup>214</sup> Additionally, because of the high production targets, female workers do not work beyond the age of 40 or 45.<sup>215</sup> Having not acquired social security protection during their employment in the garment factories, former garment workers join informal sectors, such as flower or vegetable selling, domestic work, filling of tikka - forehead mark - boxes or small tailoring jobs, and depend heavily on support from family members. The low-income from this work causes poor nutrition and anaemia.<sup>216</sup>

GLU reports that in recent years a rising number of migrant workers join as adolescents aged 16 or 17, with some as young as 13.<sup>217</sup> This does not happen to local workers that continue their studies and join factories after turning 18.<sup>218</sup> Factories require a dental check to verify workers' age; however, this can easily be forged with the help of complicit doctors.<sup>219</sup>

Levels of unionisation are very low, especially among migrant workers, who have little to no knowledge of trade union activities and of workers' committees. According to GLU, Committees prescribed by law exist only on paper and do not perform their duties effectively.<sup>220</sup> Workers do not join trade unions because of domestic responsibilities and unpaid care work, prohibition by male family members and limitations of freedom of movement or fear of repercussions by factory management.<sup>221</sup> Employers often view trade unions as an unwelcome presence at the workplace and trade union members and officials face intimidation, victimisation and a range of tactics aimed towards undermining their activities (e.g., increasing production targets and not authorising leave).<sup>222</sup> According to GLU, rumours linking increased unionisation with the closure of factories are spread and result in workers staying away from trade unions in fear of losing their job.<sup>223</sup> The lack of social dialogue through healthy employer-employee relations, including the presence of trade unions in factories, is noted as the single most important reason for low wages and poor working conditions.<sup>224</sup> In a recent high-profile case, efforts were made to establish a trade union inside a Bangalore-based-factory of India's biggest garment manufacturer.<sup>225</sup> The objective was to increase workers' wages; however, this failed, and according to the Worker Rights Consortium, resulted in the workers involved receiving physical abuse, death threats, threats of mass termination, and the expul-

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214 Munnade Social Organisation, Study on Gender Discrimination among Garment Factory Workers

215 Stakeholder interview with GLU on 1 December 2018 and Cividep on 4 December 2018

216 Stakeholder interview with GLU on 1 December 2018

217 Stakeholder interview with GLU on 1 December 2018

218 Stakeholder interview with GLU on 1 December 2018 and Cividep in 4 December 2018

219 Stakeholder interview with GLU on 1 December 2018

220 Stakeholder interview with GLU on 1 December 2018

221 India Committee of the Netherlands, Garment Labour Union and Clean Clothes Campaign, Labour without Liberty - Female Migrant Workers in Bangalore's Garment Industry, January 2018: <https://cleanclothes.org/resources/publications/labour-without-liberty-2013-female-migrant-workers-in-bangalores-garment-industry-full-version-1>,

222 Amnesty International, Karnataka: Allegations Of Arbitrary And Abusive Force Against Women Protesters Must Be Investigated, 22 April 2016: <https://amnesty.org.in/news-update/karnataka-allegations-arbitrary-abusive-force-women-protesters-must-investigated/>, accessed on 14 November 2018 and SLD, 2018, Gender based violence in garment global production networks, India

223 Stakeholder interview with GLU on 1 December 2018

224 Cividep and Framtiden i våre hender, Mind the Gap, February 2015: [http://cividep.org/wp-content/uploads/2017/04/FIVH\\_CIVIDEP\\_Mind\\_the\\_gap\\_2015-20-ilovepdf-compressed-ilovepdf-compressed.pdf](http://cividep.org/wp-content/uploads/2017/04/FIVH_CIVIDEP_Mind_the_gap_2015-20-ilovepdf-compressed-ilovepdf-compressed.pdf)

225 Shahi Exports Pvt. Ltd. is India's largest garment manufacturer with more than US \$850 million in annual revenue. Shahi's Unit 8 facility in Bangalore employs roughly 3,000 workers.

sion of fifteen workers.<sup>226</sup> In 2016, Amnesty International called for investigations into alleged police violence against protesting female garment workers in Bangalore.<sup>227</sup>

According to various sources, minimum wages in garment factories in Bangalore are lagging behind the living wage.<sup>228</sup> This results in workers relying heavily on a second family members' income or, in case where there is only one breadwinner in the family, on the workers' second part-time job to make ends meet.<sup>229</sup> The Centre for Labour Studies of the National Law School of India University explains that each State has its own way of calculating the Dearness Allowance component of the minimum wage, with repercussions on the adjustment of minimum wage to inflation, with Karnataka failing to compensate for inflation.<sup>230</sup> The Centre further articulates the inadequacy of the current calculation of the size and calories intake of the food basket of the minimum wage. The current minimum calorific value for a person is calculated at 2,700k.ca. per capita per adult, which is 30 percent more than the current poverty line that serves as the baseline for calculating the minimum wage. Also, average families are made of more than two adults and the current calculation of food intake, namely 1 for male, 0.8 for woman, 0.6 for children fails to account for female long work days, pregnant and nursing women intake nor the one of children in their growing up stage. House rent calculations for the minimum wage are less than 20 percent of what the families actually pay. Also, expenses for education are not reflecting the actual costs linked to privatised programmes. Rent, food, and education represent the highest expenses for families (i.e. 25, 24 and 13 percent respectively). Existing minimum wage levels in Karnataka remain distant from the living wage set by the Asia Floor Wage, which amounts to 23,588 INR (US\$ 336)<sup>231</sup> or even from the more conservative estimate of the Centre at 19,840 INR (US\$ 283)<sup>232</sup>. In addition, the range of debt per family goes from 10,000 INR (US\$ 142) to 500,000 (US\$ 7,117), mainly to cover housing expenses, followed by health, wedding and education expenses.<sup>233</sup> The inadequacy of the wages paid is highlighted by the fact that 60 percent of workers have some sort of debt with pawnbrokers, banks, neighbours and relatives, for health and education expenses or weddings.<sup>234</sup> In April 2018, the Karnataka government proposed, an increase

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226 Worker Rights Consortium, Worker Rights Consortium Assessment SHAHI EXPORTS PVT. LTD. (Bangalore, India) Findings and Recommendations, 21 June 2018:

<https://www.workersrights.org/wp-content/uploads/2018/06/WRC-Assessment-re-Shahi-India-6.20.18.pdf>

227 Amnesty International, Karnataka: Allegations Of Arbitrary And Abusive Force Against Women Protesters Must Be Investigated, 22 April 2016:

<https://amnesty.org.in/news-update/karnataka-allegations-arbitrary-abusive-force-women-protesters-must-investigated/>

228 A living wage shall: 1) Apply to all workers, there should be no salary below the living- wage level; 2) be earned in a standard work week of no more than 48 hours; 3) be the basic net salary, after taxes and (where applicable) before bonuses, allowances or overtime; 4) cover the basic needs of a family of four (two adults, two children); and 5) include an additional 10% of the costs for basic needs as discretionary income. Cividep and Framtiden i våre hender, Mind the Gap, February 2015: [http://cividep.org/wp-content/uploads/2017/04/FIVH\\_CIVIDEP\\_Mind\\_the\\_gap\\_2015-20-ilovepdf-compressed-ilovepdf-compressed.pdf](http://cividep.org/wp-content/uploads/2017/04/FIVH_CIVIDEP_Mind_the_gap_2015-20-ilovepdf-compressed-ilovepdf-compressed.pdf)

229 Labour behind the Label, Do we Buy it?, February 2016: <http://labourbehindthelabel.org/report-do-we-buy-it-a-supply-chain-investigation-into-living-wage-commitments-from-ms-and-hm/>

230 Centre for Labour Studies National Laws School of India University, May 2018, Critiquing the Statutory Minimum Wage- A case of the export garment sector in India

231 Asia Floor Wage, <https://asia.floorwage.org/what>

232 Centre for Labour Studies National Laws School of India University, May 2018, Critiquing the Statutory Minimum Wage- A case of the export garment sector in India

233 Centre for Labour Studies National Laws School of India University, May 2018, Critiquing the Statutory Minimum Wage- A case of the export garment sector in India

234 Labour behind the Label, Do we Buy it?, February 2016: <http://labourbehindthelabel.org/report-do-we-buy-it-a-supply-chain-investigation-into-living-wage-commitments-from-ms-and-hm/>



in the minimum wage; however, this was later withdrawn due to industry concerns about the adverse impact it would have on competitiveness.<sup>235</sup>

Although overtime is generally paid, it is not always paid at the double rate, and extra hours of work spent meeting the high daily production targets are not paid.<sup>236</sup> GLU reports that overtime typically lasts two hours and that it is performed to meet urgent orders.<sup>237</sup> According to GLU, long working hours resulted in marital disputes, domestic violence and informal separations, where women are blamed for not carrying out domestic tasks.<sup>238</sup>

Common occupational and health problems include headaches and exhaustion, mental stress or depression due to work pressure, respiratory diseases, posture related disease (i.e., backaches, leg, neck and hand pain), skin allergies and eye strain, unclean water, urinary tract infections due to too few toilet breaks, and anaemia due to malnutrition.<sup>239</sup> Indeed, food provided at the factories' canteen is often not sufficient and not nutritious, resulting in workers suffering from anaemia and bringing food from home.<sup>240</sup> While tailors are provided with protective equipment, this is not the case for workers in the ironing and cutting section. When injured, workers are asked to take leave without pay.<sup>241</sup>

According to Sisters of Change, over 40 percent of pregnant workers are not allowed time off work to attend medical check-ups.<sup>242</sup> Cividep reports that only 5 percent of factories in Bangalore have functioning crèches on-site. As a result of this, many female workers resign and re-join a different factory less than a year after giving birth.<sup>243</sup> In the last two years, most factories have assigned a room for crèche; however, they are often not used because they are generally of a lower quality than what the law requires. If workers have an alternative, they do not take kids to the factory, and rather leave them in the village with a family member or neighbour. Crèches do not accept kids younger than one-year-old or children of the lowest category of workers (helpers).<sup>244</sup>

Episodes of verbal, physical and sexual harassment are common in garment factories in Bangalore. Over 60 percent of women are intimidated or threatened with violence and between 40 and 50 percent experience humiliation and verbal abuse. According to Sisters of Change, one in seven female workers are victims of sexual violence, one in 14 experience physical vio-

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235 Centre for Labour Studies National Laws School of India University, May 2018, Critiquing the Statutory Minimum Wage- A case of the export garment sector in India

236 Labour behind the Label, Do we Buy it?, February 2016: <http://labourbehindthelabel.org/report-do-we-buy-it-a-supply-chain-investigation-into-living-wage-commitments-from-ms-and-hm/> and India Committee of the Netherlands (ICN), Garment Labour Union and Clean Clothes Campaign, Labour without Liberty - Female Migrant Workers in Bangalore's Garment Industry, January 2018: <https://cleanclothes.org/resources/publications/labour-without-liberty-2013-female-migrant-workers-in-bangalores-garment-industry-full-version-1>

237 Stakeholder interview with GLU on 1 December 2018

238 Labour behind the Label, Do we Buy it?, February 2016: <http://labourbehindthelabel.org/report-do-we-buy-it-a-supply-chain-investigation-into-living-wage-commitments-from-ms-and-hm/>

239 Stakeholder interview with Cividep on 4 December 2018

240 Cividep, A Study of Occupational Health and Safety in the Garment Industry in Bangalore, October 2015:

<http://cividep.org/wp-content/uploads/2017/04/25-2-Occupational-health-safety-13.pdf>

241 Labour behind the Label, Do we Buy it?, February 2016: <http://labourbehindthelabel.org/report-do-we-buy-it-a-supply-chain-investigation-into-living-wage-commitments-from-ms-and-hm/>

242 Sisters for Change, Eliminating violence against women at work:

[http://sistersforchange.org.uk/wp-content/uploads/2016/06/SFC\\_WomenatWork\\_FullReport\\_25June2016.pdf](http://sistersforchange.org.uk/wp-content/uploads/2016/06/SFC_WomenatWork_FullReport_25June2016.pdf)

243 Cividep, Needs Assessment for Childcare Facilities in Bangalore's Garment Industry, 17 February 2017:

<http://www.cividep.org/2016/02/17/needs-assessment-childcare-facilities-bangalores-garment-industry-cividep-india-cooperation-femnet-germany/> and stakeholder interview with GLU on 1 December 2018

244 Stakeholder interview with Cividep on 4 December 2018

lence, 80 percent report that their health and safety is at risk because of working conditions and one in four feels unsafe at the workplace.<sup>245</sup> Violence is perpetrated by supervisors and floor managers and is enabled by the lack of functioning grievance mechanisms or ICs.<sup>246</sup> According to Cividep, because the ICs are not functioning, sexual harassment complaints are filed with trade unions. However, only the gravest issues are reported to unions, as most abuses have been normalised.<sup>247</sup> Victims of sexual harassment are most likely migrant workers and workers that are heavily dependent on their income as the single head of household or the sole wage-earner in the family. The pretext for abuses can arise from the failure to meet the production targets or complaints about working conditions.<sup>248</sup> According to Cividep, a positive change in recent years is that in many cases the perpetrators of sexual harassment are dismissed, whereas before only the victim was dismissed.<sup>249</sup>

Cividep reports that although factories are mostly registered with the authorities, this is typically done for a smaller number of workers and for fewer migrant workers than actually work at the factory.<sup>250</sup> According to GLU, permanent workers represent about 80 percent of the total workforce in Bangalore; however, there is an emerging trend of contract workers and of full-time workers working as piece-rate workers on their day off (Sunday).<sup>251</sup> While appointment letters are signed, no copy is provided to the workers and no contract is signed.<sup>252</sup>

Permanent workers receive ESI and PF contributions, and bonuses. However, according to Cividep, PF employer's contribution is at times not deposited or deposited with a delay into the worker's account.<sup>253</sup> Workers use the ESI only in cases of major illnesses, due to inconvenient working hours (i.e., facilities close at 16:00 pm) and bureaucracy. Indeed, a worker that wants to go to an ESI facility and be paid that day's wage as sick leave should get a letter from ESI, have this signed by the doctor and submit this to the human resources department. This process is inconvenient for treating smaller health problems, for which workers go to the local dispensary/clinic close to where they live.<sup>254</sup> Cividep reports that payslips are given to workers; however, deductions are not fully understood – local workers typically have an understanding only of ESI and PF deductions, and migrant workers generally have no understanding of any of the deductions.<sup>255</sup>

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245 Sisters for Change, Eliminating violence against women at work:

[http://sistersforchange.org.uk/wp-content/uploads/2016/06/SFC\\_WomenatWork\\_FullReport\\_25June2016.pdf](http://sistersforchange.org.uk/wp-content/uploads/2016/06/SFC_WomenatWork_FullReport_25June2016.pdf)

246 The Repealing and Amending Act 2016,

<https://www.kelphr.com/pdf/amendment-on-posh-act.pdf>

247 Stakeholder interview with Cividep on 4 December 2018

248 Sisters for Change, Eliminating violence against women at work:

[http://sistersforchange.org.uk/wp-content/uploads/2016/06/SFC\\_WomenatWork\\_FullReport\\_25June2016.pdf](http://sistersforchange.org.uk/wp-content/uploads/2016/06/SFC_WomenatWork_FullReport_25June2016.pdf)

The Guardian, Abuse is daily reality for female garment workers for Gap and H&M, says report, 5 June 2018:

<https://www.theguardian.com/global-development/2018/jun/05/female-garment-workers-gap-hm-south-asia>;

Scroll, Bengaluru garment hub's dirty secret: Sexual harassment in the workplace, 27 June 2017:

<https://scroll.in/article/840363/bengaluru-garment-hubs-dirty-secret-sexual-harassment-at-the-workplace>

and The Week, 'One in seven women in Bengaluru garment factories face sexual violence', 26 June 2016:

<https://www.theweek.in/content/archival/news/india/sexual-violence-bengaluru-garment-factories.html>

249 Stakeholder interview with Cividep on 4 December 2018

250 Stakeholder interview with Cividep on 4 December 2018

251 Stakeholder interview with Cividep on 4 December 2018 and GLU on 1 December 2018

252 Stakeholder interview with Cividep P on 4 December 2018

253 Stakeholder interview with GLU on 1 December 2018

254 Stakeholder interview with Cividep on 4 December 2018

255 Stakeholder interview with Cividep on 4 December 2018

Although workers can take up to a month's break, leave is not paid or is only partially paid (i.e., 15 days), and once workers are back, they are made to "re-join" the factory. Lack of continuity of service hampers workers' ability to qualify for gratuity, which requires five years of continuous employment.<sup>256</sup>

## 4.2.2. FWF AUDIT FINDINGS

*From January 2016 to December 2018, five audits were carried out in Bangalore.*

Audits captured discrimination in 40 percent of the factories audited in Bangalore. Female workers were not included in fire training and were not employed in higher skilled jobs such as, as a sample tailor. There are few female supervisors and the most common reasons for this form of discrimination given by factory management were that women do not have the leadership qualities or skills to be a supervisor, or they claim that female workers do not aspire to be supervisors. As factory management claimed to hire only workers above 18 years of age, discrimination against young workers was not observed.

There was an indication of child labour in 40 percent of the factories audited. Though no child worker was seen during audits, there was no policy on child remediation in two out of the five audited factories.

Freedom of association was not evident in any of the five audited factories. None of the factories had a trade union in their premises. The most common reasons given by factory management were: 1) fear that corrupted or politically allied trade unions would bring unrest to the factory; and 2) the belief that workers have no grievances or that they could voice any grievances directly with management as they have an "open door policy" where a worker can walk in and voice their grievance. Factories did not have proper documentation on CBA though they had a related policy. Workers did not know their right to unionise or to bargain collectively.

There was no functional grievance mechanism available to workers in 60 percent of the factories audited. Workers never used suggestion boxes. The elected worker representatives were not aware of the Committees that they belonged to, their roles and functions as representatives, and documentation on the election of various Committees was inconspicuous. The IC designated to receive complaints of sexual harassment of female workers was ineffective with a lack of external representation and follow up meetings.

The minimum wage was not paid in 40 percent of the factories audited. Wage records were not maintained and pay slips were also not provided to workers. Wages for two or more categories of workers were not in compliance with the law, as workers only received the wage of the lower category. Payment details of piece rate workers could not be verified, as no record was maintained. Additionally, attendance and payment records of hired trial workers (on-the-job training workers) were not maintained, and the number of casual leave did not comply with the standing order in one of the factories audited. In another factory, workers received an additional 810 INR (USD 11) twice a year in an effort towards supporting a living wage.

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<sup>256</sup> India Committee of the Netherlands (ICN), Garment Labour Union and Clean Clothes Campaign, Labour without Liberty - Female Migrant Workers in Bangalore's Garment Industry, January 2018: <https://cleanclothes.org/resources/publications/labour-without-liberty-2013-female-migrant-workers-in-bangalores-garment-industry-full-version-1> and stakeholder interview with Cividep on 4 December 2018

Excessive **overtime** was reported in 20 percent of the factories audited. In one factory, the overtime register did not capture all of the overtime hours worked as factory management wanted overtime to be under the legally permissive number of hours. Additionally, there is no system in place that makes overtime voluntary, and payment at double rate for overtime could not be verified as overtime records were not maintained correctly. Workers were found to occasionally work on National holidays without any compensatory benefits.

All five factories had functional crèche facilities. Other issues related to **occupational health and safety** included: 1) insufficient or inappropriate fire extinguishers, and evacuation maps not being displayed; 2) Material Safety Data Sheets not being posted or not posted in the local language, and no health check-up for workers in hazardous jobs; 3) loose wires or objects close to the electrical panels; 4) no secondary exit or unsuitable exit,<sup>257</sup> and exit signs not posted in local language; 5) no needle guard, eye shield or maintenance cards; 6) chairs with no back-rests, lack of sitting arrangements, no provision of anti-fatigue mats, and no training on the use of personal protective equipment; and 7) a failure to dispose of hazardous waste properly.

Audits found that no legally binding employment (**employment relationship**) was available to workers in 20 percent of the factories audited. The records of piece rate workers were hardly maintained and there were unregistered workers. In the case of contracted workers, factories rarely had the registration certificate, as per the contract labour act. Workers were hired and fired at the factory management's discretion and they were not paid for being laid off. Additionally, social security was not paid to all workers.

### 4.2.3. FWF'S COMPLAINTS RECEIVED

*From January 2016 to December 2018, FWF received 10 complaints from Bangalore.*

Five complaints came from the same factory in the last three years and all the complaints related to **occupational health and safety** (verbal abuse) and **employment relationship** (illegal termination). One common complaint concerned one manager verbally harassing and abusing his authority by threatening the workers with termination in an attempt to make them meet production targets. Workers that raised concerns were targeted and given additional work. From FWF's follow-up, it emerged that in **November 2018** the production manager was terminated and a new production manager was hired. This resulted in workers expressing satisfaction as the working environment improved significantly. FWF is currently verifying the situation following the hire of the new manager. To read the details of this complaint please click [here](#).

In 2017, three workers complained about their **wage, working hours and occupational health and safety** in one factory. The complainants claimed that all employees were forced to work overtime. However, overtime payments were delayed for a month and sometimes up to three or four months. Other complaints pertained to delayed bonus payments, the unhygienic conditions of bathrooms, and language barriers for migrant workers, which prevented them from raising grievances. During FWF's audit in November 2017, the complaint was found to be grounded and the following recommendations were made to the factory: 1) ensure that pol-

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<sup>257</sup> An unsuitable exit is one with a spiral staircase; opening on a flight staircase or inward, or with a door not requiring with the legal standards for width and height.

icies for all relevant procedures such as bonus calculation, leave, resignation are clearly documented, communicated to workers in a language that they can understand and applied by the management according to national laws; 2) make all payments on time at all times, and it was noted that the brand should continuously monitor this; 3) set up functioning communication and grievance mechanisms accessible to migrant workers; and 4) for management to meet with the complainants to agree on a settlement regarding the final payment with FWF available to facilitate the meeting if needed. While toilet facilities were clean during the audit, interviewed workers confirmed that this is generally not the case. FWF verified that complainants received the pending payments and that all pending payments to other workers were settled. A brand asked FWF to facilitate mediation meetings between the workers and management. As a result, management agreed to pay additional compensation to the workers in June 2017. FWF verified that the payment was made to the workers. To know how this complaint was resolved, please click [here](#).

In May 2017, FWF received a complaint from a worker regarding their **wage**. After about nine months of employment, a worker took leave from 1 to 10 April 2017 without informing their supervisor/HR. She went back to work from 11 to 18 April 2017 and following a lack of improvement in her health, she took leave again and finally resigned on 25 April 2017. The worker complained about not receiving her salary for the month of March or the eight days worked in April. FWF's investigation found the complaint to be grounded but noted that as per the company policy, of which workers are aware, the management asked the worker to serve a notice period of one month. The complainant failed to do so without providing a valid reason. The management informed the worker that the payment would have been made on the 25th of the following month (June) after the notice period. At the end of June 2017, FWF verified with the concerned worker whether the payment was received, which she confirmed. To read the details of this case please click [here](#).

A recently promoted Assistant Supervisor filed a complaint in April 2017 about their **employment relationship** (unlawful termination). He claimed that the reason for being dismissed was his refusal to comply with the heavy work pressure required by the manager. FWF's investigation noted that the concerned managers left the factory following a change in the factory's management structure. FWF asked the brand to have the factory pay the worker for the earned leave due and days worked. The worker's final settlement included payment for days worked, but not for earned leave days. To read about the case, please click [here](#).

In October 2018, a worker from a factory's packing department complained about **working hours**. Factory timings were 09:00 am to 17.30 pm, but the packing department usually worked until - 19:30 pm or 20:00 pm. Overtime was allegedly not paid. The packing department has a total of 30 workers, including ten women. The worker that filed the complaint was afraid of termination should the factory's management know the complaint's identity. FWF conducted an audit in June 2018, and FWF's investigation following the complaint came to contradictory conclusions on overtime and its payment. During the audit, workers interviewed offsite mentioned working overtime without payment, but since this information could not be corroborated with either onsite interviews or documents, no mention of excessive, unrecorded or unpaid overtime was made in the Corrective Action Plan (CAP). The contrasting response of workers with the ones provided during the complaint investigation could be linked to the recent change in the factory's management which is allegedly very strict and harsh. The fear

of repercussions may have kept workers guarded during the on-site interviews during the audit, but this could not be confirmed. FWF recommended conducting a partial audit in this factory during 2019 to verify the contradictory findings from the audit and the complaint. To follow the case, please click [here](#).

## 4.3 Tirupur

*This section outlines potential and actual labour rights risks in Tirupur. The section starts with information on the location and size of factories, production activities and workers employed by the garment industry in the Tirupur area.*

Garment factories are mostly located in Tirupur and Erode districts, and Coimbatore, while activities are growing in Chennai due to its accessibility to the port and workforce.<sup>258</sup> Spinning mills are mostly located in Dindigul district<sup>259</sup> and Erode district (which has 4,018 spinning mills and a SEZ dedicated to textiles), as well as in Coimbatore, Nammakal and Selam.<sup>260</sup> However, CARE-T reports that there is an ongoing displacement of production centres, which are moving into rural areas, due to higher rents and the general costs of living in Tirupur. Displacement presents a challenge for unionisation – and in upholding working conditions – as a more scattered workforce is more difficult to organise.<sup>261</sup>

The Tirupur area is a prominent textile hub for both yarn and readymade garments, which are produced in 8,350 production units.<sup>262</sup> Tirupur's garment industry is made up of micro-, small- and medium-sized factories that employ anywhere from ten to 15 workers up to 1,000 to 1,500 workers, which are specialised units, some only specialising in printing and dyeing.<sup>263</sup>

Tirupur is known for its knitwear and hosiery production and produces 45 percent of all knitwear exported from India.<sup>264</sup> Knitwear and hosiery products produced in Tirupur include T-shirts, polos, sweatshirts, sports and performance wear, children's garments, nightwear, innerwear and lingerie.<sup>265</sup> Tamil Nadu produces about 35 to 40 percent of all the yarn produced in India.<sup>266</sup> In 2017, the textile goods produced in Tamil Nadu for export were valued at 25,000 INR crores (USD 3.5 billion).<sup>267</sup> In recent years, the productivity of exports has not increased as expected. This is due to several factors, including Brexit, which led to the unpredictability of import tariffs for garments and consequently put on hold an expected expansion in production by British brands. Because the United Kingdom is one of India's main exports, this caused a six percent decrease in exports from 2017 to 2018.<sup>268</sup> Similar limitations apply to production in Bangla-

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258 Stakeholder interview with CARE-T on 3 December 2018

259 Stakeholder interview with TEA on 4 December 2018

260 Stakeholder interview with READ on 5 December 2018

261 Stakeholder interview with CARE-T on 3 December 2018

262 TEA, Vision 2020

263 Stakeholder interview with TEA on 4 December 2018

264 TEA, Vision 2020

265 Tirupur Stakeholders Forum, Tirupur Knitwear Industry:

<http://www.tsf.org.in/about-tirupur-and-knitwear-industry/> and <http://www.tsf.org.in/tirupur-basic-facts/>

266 India Committee of the Netherlands, Fabric of Slavery, December 2016:

<http://www.indianet.nl/pdf/FabricOfSlavery.pdf>

267 TEA, Vision 2020

268 AEPC, Note for Niti Aayog

desh and China that spinning mills from Tamil Nadu supply yarn to, and consequently this sub-sector is also experiencing a slowdown in exports.<sup>269</sup>

The Tirupur area provides jobs to about 800,000 workers,<sup>270</sup> between 75<sup>271</sup> and 90<sup>272</sup> percent of which are female. Most workers are aged between 16 and 25, with some as young as 14.<sup>273</sup>

Despite a threefold increase in the number of audits in Tirupur's garment factories in the last five years, which also have an average of five to ten certifications, according to Social Awareness and Voluntary Action (SAVE), working conditions have not improved.<sup>274</sup> Some of the shortfalls of audits and certification schemes are: 1) audits are commissioned and paid for by the manufacturers; 2) organisations such as Social Accountability International and Business Social Compliance Initiative aim to increase their membership and too critical audits would be a deterrent; 3) information gathered through audits is not verified with other stakeholders (e.g. NGOs, trade unions); 4) workers are not consulted in the auditing process and are on the contrary prepped by management not to speak to brand representatives; and 5) contributions to ESI and PF are not included in most audits.<sup>275</sup> According to the Centre for Research on Multinational Corporations (SOMO), India Committee of the Netherlands (ICN) and Homeworkers Worldwide (HWW), non-judicial grievance mechanisms by Social Accountability International and ETI failed to provide workers with better working conditions.<sup>276</sup> ETI has refuted the report's findings.

### 4.3.1. STAKEHOLDERS ENGAGEMENT

*In December 2018, eight stakeholders were consulted to gather information on this regional hub, of which four NGOs, two business associations, one public entity and one international organisation. For more information please see Annex III.*

ICN reports that 80 percent of female workers in textile mills are under 18 years old.<sup>277</sup> According to a study of Corporate Accountability Research, female workers are preferred to male workers as they are perceived to be more compliant, easier to manage and less likely to unionise.

Agents/contractors recruit workers from among the poor, rural, low-castes, namely Dalit (and in particular from the Arunthatiyar sub-caste, which is considered to be the "Dalit among the Dalits"), and disadvantaged backgrounds, under the false promises of comfortable working conditions.<sup>278</sup> READ reports that 60 to 70 percent of workers are from either Dalit or tribal background, who are never promoted into supervisory positions. However, CARE-T estimates SCs

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269 Stakeholder interview with CARE-T on 3 December 2018

270 Reuters, Clean, affordable housing will reduce exploitation of Indian textile workers: campaigners, 5 December 2016: <https://www.reuters.com/article/us-india-textiles-housing-idUSKBN13U1HK>

271 Stakeholder interview with CARE-T on 3 December 2018

272 Stakeholder interview with READ on 5 December 2018

273 Stakeholder interviews with READ on 5 December 2018 and CARE-T on 3 December 2018

274 Stakeholder interview with SAVE on 5 December 2018

275 Stakeholder interview with SAVE on 5 December 2018 and SOMO, ICN, HWW, Case closed, problem persist, June 2018,

<https://www.somo.nl/wp-content/uploads/2018/06/Case-closed-problem-persist-def.pdf>

276 United Nations guiding Principles on Business and Human Rights, Guiding Principle 31, [https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

277 India Committee of the Netherlands, Fabric of slavery, December 2016:

<http://www.indianet.nl/pdf/FabricOfSlavery.pdf>

278 Corporate Accountability Research, Forced Labour in the Textile and Garment Sector in Tamil Nadu, South India: <http://corporateaccountabilityresearch.net/njm-report-xiii-sumangali>

(Dalits) at 45 percent of the workforce, which together with Most Backward Communities<sup>279</sup> and Schedule Tribes reach 76 percent of the workforce in garment factories and spinning mills.<sup>280</sup> Dalit female workers are abused for their caste status by being given more overtime, heavier work, cleaning tasks, being given extra work during night shifts, being denied leave, and being subjected to verbal and physical harassment.<sup>281</sup> Additionally, according to Corporate Accountability Records, at the hostels, female Dalit workers are not allowed to choose rooms or complain and several deaths were reported after cases of sexual abuse in textile mills.<sup>282</sup>

About 55 percent of workers are intra-state migrant workers (i.e., from Tamil Nadu), around 20 percent are from Tirupur and its neighbouring villages, and a growing percentage (estimated to be between 25<sup>283</sup> and 40 percent<sup>284</sup>) come from other states in India, namely Kerala, Karnataka and Andhra Pradesh, and more recently from Odisha, Jharkhand, Bihar, Chhattisgarh and West Bengal.<sup>285</sup> According to CARE-T, about 90 percent of inter-state migrant workers are male.<sup>286</sup> SAVE reports that migrant workers are recruited through: 1) agencies (large majority); 2) contractors (growing); and 3) factory managers (few) going to the home states and using their network to recruit.<sup>287</sup> Migrant workers are paid 20 percent less than local workers. Additionally, they face difficulties in finding accommodation, when not accommodated in hostels, as they are perceived as thieves by locals and are looked at with suspicion. This results in migrant workers having to pay higher rents. As migrant workers are often employed through contractors, factories are not always aware of the salary paid to the workers, as there is no transparency on the cut that the contractor takes<sup>288</sup>

Workers are accommodated in company-run hostels, also known as “camp coolies” (camp labours) and experience similar abuses as to the ones reported in the Stakeholders Engagement section on Bangalore. This abuse includes verbal, physical and sexual harassment by supervisors, restrictions on their freedom of movement, which consequently limits their ability to join a trade union, poor living conditions and a lack of access to information. Some additional factors reported by Corporate Accountability Research for female workers accommodated in hostels in Tirupur include: 1) female workers work twelve-hour shifts, often double-shifts and are forced to work overtime. Young female workers are often called in at the last minute - even in the middle of the night - as they are considered to be available 24/7. ILO views excessive overtime as an indicator of forced labour;<sup>289</sup> 2) restriction of movement is all

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279 Most Backward Community is a categorisation used in Tamil Nadu. List of Backward Classes approved by Government of Tamil Nadu: <http://www.bcmbcmw.tn.gov.in/bclist.htm>

280 Stakeholder interview with CARE-T on 3 December 2018

281 Stakeholder interview with READ on 5 December 2018

282 Corporate Accountability Research, Forced Labour in the Textile and Garment Sector in Tamil Nadu, South India: <http://corporateaccountabilityresearch.net/njm-report-xiii-sumangali>

283 Stakeholder interviews with CARE-T on 3 December 2018 and SAVE on 5 December 2018

284 Stakeholder interview with READ on 5 December 2018

285 Stakeholder interview with SAVE on 5 December 2018, SAVE, A study on garment production mobility in Tirupur:

<https://www.savengo.org/pdf/PDFonline1.pdf>

and Corporate Accountability Research, Forced Labour in the Textile and Garment Sector in Tamil Nadu, South India:

<http://corporateaccountabilityresearch.net/njm-report-xiii-sumangali>

and stakeholder interview with READ on 5 December 2018

286 Stakeholder interview with CARE-T on 3 December 2018

287 Stakeholder interview with SAVE on 5 December 2018

288 Stakeholder interview with SAVE on 5 December 2018

289 ILO, ILO indicators of forced labour:

[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_203832.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf)



the more extreme as girls can only leave the hostel if accompanied by a family member or a company representative, under the pretext of their safety. GPN Studies report stricter limitations in hostels in Erode district than those in Tirupur;<sup>290</sup> Notably, migrant female workers from Odisha were beaten up by a hostel's warden and guard when trying to leave the hostel.<sup>291</sup> Additionally, READ reported a case of two girls, 18 and 17 years old respectively, who escaped from a textile mill, as they were denied permission to leave, and severely injured themselves when jumping the 3.6-meter hostel wall.<sup>292</sup> CARE-T reports a recent trend of using a middleman as the artificial "owner" of the hostel. The factories that do not use middlemen, about 20 to 30 percent, generally comply with the law and register the hostel with the government.<sup>293</sup> 3) denial of a weekly rest day as well as leave and sick days; 4) female workers are paid below the minimum wage and receive no overtime pay; and 5) workers – or their parents – are made to sign blank pages in the contract.

Since the late 1990s, young unmarried female workers have joined textiles mills for a period of three to five years under the *sumangali* scheme. The worker is promised a lump sum payment at the end of the "apprentice" period. However, should the worker leave her job before the end of the contract period, no lump sum is paid, and even when it is paid at the end of the contract, it amounts to less than the minimum wage for apprentices.<sup>294</sup> According to ILO, withholding wages is an indicator of forced labour.<sup>295</sup> Young women are lured to this practice in order to pay their dowry and to support their poor, and often indebted, families. This scheme is widely classified as forced labour and due to the workers' young age (normally between 15 and 18, but some are as young as 12), it amounts to one of the worst forms of child labour.<sup>296</sup> SAVE and READ report that following international attention from NGOs, media and brands, girls are no longer paid a lump sum at the end of the contract period and are instead paid monthly; however, their pay remains below the minimum wage.<sup>297</sup> Although the sumangali scheme is less present in garment factories, similar fixed-term schemes are widely used (i.e., camp coolies), which receive less focus.<sup>298</sup> FWF developed a [policy](#) for its members on the sumangali scheme in 2015, including preventive and remediation steps for their production sites in India.<sup>299</sup>

Labour NGOs and trade unions report that adolescent workers employed in spinning mills and garment factories are not working within the limits and the provisions of the law. CARE-T states that the Aadhar card, used as a proof-of-age document, is easily forged by getting

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290 Stakeholder interview with GPN Studies on 28 November 2018

291 The News Minute, Six Women rescued from TN garment factory after assault by warden and guard, 19 May 2017: <https://www.thenewsminute.com/article/six-women-rescued-tn-garment-factory-after-assault-warden-and-guard-62311>

292 READ, "Waiting for...Fact finding Report of the Death of Victims in Textiles Industry"

293 Stakeholder interview with CARE-T on 3 December 2018

294 ILO, The strange and persisting case of Sumangali (or, the highway to modern slavery), November 2015, accessed on 7 November 2018 and Corporate Accountability Research, Forced Labour in the Textile and Garment Sector in Tamil Nadu, South India: <http://corporateaccountabilityresearch.net/njm-report-xiii-sumangali>

295 ILO, ILO indicators of forced labour:

[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_203832.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf)

296 Corporate Accountability Research, Forced Labour in the Textile and Garment Sector in Tamil Nadu, South India: <http://corporateaccountabilityresearch.net/njm-report-xiii-sumangali>

297 Stakeholder interviews with SAVE and READ on 5 December 2018

298 Corporate Accountability Research, Forced Labour in the Textile and Garment Sector in Tamil Nadu, South India: <http://corporateaccountabilityresearch.net/njm-report-xiii-sumangali>

299 FWF, FWF Guidance for Affiliates: The Sumangali Scheme and India's Bonded Labour System March 2015: [https://www.fairwear.org/wp-content/uploads/2011/12/Sumangali\\_update\\_2015\\_2017-changes.pdf](https://www.fairwear.org/wp-content/uploads/2011/12/Sumangali_update_2015_2017-changes.pdf)

the card and the phone number of the worker – by simply receiving a one-time pin on the worker’s phone the date of birth can be changed on the Aadhar card. This practice, which mostly concerns small factories, causes problems later on when the worker withdraws their PF entitlements due to mismatches in their papers (e.g., the spelling of their name). Sometimes factories directly place the request for an Aadhar card with the competent authority and simply get the card with the age that the factory wants the worker to be. Some factories threaten to not return the Aadhar card when workers want to leave.

According to SAVE, unionisation is particularly low among migrant workers, who are heavily dependent on their income and are less likely to take the risk of being put out of a job by joining a trade union. Inter-state migrant workers are less familiar with Tamil Nadu’s political parties, which are associated with the local trade unions. Migrant workers’ language barriers and their reliance on the contractor through whom they are employed, are additional factors limiting their unionisation. Trade unions have struggled to increase their membership over the last ten years,<sup>300</sup> and the Indian Committee of Netherlands reports that no Works Committees or trade unions exist in the textile mills.<sup>301</sup>

The 1984 strike paved the way to the Tirupur Tripartite Wage Agreement,<sup>302</sup> which covers workers producing for the export market. The first agreement was signed in 2007 by trade unions, the Tirupur Export Association (TEA) and the government, and it was renewed for an additional four years in 2016.<sup>303</sup> However, it was only signed by trade unions and TEA, as the government could not sign a CBA that stipulated a lower wage than the minimum wage for the tailoring industry.<sup>304</sup> The agreement does not apply to workers in the hosiery industry and since February 2018 the Tamil Nadu government has imposed the minimum wage stipulated for the hosiery industry (5,158 INR or USD 73 per month) on the garment sector workers and not the minimum wage for tailoring (8,703 INR or USD 124 per month). Trade unions contested this order and negotiated a monthly wage at 5,766 INR (USD 82) for the same category of workers. However, this remains a poverty wage if compared to the estimates for a living wage produced by the Asia Floor Wage (23,588 INR/USD 336) and the Global Living Wage Coalition (14,670 INR/ USD 209). Low wages force workers to work overtime or to work as piece-rate workers ruling them out of any social benefits.<sup>305</sup> Living wage is a per month estimate. However, in reality, factories calculate and pay wages per day and workers are paid on a weekly basis. This makes a significant difference for workers, as time rated workers are paid only for the days worked, similarly to piece rate and contract workers. Thus, although companies may honour the stipulated wage per day, at the end of the month the workers do not receive a salary for 26 days (of 8-hour shifts).<sup>306</sup> Furthermore, while from 2016 to 2017, 4,500 INR (USD 63) was enough to meet the basic monthly food needs, in 2018 5,500 INR (USD 77) was needed to meet the same needs, according to CARE-T.<sup>307</sup>

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300 Stakeholder interview with SAVE on 5 December 2018

301 India Committee of the Netherlands, Fabric of Slavery, December 2016:

<http://www.indianet.nl/pdf/FabricOfSlavery.pdf>

302 The first Tirupur Tripartite Wage Agreement covered the period 2007-2010 and provided staggered wage increases (of 10, 4, 3, and 3% per year, respectively), although the increase was criticised for not being linked to the inflation rate.

303 The current Tirupur Tripartite Wage Agreement covers the period 2016-2020 and provided staggered wage increases (of 18% the first year and 5 % for the consecutive three years).

304 Stakeholder interview with SAVE on 5 December 2018

305 FWF Living Wages note

306 FWF Living Wages note

307 Stakeholder interview with CARE-T on 3 December 2018

Standard daily working hours are 12 hours with four hours of forced overtime, which is one of the ILO's indicators of forced labour.<sup>308</sup> Overtime is generally paid at a single rate in larger units, according to GPN Studies and CARE-T.<sup>309</sup> However, READ reports cases where overtime is paid at a single rate only for work beyond 12 hours, and young female workers in spinning mills work for up to 16 hours per day.<sup>310</sup> Small- and medium-sized production units do not pay for overtime.<sup>311</sup> Night shifts are now more common, and generally for three to four hours, from 20:00 pm or 21:00 pm until 24:00 am. Workers are picked-up and dropped at the factory by buses, which the company owns.<sup>312</sup> The vast majority of textile mills in and around Tirupur have working weeks of more than 60 or 72 hours (and some reach as much as 96 hours per week) – far more than the legally allowed 48 hours.<sup>313</sup>

Long working hours have adverse impacts on young workers' health. Respiratory and stomach conditions, together with burning eyes, rashes, frequent bouts of fever, aching and swollen legs, varicose veins, ulcers and piles from sitting for long hours, and cuts are frequent occupational hazards.<sup>314</sup> Despite these threats, only 29 to 35 percent of workers receive occupational safety training.<sup>315</sup> According to READ, 84 percent of female workers suffer from anaemia, resulting in irregular menstrual periods, difficulties in concentrating and tiredness, which adversely impacts their productivity.<sup>316</sup> Moreover, almost 89 percent of female workers in mills report psychological problems.<sup>317</sup> Only 29 to 35 percent of workers receive occupational safety trainings, according to READ.<sup>318</sup> In a 2015 study, Cividep and FEMNET reported that shop-floor accidents caused 80 percent of deaths in spinning mills; 15 percent were suicides due to emotional entanglement and 5 percent were in response to sexual harassment.<sup>319</sup> READ reports that 20 percent of workers receive pressure to work when ill,<sup>320</sup> and Corporate Accountability research reports of cases of terminally ill workers sent home by the companies without complying with the provision of the law. Several stakeholders report suspicious causes of death, such as suicide caused by female workers' mental stress due to high production targets, verbal and sexual harassment, and family problems.<sup>321</sup> Those cases are allegedly covered-up by employers with complicit doctors and by paying off the family of the girl, so that no proper

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308 ILO, ILO indicators of forced labour:

[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_203832.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf)

309 Stakeholder interview with CARE-T on 3 December 2018

310 Stakeholder interview with READ on 5 December 2018

311 Stakeholder interview with GPN Studies on 28 November 2018, READ on 5 December 2018 and CARE-T on 3 December 2018

312 Stakeholder interview with GPN Studies on 28 November 2018

313 Corporate Accountability Research, Forced Labour in the Textile and Garment Sector in Tamil Nadu, South India:

<http://corporateaccountabilityresearch.net/njm-report-xiii-sumangali>

and India Committee of the Netherlands, Fabric of slavery, December 2016:

<http://www.indianet.nl/pdf/FabricOfSlavery.pdf>

314 Society for Labour and Development, Gender based violence in garment global production networks India, 2018

315 READ, SDGs and Labour- A Compendium, July 2018

316 READ, Promotion of Nutritional status through Correction, Prevention of anemia among Dalit young female textile workers with reference to READ intervention in Erode District, December 2017 and Stakeholder interview with READ

317 READ, SDGs and Labour- A Compendium, July 2018

318 READ, SDGs and Labour- A Compendium, July 2018

319 Cividep and FEMNET, Challenges and Prospects for Decent Employment in Tamil Nadu's Spinning Mills, December 2015:

<http://cividep.org/cividep-presents-new-study-challenges-prospects-decent-employment-tamil-nadus-spinning-mills-speakers-tour-germany/>

320 READ, SDGs and Labour- A Compendium, July 2018

321 Stakeholder interview with CARE-T on 3 December 2018 and READ on 5 December 2018 and READ, "Waiting for...Fact finding Report of the Death of Victims in Textiles Industry", accessed on 19 December 2018

police investigation is conducted and no judicial case is filed, according to READ and CARE-T.<sup>322</sup> Since 2014, 106 female workers in the industry have committed suicide, and the large majority have been Dalit girls.<sup>323</sup>

**Sexual harassment** happens on a regular basis, including the use of vulgar language, groping, sexual acts, and rape by supervisors. Resisting harassment leads to wage cuts and overtime work.<sup>324</sup> According to READ, the only improvement in the last couple of years is linked to the dismissal of the perpetrators of verbal and sexual harassment cases instead of the victim as used to be the case.<sup>325</sup> The stakeholders consulted for this study unanimously agreed ICs are not present or functioning in factories or mills.<sup>326</sup> The ICs existence is solely on paper, as meetings are not held and only the signatures of the workers that are supposedly part of the Committee are taken.<sup>327</sup> IC members lack knowledge of their roles and responsibilities, and complaints are not filed because the Committee is not known to all of the female workers in the factory.<sup>328</sup> CARE-T reports that members of the IC are appointed by factory management, who chose workers “loyal” to them. According to READ, the lack of transparency in the appointment of the NGO seat on the IC means a few NGOs have an monopoly.<sup>329</sup>

SAVE reports that almost the entire industry in Tirupur is **informal**, as production units are rarely registered with the government. Moreover, only about 20 percent of the workforce is permanent, with the rest being contract workers. 70-75 percent of contract workers, or as much as 90 percent in some factories, are employed as piece rate workers.<sup>330</sup> According to READ, about 65 percent of workers do not receive a copy of their contract, do not understand the contract’s provisions and remain unaware of their entitlements.<sup>331</sup> The practice of double recording is also widely spread among manufacturers, using the complying set of documents for audits and inspections.<sup>332</sup> Contributions to ESI and PF are paid in Tier 1 factories, which employ about 30 percent of the total workforce, according to CARE-T.<sup>333</sup> However, READ and SAVE report that the employer’s contributions are not deposited into the worker’s account.<sup>334</sup> ESI facilities in Tirupur are non-functional; hence, workers turn to the private system, despite the ESI being deducted from their wages.<sup>335</sup> In cases where an accident has occurred at the workplace, ESI institutions do pay the workers, although this is done with a delay due to bureaucracy, according to READ.<sup>336</sup> Bonuses are paid across the industry, according to the

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322 Corporate Accountability Research, Forced Labour in the Textile and Garment Sector in Tamil Nadu, South India: <http://corporateaccountabilityresearch.net/njm-report-xiii-sumangali>

323 Stakeholder interview with READ on 5 December 2018

324 Hindustan Times, ‘Constant sexual harassment’: TN woman workers’ letter exposes textile industry, 31 October 2016: <https://www.hindustantimes.com/india-news/he-squeezes-our-breasts-tn-woman-workers-letter-exposes-textile-industry/story-romBdKlfGhKAI4IujXL4c0.html>

325 Stakeholder interview with READ on 5 December 2018

326 Stakeholder interviews with READ on 5 December 2018, GPN Studies on 28 November 2018 and CARE-T on 3 December 2018

327 Stakeholder interview with READ on 5 December 2018

328 Stakeholder interview with CARE-T on 3 December 2018

329 Stakeholder interview with CARE-T on 3 December 2018

330 SAVE, Towards a Living Wage, November 2017

331 Stakeholder interview with READ on 5 December 2018 and READ, SDGs and Labour- A Compendium, July 2018

332 Stakeholder interview with READ on 5 December 2018

333 Stakeholder interview with CARE-T on 3 December 2018

334 Stakeholder interview with READ on 5 December 2018 and SAVE, Towards a Living Wage, November 2017

335 FWF Living Wages note and SAVE, Towards a Living Wage, November 2017

336 Stakeholder interview with READ on 5 December 2018

worker's religion, for Christmas, Pongal (Tamil Nadu festival)/ Diwali or Ramadan.<sup>337</sup> Workers are not given paid annual and sick leave<sup>338</sup> and 60 percent of workers do not receive leave for national holidays.<sup>339</sup>

### 4.3.2. FWF AUDIT FINDINGS

*From January 2016 to December 2018, 13 audits were carried out in and around Tirupur.*

Audits found signs of **forced labour** in 15 percent of the factories audited in Tirupur. Advance registers were not maintained and personal documents, such as bank passbooks, were withheld. In one factory, freedom of movement was curtailed for workers accommodated in hostels.

Audits captured **discrimination** in 38 percent of the factories audited. In one factory, there was no written policy on anti-discrimination. Female workers were not employed in skilled or higher skilled jobs and were miscategorised. For example, in one factory a helper who covered for a cutter when they were absent, only received the helper's salary. There were few female supervisors and the most common reasons for this form of discrimination given by factory management was that women do not have leadership qualities or the skills to be a supervisor, or they claim that female workers do not aspire to be supervisors. As factory management claimed to hire only workers above 18 years of age, no discrimination against young workers was observed.

There was an indication of **child labour** in 23 percent of the factories audited. Although no child workers were seen during the audits, there was no policy on child remediation in some of the factories audited.

**Freedom of association** was not evident in 76 percent of the factories audited. None of the factories had a trade union in their premises. The most common reasons given by factory management were: 1) fear that corrupted or politically allied trade unions would bring unrest to the factory; and 2) the belief that workers have no grievances or that they could voice any grievances directly with the management as they have an "open door policy" where a worker can walk in and voice their grievance. Factories did not have proper documentation on Collective Bargaining Agreement (CBA); however, they had a related policy. Workers were not aware of their rights to unionise or to bargain collectively.

There was no functional grievance mechanism available to workers in 38 percent of the factories audited, and workers never used suggestion boxes. The elected worker representatives were not aware of the Committees that they belonged to, their roles and functions as representatives and documentation on the election of various Committees was inconspicuous. The IC meant for receiving sexual harassment complaints was ineffective with a lack of external representation and follow up meetings.

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337 Stakeholder interviews with GPN Studies on 28 November 2018 and CARTE-T on 3 December 2018

338 Stakeholder interview with CARE-T on 3 December 2018

339 READ, SDGs and Labour- A Compendium, July 2018

The minimum wage was not paid to workers in 23 percent of the factories audited. Wage records were not maintained and pay slips were not provided to workers. Wages for two or more categories of workers were not in compliance with the law, as workers received only the wage of the lower category. Payment details of piece rate workers could not be verified, as no records were maintained. Attendance and payment records of hired trial workers (on-the-job training workers) were also not maintained. Two factories provided workers with a contribution toward a living wage. One factory provides workers with an additional 25 INR (USD 0.35) to their daily wage and another factory gave workers a contribution commensurate to their attendance twice a year.

Excessive overtime was reported in 46 percent of the factories audited. Overtime records were either not maintained or falsified in seven out of the 18 factories audited in Tamil Nadu. The overtime register did not capture all of the overtime workers completed because factory management wanted overtime to be under the legally permissive number of hours. Additionally, there is no system in place that makes overtime voluntary, and payment of overtime at double rate could not be verified as overtime records were not maintained correctly. Workers worked for 12 hours daily, with four hours of overtime, and female workers worked after 19:00 pm, without getting consent from the labour inspector. Workers were found to occasionally work on National holidays without any compensatory benefits.

None of the factories audited had functional crèche facilities. There was a lack of fire management in one factory. Other issues related to occupational health and safety included: 1) insufficient or inappropriate fire extinguishers and evacuation maps not being displayed; 2) Material Safety Data Sheets not being posted or not being available in the local language, and no health check-ups for workers in hazardous jobs; 3) loose wires or objects close to electrical panels; 4) no secondary exit or an unsuitable exit,<sup>340</sup> and exit signs not being in the local language; 5) no needle guards, eye shields or maintenance cards; 6) chairs with no backrest, lack of sitting arrangements, failure to provide anti-fatigue mats, and no training on the use of personal protective equipment; and 7) a failure to properly dispose of hazardous waste. Verbal abuse was also reported in one factory in Tamil Nadu.

Audits found that there was no legally binding employment (employment relationship) available to workers in 38 percent of the factories audited. In one factory, the names of a few workers, who were seen on the shop floor, were not included in the muster roll. The records of piece rate workers were hardly maintained and there were also unregistered workers. In the case of contracted workers, factories rarely had the registration certificate, as per the contract labour act. Workers were hired and fired at management's will and they were not paid for being laid off. Social security was not paid to all workers. In one factory, gratuity was paid together with the bonus every year, instead of being paid after five years of continuous service and being calculated on the last salary, which after five years should have been higher than after one year. However, this accommodated a highly mobile workforce.

### 4.3.3. FWF'S COMPLAINTS RECEIVED

*From January 2016 to December 2018, FWF received 13 complaints from Tirupur.*

In October 2016, a worker complained about **working hours**, their **employment relationship**, and **occupational health and safety**. He claimed that overtime salaries were paid incorrectly, and that bonus payments for Diwali were different according to the seniority of the worker (workers that have been with the factory for one year received 8,000 INR (USD 114), for two years 10,000 INR (USD 143), and for five years 23,000 INR (USD 329). Thirdly, a change in the route of the transport provided by the factory for workers resulted in workers being dropped off two kilometers away from their hometown. The brand conducted an internal audit in November 2016 to verify the complaint and FWF conducted a verification audit in February 2017. The following remediation steps were recommended: 1) workers should be consulted about their preference regarding the bus route to find a solution that is acceptable to everyone and that does not endanger any of the workers; 2) the bonus structure should be negotiated with workers' representatives and the CBA should be adjusted accordingly. Since the first quarter of 2017, the complainant has not been available to verify the progress made on the suggested steps. To know about the details of the case, please click [here](#).

Complaint [166](#) was received in May 2016 and concerned **occupational health and safety**. A worker employed at a factory complained that aeration in the factory was limited, despite there being a fan. The worker felt suffocated and said that other workers shared this concern. While the issue was raised with the line supervisor, no action was taken because in August 2016 an FWF inspection team found that the requirements regarding per square feet space of working space per worker were being respected.

In January 2017, FWF received a complaint on **occupational health and safety** from a former factory worker. The complainant claimed that a line supervisor in the sewing department verbally abused workers. The brand sent its audit team to the factory for an investigation the same month, which included off-site and on-site interviews. As several complaints had been received from the same supplier, FWF decided to conduct a verification audit in February 2017. FWF confirmed at least one supervisor's inappropriate behavior, who had resigned. As a result of the brand's and FWF's follow-ups, the factory management undertook efforts to ensure that supervisors are not verbally abusive. Click [here](#) to read the details.

## 5. ACCESS TO REMEDY

*This chapter presents an overview of the national and international non-judicial remedy mechanisms for victims of labour rights abuses by the garment sector can access.*

Labour Courts and Tribunals are the national judicial mechanisms available to victims of labour rights violations;<sup>341</sup> however, only a small percentage of disputes reach courts.<sup>342</sup> In a country where legal proceedings are long and consequently expensive, non-judicial grievance mechanisms have all the more important role.<sup>343</sup> Non-judicial mechanisms can be at the company, sector, national, regional and international levels, and should comply with the criteria set out in the United Nations Guiding Principles on Business and Human Rights (UNGPs).<sup>344</sup>

The Department of Labour (DoL) in each State can facilitate dispute resolution between employees and employers through its mediation (national non-judicial mechanism) and quasi-judicial services. First, an officer from the DoL is sent to the factory to facilitate an agreement between the parties. Should this fail, a conciliation process is started with the help of the DoL mediation service. If no agreement is reached, an inspection is undertaken, resulting in an order by the DoL, which the relevant parties must comply with and that can be enforced by the District Collector. The DoL has quasi-judicial powers in terms of wages, gratuity and bonuses. Alternatively, should mediation fail, the DoL can refer the dispute to the corresponding labour courts.<sup>345</sup> Although workers can file a complaint directly to the relevant DoL, trade unions are typically used as intermediaries by employees, particularly in industries with higher unionisation rates. Disputes regarding the PF or ESI are dealt with by the Employees' Provident Fund Organisation and the Employees' State Insurance Corporation respectively; both authorities fall under the Ministry of Labour and Employment.

Although the National Human Rights Commission, established in 1993, has the mandate to inquire into complaints of human rights violations by the government, complaints relating to human rights abuses by companies can also be received. The work of the Commission has, in the past, been questioned by civil society.<sup>346</sup> In 2017, the Commission received more than 80,000 complaints.<sup>347</sup> In 2017 and 2018, the Commission organised two conferences on business and human rights,<sup>348</sup> and in June 2018, the Commission constituted a Core Group on Business, Environment and Human Rights.<sup>349</sup> In 2018, the Commission recommended the payment to victims of child labour, sexual harassment, forced and bonded labour, hazardous employ-

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341 The Industrial Disputes Act, 1947: [http://pblabour.gov.in/pdf/acts\\_rules/industrial\\_disputes\\_act\\_1947.pdf](http://pblabour.gov.in/pdf/acts_rules/industrial_disputes_act_1947.pdf)

342 Ambekar Institute for Labour Studies, stakeholder interview on 4 May 2016

343 India Today, The long, expensive road to justice, 27 April 2016:

<https://www.indiatoday.in/magazine/cover-story/story/20160509-judicial-system-judiciary-cji-law-cases-the-long-expensive-road-to-justice-828810-2016-04-27>

344 United Nations guiding Principles on Business and Human Rights, Guiding Principle 31,

[https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

345 Stakeholder interviews with DoL Noida on 24 May 2016, DoL Bangalore on 25 May 2016 and NITU on 17 May 2016

346 National Human Rights Commission, Complaints Statistics:

<http://www.allgov.com/india/departments/ministry-of-youth-affairs-and-sports/national-human-rights-commission?agencyid=7598>

347 ALL Gov, National Human Rights Commission: <http://nhrc.nic.in>

348 National Human Rights Commission, National Conference on Business and Human Rights,

<http://nhrc.nic.in/press-release/national-conference-business-and-human-rights>

349 National Human Rights Commission, Constitution of Core Group on Business, Environment and Human Rights,

[http://nhrc.nic.in/sites/default/files/Documents\\_core\\_grp\\_business\\_env\\_HR\\_29062018.pdf](http://nhrc.nic.in/sites/default/files/Documents_core_grp_business_env_HR_29062018.pdf)



ment, and exploitations of labour.<sup>350</sup> Uttar Pradesh and Karnataka also established State Human Rights Commissions in 2002 and 2005 respectively.

FWF has its own complaints mechanism, which consists of a 24/7 hotline that receives complaints from workers and third-parties over violations of FWF's Code of Labour Practice in the factories that form part of FWF brand's supply chains. A partner NGO manages the hotline. Similarly, since 2002, the Fair Labor Association (FLA) has Third Party Complaints to allow any person to report serious violations of workers' rights in the production facilities of FLA-affiliated companies. FLA members include various multinational apparel companies with supply chains in India, including Adidas, Nike and Puma. A 2018 report concluded that Social Accountability International and ETI grievance mechanisms were not providing adequate remedy to victims of the company's abuses in the garment sector in South India. According to SOMO, HWW and ICN, the mechanisms were deemed not to be meeting UNGP requirements and failed to engage workers in a meaningful manner.<sup>351</sup> ETI has refuted the report's findings.

Although India is not an OECD member and consequently has no National Contact Point (NCP), complaints about breaches of the OECD Guidelines for Multinational Enterprises by companies registered in OECD countries can be filed to the NCP of that country. The NCP mediates among parties to find a conciliatory solution to the dispute. Two complaints pertaining to the garment sector have been filed to the NCP in the Netherlands<sup>352</sup> and one to the NCP in Italy.<sup>353</sup>

Adverse impacts related to the projects of the International Financial Corporation or Multilateral Investment Guarantee Agency of the World Bank (WB) may be reported to the Compliance Advisor Ombudsman, which can investigate and mediate disputes. The WB's investments in India have so far not included the textile and apparel sector.<sup>354</sup>

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350 National Human Rights Commission, Human Rights Cases Statistics,

<http://nhrc.nic.in/complaints/human-right-case-statistics>

351 SOMO, HWW and ICN, Case closed, problem persists. June 2018:

<https://www.somo.nl/wp-content/uploads/2018/06/Case-closed-problem-persist-def.pdf>

352 OECD, Poor working conditions in India, 1 July 2001:

<http://mneguidelines.oecd.org/database/instances/nl0001.htm>

and Mistreatment of employees in India, 11 October 2006:

<http://mneguidelines.oecd.org/database/instances/nl0016.htm>

353 OECD, Labour rights in India and Italy, 10 October 2007:

<http://mneguidelines.oecd.org/database/instances/it0004.htm>

354 World Bank, Projects & Operations:

[http://projects.worldbank.org/search?lang=en&searchTerm=&countrycode\\_exact=IN](http://projects.worldbank.org/search?lang=en&searchTerm=&countrycode_exact=IN)

# 6. ANNEX I- NATIONAL AND INTERNATIONAL LAWS, AND INTERNATIONAL GUIDANCE

*This annex provides an overview of national and international laws, as well as international guidance, related to labour rights. National laws and ILO Conventions are listed according to the order of labour issues as mentioned in the FWF Code of Labour Practices.*

## NATIONAL LAWS

### INDIAN CONSTITUTION

- Prohibits forced labour
- Prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth
- Provides for equal pay for equal work for both men and women
- Mandatory free and compulsory education for children between 6 and 14 years old
- Prohibits the employment of children below the age of 14 in factories, mines or hazardous employment.
- Provides the right to form associations, unions or co-operative societies.
- Provides for a living wage to workers and conditions of work that ensure a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

### BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

Prohibits any service arising out of debt, although this does not cover the full extent of forced labour practices.

### TRAFFICKING OF PERSONS (PREVENTION, PROTECTION AND REHABILITATION) BILL, 2018

- Provides for the investigation of all types of trafficking, and rescue, protection and rehabilitation of trafficked victims.
- Immunity to victims of trafficking is only provided if the offence committed is punishable with imprisonment of more than ten years and not for lesser offences. This is a high threshold and may defeat the purpose for providing immunity.
- Certain forms of trafficking are classified as aggravated, resulting in higher punishment. Therefore, the punishment for some of the aggravated offences, such as begging, is higher than the punishment for other offences, such as slavery.
- Certain forms of trafficking specified in the Bill (e.g. bonded labour and sexual exploitation) are covered by existing laws, with different provisions, which have not been repealed. This may cause a lack of clarity on laws to apply during implementation.

## INDIAN PENAL CODE (LATEST AMENDMENT 2013)

Regulates human trafficking, but forced labour is not included.

## EQUAL REMUNERATION ACT, 1976

- The Act seeks to ensure that employers do not discriminate on the basis of gender, in matters of wage fixing, transfers, training and promotion.
- The employer is required to pay equal remuneration to male and female workers for the same work or for work of a similar nature.

## INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1979

- Applies to inter-state migrants recruited through contractors or middlemen, and those companies that employ five or more such migrant workers.
- All contractors must obtain a licence from the government in order to recruit and employ migrant workers from other states.
- Contractors shall issue to each recruited migrant a pass-book with a passport-sized photograph of the workman affixed, and indicating in Hindi and English languages (also in the language of the workman if needed) basic data like the name and address of the employer, period of employment, wage and deductions.
- Agents shall pay a displacement allowance to migrant workers.
- Contractors are required to provide basic data to the specified authority in the state from which an inter-state migrant worker is recruited, and in the state in which the worker is employed, within fifteen days from the date of recruitment. They are also required to notify the specified authorities of both states when any change occurs.
- Principal employers can avoid punitive action if they can show that the transgressions were committed without their knowledge.

## THE INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT & CONDITIONS OF SERVICE) (KARNATAKA) RULES, 1981

Establishments employing migrant workmen must register with the relevant authority (Labour Department).

## INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) (TAMIL NADU) RULES, 1983 (AMENDED IN 2018)

Establishments employing migrant workmen must register with the relevant authority (Industrial Safety and Health or Commissionerate of Labour). It is possible to file and pay the registration of an establishment online.

## PERSONS WITH DISABILITY ACT, 1995

- Three percent of positions in government offices and state-owned enterprises must be reserved to people with physical, hearing or visual disabilities.
- Persons with other disabilities, such as intellectual impairment, psychosocial impairments, autism, learning disabilities, deaf-blindness and multiple disabilities are not mentioned in the law.
- Incentives should be provided to reach a five percent employment rate for persons with disabilities in both the private and public sector.

## CHILD LABOUR (PROHIBITION AND REGULATION) AMENDMENT BILL, 2016

- Prohibits the employment of children under the age of 14 in all occupations, with the exception of non-hazardous family enterprises and the entertainment industry.
- Employment of adolescents (between 14 and 18 years of age) workers is prohibited in hazardous occupations and processes.
- Only three (of the previous 83) hazardous industries remain: 1) mining, 2) explosives, and 3) hazardous process. This allows employment of adolescent workers in industries like chemical mixing units, cotton farms, battery recycling units, and brick kilns etc.
- Penalty and imprisonment which shall not be less than 6 months and may extend up to 2 years and a fine which may vary between 20,000 to 50,000 INR (USD 286 to 716).

## TRADE UNIONS ACT, 1926

- Prohibits discrimination against union members and organisers in the formal and informal sectors, without distinction.
- A trade union can be registered: if seven or more members of a trade union (who are workmen engaged or employed in the establishment or industry with which it is connected), apply for registration; and

the members of the trade union represent more than ten percent of the workforce or 100 workmen, whichever is less, on the date of application for registration.

- Provide limits to the number of “outsiders” (those not employed in the enterprise) allowed to sit on a union executive committee, which adversely impacts trade unions’ right to organise their administration.
- No compulsory recognition of trade unions and no compulsory collective bargaining imposed on the employers.

## THE FACTORY ACT, 1948

- Prohibits employment of a child in a factory who is less than 14 years old. Contravention is punishable with imprisonment for a term of up to two years and/or a fine of up to 100,000 INR (USD 1,433).
- Provides for a maximum of 48 hours per week and nine hours per day of work.
- Provides for the total number of working hours per week, including overtime, not to exceed 60 hours per week.
- Overtime shall be paid at twice the ordinary rate of wages.
- A rest interval of at least half an hour shall be provided in such a way that no period of continuous work would exceed five hours.
- Workers who have worked for at least 240 days in a year are entitled to annual/earned leave with wages. This is calculated at the rate of one day of earned leave for every 20 days of work performed by the employee in the previous calendar year, or for every 15 days of work in the case of child workers (below the age of 15).
- Every establishment is required to maintain first-aid boxes at the rate of not less than one box for every 150 workers.
- Prohibits night work and work near cotton openers for children.
- Requires the employer to keep a register of each working child, and that each child be given a certificate of fitness in order to be allowed to work.
- The employer shall take the measures necessary for protecting the health and safety of workers, including the prevention of occupational risks and the provision of training and the necessary protective equipment.
- The factory shall notify any accident to the relevant authority and set up a safety committee composed both of workers and management within the factory.

## KARNATAKA INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL) HOLIDAYS ACT, 1963

Paid leave shall be given on 26 January, 15 August and 2 October; plus five other days for such festivals as the employer may specify from the list of festivals specified in the Schedule to the Holidays Act or plus seven other days for industrial establishments that are private, which shall include 1 May and 1 November.

## TAMIL NADU HOSTELS AND HOMES FOR WOMEN AND CHILDREN (REGULATION) ACT, 2014

- Adolescent workers living in hostels must register their in-and-out times and are not allowed to leave without being accompanied by a family member or guardian.
- This provision shall not apply to adult workers.

## MINIMUM WAGES ACT, 1948

- Mandates the employer to pay the minimum wage fixed by the central and state governments.
- Overtime wages are to be paid at the rate of twice the worker's ordinary wage rate.

## MINIMUM WAGES (CENTRAL) RULES, 1950

- In the case of an establishment in which less than 1,000 workers are employed, wages are to be paid before the expiry of the seventh day from the end of the wage period in respect of which the wages are payable; and in other establishments, wages are to be paid before the expiry of the tenth day after the last day of the wage period in respect of which wages are payable.
- A wage slip is required to be issued by every employer to every person employed by him, a day prior to the disbursement of wages. There is a prescribed form for wage slips (Form XI), which contains the following information: name of employee (with father's/husband's name); designation; wage period; rate of wages payable; total attendance/unit of work done; overtime wages; and total deductions.

## PAYMENT OF WAGES ACT, 1936

- Applies to employees earning not more than INR 18,000 INR (USD 226) per month.
- Prohibits payment in kind and requires wages to be paid on time and without any unauthorised deductions.

## PAYMENT OF BONUS ACT, 1965

Provides for the payment of bonuses to workers in establishments with 20 or more employees on the basis of profit, production or productivity.

## EMPLOYEE'S STATE INSURANCE ACT, 1948

- All employees (irrespective of the number of hours worked, or the temporary or permanent nature of their employment) are entitled to certain benefits. The ESI provides for: payments to an insured person in case of sickness; payments to an insured woman for pregnancy, miscarriage and related ailments; payments to an insured person for disablement as a result of employment; if an insured person dies as a result of an employment injury, then compensation is given to the dependents of the insured; medical treatment and attendance on insured persons; and payment to the eldest surviving member of the family in the case of the death of an insured person, towards funeral expenses.
- Monthly salary deductions for the ESI scheme are made at 1.75 percent of the gross monthly wage, while the employer contributes 4.75 percent of the gross monthly wage.
- The law also covers contract workers.

## **EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952 AND EMPLOYEE PROVIDENT FUND SCHEME, 1952**

- Provides for a state retirement benefit or pension fund for all salaried employees working at organisations employing more than twenty people.
- An employee who earns up to 15,000 INR (USD 215) per month is eligible for mandatory PF contributions.
- Monthly contributions to an employee's PF are made from their salary and from the employer, each at the rate of 12 percent. PF deductions are thus 12 percent of the basic monthly wage (including Dearness Allowance).

## **CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, 1970**

Mandates contractors to keep a register containing hours of extra work and an overtime calculation.

## **INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946**

Provides for the establishment of a mechanism to receive complaints regarding unfair treatment or wrongful dismissal within the factory.

## **WORKMEN'S COMPENSATION ACT, 1923**

- Payment of compensation for injury caused by accident while in employment. Also, if an employee contracts an occupational disease while in employment, it is also treated as an injury caused by an accident.
- When the employee's injury results in death, the amount of compensation payable is an amount equal to 50 percent of the monthly wages of the deceased multiplied by a figure ranging from 99.37 to 228.54 (depending upon the age of the deceased) or an amount of 120,000 INR (USD 1,719), whichever is higher.
- Where the injury of an employee results in their permanent total disablement, the amount of compensation they are entitled to receive is an amount equal to 60 percent of the monthly wages of the employee multiplied by a figure ranging from 99.37 to 228.54 (depending upon the age of the employee) or an amount of 140,000 INR (USD 2,006), whichever is higher.

## **PAYMENT OF GRATUITY ACT, 1972 (2018 AMENDMENT)**

- Provided an employee has completed at least five years of continuous employment with the employer, he or she is eligible for gratuity at the time of resignation, superannuation, retirement, or termination (without cause).

- Gratuity is also payable at the time of death or disablement of an employee, in which case the five-year eligibility requirement is not applicable.
- Gratuity is calculated at the rate of 15 days' wages (at the rate of the last drawn wages) for every completed year of service or part thereof in excess of six months, subject to a limit of 2,000,000 INR (USD 28,000).

## INDUSTRIAL DISPUTES ACT, 1947

- Protects 'workmen' who have completed at least one year, or 240 days of employment prior to termination. An employee who meets this requirement, must be given notice of at least one month (or paid wages in lieu thereof); and paid compensation calculated at the rate of 15 days' average pay for every completed year of service (or part thereof) in excess of six months. This is applicable to industrial establishments: 1) in which less than fifty workmen have been employed in the preceding calendar month per average working day; or 2) to industrial establishments which are of a seasonal character or in which work is only performed intermittently.
- In industrial establishments that have employed 200 workmen per average working day for the preceding twelve months, an employee must be given notice of at least three months (or paid wages in lieu thereof) with prior permission of the appropriate Government.
- In the case of termination for misconduct, employers must follow due process. No employee may be terminated for misconduct without an internal disciplinary enquiry being conducted.
- For individual labour disputes the employee would approach the labour commissioner with the claim, and the commissioner would file it before the appropriate court.
- Every industrial establishment, which has employed 100 or more workmen in the preceding 12 months, may be required to constitute a Works Committee. The Committee must consist of an equal number of representatives from the employer and the workmen engaged in the establishment; and the representatives of the workmen must be chosen from among the workmen engaged in the establishment and in consultation with their trade union (if any). The objectives of the Works Committee are: to promote measures for securing and preserving good relations between the employer and workmen; and to comment upon matters in the common interest of the employer and employees, and to endeavour to reach a compromise in any material difference of opinion on such matters.
- Any industrial establishment employing at least 20 workmen is required to set up an internal Grievance Redressal Committee (GRC), for the resolution of disputes arising out of individual grievances. The GRC must be composed of a maximum of six members, with equal representation from the employer and the workmen.



## MATERNITY BENEFIT (AMENDMENT) ACT, 2017

- Women are entitled to 26 weeks paid maternity leave (up to eight weeks before the expected delivery date and the remaining 18 weeks can be availed post childbirth). For women who are expecting after having two children, the duration of paid maternity leave shall be 12 weeks (six weeks pre and six weeks post expected date of delivery).
- Every woman who adopts a child shall be entitled to 12 weeks of maternity leave, from the date of adoption.
- Women shall have the option to “work from home” after the expiry of the 26 weeks leave period. Depending upon the nature of work, female employees may be able to avail this benefit on terms that are mutually agreed with the employer.
- Crèche facilities are mandatory for every establishment employing 50 or more employees. Female employees would be permitted to visit the crèche four times during the day.

## SEXUAL HARASSMENT AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

- Provides for the establishment of an Internal Complaint Committees (ICC) in factories with more than ten employees, where victims of sexual harassment can file complaints.
- At least half of the ICC members must be women and one member must be from an NGO.
- The ICC must submit a yearly report to the employer and the District Officer.
- The 2016 Repealing and Amending Act changed the name of the Internal Complaints Committee into Internal Committee.

## INTERNATIONAL LAWS

### **ILO CONVENTIONS** (*ILO Core Conventions in black*)

#### **ILO TRIPARTITE DECLARATION OF PRINCIPLES CONCERNING MULTINATIONAL ENTERPRISES AND SOCIAL POLICY, 1977**

(last amended in 2017)

#### **ILO DECLARATION ON FUNDAMENTAL RIGHTS AND PRINCIPLES AT WORK, 1998**

#### **ILO FORCED LABOUR CORE CONVENTION NO. 29 (RATIFIED IN 1954) BUT INDIA HAS NOT RATIFIED ITS PROTOCOL**

- Prohibits all forms of forced or compulsory labour.
- Illegal extraction of forced or compulsory labour shall be punishable as a penal offence.

#### **ILO ABOLITION OF FORCED LABOUR CORE CONVENTION NO. 105 (RATIFIED IN 2000)**

Prohibits forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; as a method of mobilising and using labour for purposes of economic development; as a means of labour discipline; as a punishment for having participated in strikes; and as a means of racial, social, national or religious discrimination.

#### **ILO PRIVATE EMPLOYMENT AGENCY CONVENTION NO. 181 (NOT RATIFIED)**

## **ILO EQUAL REMUNERATION CORE CONVENTION NO. 100 (RATIFIED IN 1958)**

Provides for the principle of equal remuneration for men and women for work of equal value. The term "remuneration" is broadly defined to include the ordinary, basic or minimum wage or salary and any additional emoluments payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment.

## **ILO DISCRIMINATION (EMPLOYMENT AND OCCUPATION) CORE CONVENTION NO. 111 (RATIFIED IN 1960)**

- Defines discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.
- Promotes equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in these fields. This includes discrimination in relation to access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

## **ILO WORKERS WITH FAMILY RESPONSIBILITIES CONVENTION NO. 156 (NOT RATIFIED)**

## **ILO VOCATIONAL REHABILITATION AND EMPLOYMENT (DISABLED PERSONS) CONVENTION NO. 159 (NOT RATIFIED)**

## **ILO MINIMUM AGE CORE CONVENTION NO. 138 (RATIFIED IN 2017)**

Minimum age for admission to employment or work shall be set at 15 years old (13 for light work) and the minimum age for hazardous work at 18 years old (16 under certain strict conditions). The minimum age threshold is lowered to 14 years old (12 for light work) for developing countries.

## **ILO WORST FORMS OF CHILD LABOUR CORE CONVENTION NO. 182 (RATIFIED IN 2017)**

The worst forms of child labour include: 1) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; 2) child prostitution and pornography; 3) using children for illicit activities, in particular for the production and trafficking of drugs; and 4) work which is likely to harm the health, safety or morals of children.

## **ILO FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE CORE CONVENTION NO. 87 (NOT RATIFIED)**

Provides for the right for workers and employers to establish and join organisations of their own choosing without previous authorisation. Workers' and employers' organisations shall organise freely and not be liable to be dissolved or suspended by administrative authority, and they shall have the right to establish and join federations and confederations, which may in turn affiliate with international organisations of workers and employers.

## **ILO RIGHT TO ORGANISE AND COLLECTIVE BARGAINING CORE CONVENTION NO. 98 (NOT RATIFIED)**

- Provides that workers shall enjoy adequate protection against acts of anti-union discrimination, including requirements that a worker not join a union or relinquish trade union membership for employment, or dismissal of a worker because of union membership or participation in union activities. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other, in particular the establishment of workers' organisations under the domination of employers or employers' organisations, or the support of workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations.
- Provides for the right to collective bargaining.

## **ILO WORKERS' REPRESENTATIVES CONVENTION NO. 135 (NOT RATIFIED)**

## **ILO PROTECTION OF WAGES CONVENTIONS NO. 95 (NOT RATIFIED)**

## **ILO MINIMUM WAGE FIXING CONVENTION NO. 131 (NOT RATIFIED)**

## **ILO PROTECTION OF WORKERS' CLAIMS (EMPLOYER'S INSOLVENCY) CONVENTION NO.173 (NOT RATIFIED)**

## **ILO HOURS OF WORK (INDUSTRY) CONVENTION NO. 1 (RATIFIED IN 1919)**

## **ILO WEEKLY REST (INDUSTRY) CONVENTION NO. 14 (RATIFIED IN 1923)**

## **ILO FORTY-HOUR WEEK CONVENTION NO. 47 (NOT RATIFIED)**

## **ILO HOLIDAYS WITH PAY (REVISED) CONVENTION NO. 132 (NOT RATIFIED)**

## **ILO NIGHT WORK CONVENTION NO. 171 (NOT RATIFIED)**

## **ILO PART-TIME WORK CONVENTION NO. 175 (NOT RATIFIED)**

ILO OCCUPATIONAL SAFETY AND HEALTH CONVENTION NO. 155 AND ITS 2002 PROTOCOL (NOT RATIFIED)

ILO OCCUPATIONAL HEALTH SERVICES CONVENTION NO. 161 (NOT RATIFIED)

ILO PROMOTIONAL FRAMEWORK FOR OCCUPATIONAL SAFETY AND HEALTH

CONVENTION NO. 187 (NOT RATIFIED)

ILO WORKING ENVIRONMENT (AIR POLLUTION, NOISE AND VIBRATION)

CONVENTION NO. 148 (NOT RATIFIED)

ILO CHEMICALS CONVENTION NO. 170 (NOT RATIFIED)

ILO MATERNITY PROTECTION CONVENTION NO. 183 (NOT RATIFIED)

ILO EQUALITY OF TREATMENT (SOCIAL SECURITY) CONVENTION NO. 118 (RATIFIED IN 1964)

ILO SOCIAL SECURITY (MINIMUM STANDARDS) CONVENTION NO. 102 (NOT RATIFIED)

ILO MAINTENANCE OF SOCIAL SECURITY RIGHTS CONVENTION NO. 157 (NOT RATIFIED)

ILO TERMINATION OF EMPLOYMENT CONVENTION NO. 158 (NOT RATIFIED)

## UNITED NATIONS CONVENTIONS

### UNIVERSAL DECLARATION OF HUMAN RIGHTS

- Right to life, liberty and security (article 3)
- Freedom from slavery and forced labour (article 4)
- Right to effective remedy (article 8)
- Right to freedom of peaceful assembly and association (article 20.1)
- Right to work, to free choice of employment, to just and favourable conditions of work (article 23.1)
- Right to equal pay for equal work (article 23.2)
- Right to just and favourable remuneration (article 23.3)
- Right to form and to join trade unions (article 23.4)
- Right to rest and leisure (article 24)
- Right to a standard of living adequate for the health and well-being of himself and of his family (article 25)
- Right to education (article 26)

### INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (RATIFIED IN 1979)

- Non-discrimination and equality rights (article 2.2)
- Equal rights of men and women (article 3)
- Right to work and rights in work (article 6)
- Right to enjoyment of just and favourable conditions of work (article 7)
- Freedom of association (article 8)
- Right to social security (article 9)
- Protection of children and young persons from economic and social exploitation (article 10)
- Right to an adequate standard of living, including food, water and housing (article 11)
- Right to health (article 12)
- Right to education (article 13)

## **INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (RATIFIED IN 1979)**

- Non-discrimination and equality rights (articles 2.1, 14, 24, 25 and 26)
- Equal rights of men and women (article 3)
- Right to life (article 6)
- Freedom from slavery and forced labour (article 8)
- Freedom of assembly and association (articles 21 and 22)
- Rights of ethnic, religious or linguistic minorities (article 27)

## **CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKER AND MEMBERS OF THEIR FAMILIES (NOT RATIFIED)**

- Non-discrimination (article 1)
- Right to life (article 9)
- Freedom from slavery and forced labour (article 11)
- Right to liberty and security of person (article 16)
- Right to equal treatment in employment (article 25)
- Right of freedom of association (article 26)
- Right to social security (article 27)
- Right to education for children of migrant workers (article 30)

## **CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (RATIFIED IN 1993)**

- Non-discrimination (articles 2, 3, 4 and 12)
- Suppress all forms of traffic in women and exploitation of prostitution of women (article 6)
- Equal rights in education (article 10)
- Non-discrimination in the field of employment (article 11.1)
- Non-discrimination on the grounds of marriage or maternity (article 11.2)
- Eliminate discrimination against women in rural areas (article 14)
- Equal rights of men and women (article 15)

## **INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (RATIFIED IN 1968)**

- Non-discrimination and equality rights (articles 1, 2, 4 and 5), in the enjoyment of rights, including: right to freedom of peaceful assembly and association; rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration; right to form and join trade union; right to housing; and right to education and training.

## CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (RATIFIED IN 2007)

- Non-discrimination and equality rights (articles 3, 4, 5 and 12)
- Right to life (article 10)
- Freedom from exploitation, violence and abuse (article 16)
- Right to personal mobility (article 20)
- Right to education (article 24)
- Right to work and rights at work (article 27)
- Right to adequate living conditions and social protection (article 28)

## CONVENTION ON THE RIGHTS OF THE CHILD (RATIFIED IN 1992)

- Non-discrimination and equality rights (article 2)
- Right to life (article 6.1)
- Freedom of association and of peaceful assembly (article 15)
- Right to social security (article 26)
- Right to adequate standard of living (article 27)
- Right to education (article 28)
- Right to rest and leisure (article 31)
- Protection from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development (article 32)
- Protection from all forms of sexual exploitation and sexual abuse (article 34)
- Prevent the abduction of, the sale of or traffic in children for any purpose or in any form (article 35)



## INTERNATIONAL GUIDANCE

### ILO INDICATORS OF FORCED LABOUR

[http://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_203832/lang-en/index.htm](http://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang-en/index.htm)

### ILO "COMBATING FORCED LABOUR: A HANDBOOK FOR EMPLOYERS AND BUSINESS"

[http://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_101171/lang-en/index.htm](http://www.ilo.org/global/topics/forced-labour/publications/WCMS_101171/lang-en/index.htm)

### IFC "GOOD PRACTICE NOTE: NON-DISCRIMINATION AND EQUAL OPPORTUNITY"

[https://www.ifc.org/wps/wcm/connect/topics\\_ext\\_content/ifc\\_external\\_corporate\\_site/sustainability-at-ifc/publications/publications\\_gpn\\_nondiscrimination](https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_gpn_nondiscrimination)

### ILO "THE LABOUR PRINCIPLES OF THE UN GLOBAL COMPACT – A GUIDE FOR BUSINESS"

<https://www.unglobalcompact.org/library/261>

### IFC "MEASURE & IMPROVE YOUR LABOR STANDARDS PERFORMANCE: PERFORMANCE

#### STANDARD 2 HANDBOOK FOR LABOR AND WORKING CONDITIONS"

[https://www.ifc.org/wps/wcm/connect/topics\\_ext\\_content/ifc\\_external\\_corporate\\_site/sustainability-at-ifc/publications/publications\\_handbook\\_laborstandard-performance](https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_handbook_laborstandard-performance)

### IFC PERFORMANCE STANDARD 2 AND GUIDANCE NOTE – LABOUR AND WORKING CONDITIONS, UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

[https://www.ifc.org/wps/wcm/connect/2408320049a78e5db7f4f7a8c6a8312a/PS2\\_English\\_2012.pdf?MOD=AJPERES](https://www.ifc.org/wps/wcm/connect/2408320049a78e5db7f4f7a8c6a8312a/PS2_English_2012.pdf?MOD=AJPERES)

### IFC "GOOD PRACTICE NOTE: WORKERS' ACCOMMODATION: PROCESSES AND STANDARDS"

[https://www.ifc.org/wps/wcm/connect/9839db00488557d1bdfcff6a6515bb18/workers\\_accomodation.pdf?MOD=AJPERES](https://www.ifc.org/wps/wcm/connect/9839db00488557d1bdfcff6a6515bb18/workers_accomodation.pdf?MOD=AJPERES)

## 7. ANNEX II- UNGPS CHECKLIST

This annex provides brands with a checklist to self-assess how far the company is in the implementation of the United Nations Guiding Principles on Business and Human Rights, which, since 2011, are the reference point for companies to know their human rights risks and show what the company does to prevent, mitigate and remediate adverse impacts.

Outputs	Actions	Examples	Tools
Policy Commitment to respect human rights	<ol style="list-style-type: none"> <li>1. Approved by the company's most senior level</li> <li>2. Informed by relevant internal and/or external expertise</li> <li>3. Stipulates the company's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services</li> <li>4. Publicly available and communicated internally and externally to all of the company's operational policies and procedures</li> </ol>	<p>Barrick Human Rights Policy  <a href="https://barrick.q4cdn.com/788666289/files/governance/Barrick-Human-Rights-Policy.pdf">https://barrick.q4cdn.com/788666289/files/governance/Barrick-Human-Rights-Policy.pdf</a></p> <p>GAP Human Rights Policy  <a href="http://www.gapinc.com/content/attachments/sersite/HumanRightsPolicy_FINAL.pdf">http://www.gapinc.com/content/attachments/sersite/HumanRightsPolicy_FINAL.pdf</a></p>	<p>Guide on How to Develop a Human Rights Policy, UNGC/OHCHR 2011  <a href="http://www.ohchr.org/Documents/Publications/DevelopHumanRightsPolicy_en.pdf">http://www.ohchr.org/Documents/Publications/DevelopHumanRightsPolicy_en.pdf</a></p>
Due Diligence Process:	<p>Companion note II, Working Group on the issue of human rights and transnational corporations and other business enterprises, 2018  <a href="https://www.ohchr.org/Documents/Issues/Business/Session18/CompanionNote2DiligenceReport.pdf">https://www.ohchr.org/Documents/Issues/Business/Session18/CompanionNote2DiligenceReport.pdf</a></p> <p>OECD, OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, 2017  <a href="https://mneguidelines.oecd.org/oecd-due-diligence-guidance-garment-footwear.pdf">https://mneguidelines.oecd.org/oecd-due-diligence-guidance-garment-footwear.pdf</a></p> <p>Children Are Everyone's Business Workbook 2.0, UNICEF  <a href="https://www.unicef.org/csr/css/Workbook_2.0_Second_Edition_29092014_LR.pdf">https://www.unicef.org/csr/css/Workbook_2.0_Second_Edition_29092014_LR.pdf</a></p>		

<p><b>A. Assess actual and potential adverse human rights impacts</b></p>	<ol style="list-style-type: none"> <li>1. Comprehensively identify actual and potential adverse human rights impacts</li> <li>2. Understand the perspective of potentially affected individuals and groups (e.g., workers and communities) through meaningful consultation</li> <li>3. Ongoing, as human rights risks may change over time together with the evolution of business operations and context</li> </ol>	<p>Human Rights Impact Assessment or building on existing forms of due diligence (e.g. Environmental Impact Assessment/Environmental and Social Impact Assessment, Occupational Health and Safety)</p> <p>Engaging constructively and in good faith with critical voices, such as human rights defenders, trade union representatives and community members, and with affected stakeholders.</p>	<p>Guide to Human Rights Impact Assessment and Management, UNGC/IFC, 2010</p> <p><a href="https://www.unglobalcompact.org/library/25">https://www.unglobalcompact.org/library/25</a></p>
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<p>B. Integrate and act upon findings</p>	<ol style="list-style-type: none"> <li>1. Integrating human rights into policies, procedures and responsibilities</li> <li>2. Integrate potential adverse human rights impacts by: <ul style="list-style-type: none"> <li>• Identifying whom in the company needs to be involved in addressing it</li> <li>• Securing effective action</li> </ul> </li> <li>3. Embed human rights in the company by ensuring that all staff is: <ul style="list-style-type: none"> <li>• Aware of the human rights policy commitment</li> <li>• Understand the implications of the policy in the company's daily work</li> <li>• Trained, empowered and incentivised to act in ways that support the commitment</li> <li>• Regard it as intrinsic to the core values of the workplace.</li> </ul> </li> <li>4. Reflect findings in</li> </ol>	<p>Include the results of human rights impact assessments in training and assessments of managers.</p>	<p>A Guide for Integrating Human Rights into Business Management, The Global Compact  <a href="https://www.ohchr.org/Documents/Publications/GuideHRbusiness.pdf">https://www.ohchr.org/Documents/Publications/GuideHRbusiness.pdf</a></p> <p>Business and Human Rights Impacts: Identifying and Prioritizing Human Rights Risks, Shift 2014  <a href="https://www.shiftproject.org/media/resources/docs/Shift_SERworkshop_identifyHRrisks_2014.pdf">https://www.shiftproject.org/media/resources/docs/Shift_SERworkshop_identifyHRrisks_2014.pdf</a></p>
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<p><b>C. Monitor implementation</b></p>	<ol style="list-style-type: none"> <li>1. Based on appropriate qualitative and quantitative indicators</li> <li>2. Draw on feedback from internal and external sources, including affected stakeholders, and grievance mechanisms</li> <li>3. Root cause analysis for significant impacts</li> <li>4. Integrate monitoring into internal reporting and assessments</li> </ol>	<p>Use human rights assessment to define indicators for periodic review.</p>	<p>The Human Rights Compliance Assessment, DIHR 2016  <a href="https://hrca2.humanrightsbusiness.org">https://hrca2.humanrightsbusiness.org</a></p>
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<p>D. Communicate how impacts are addressed</p>	<ol style="list-style-type: none"> <li>1. Provide information sufficient to evaluate the adequacy of the company's responses to the particular human rights impact</li> <li>2. General approaches to addressing human rights risks, and may include, communication on its specific responses to a particular human rights impact</li> <li>3. Should be accessible, particularly to groups affected by company operations</li> <li>4. Could take the form of: meetings, documents, presentations, web updates, mailing lists, and formal public reports</li> </ol>	<p>Devote a page on Human Rights Due Diligence in the company's website.</p>	<p>Transparency Pledge  <a href="https://cleanclothes.org/transparency/transparency-pledge">https://cleanclothes.org/transparency/transparency-pledge</a></p>
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# 8. ANNEX III- STAKEHOLDERS CONSULTED FOR THIS COUNTRY STUDY

*The information has been gathered by Emanuela Ranieri-Svendson, International Human Rights and Business Consultant. The following stakeholders represent public authorities, employers, trade unions and NGOs were consulted in writing this country study:*

## I. GOVERNMENT/PUBLIC AUTHORITIES

### Apparel Export Promotion Council (AEPC)

Founded in 1978, the Council is the industry body promoting and facilitating the export of garment manufactured products. The body organises the twice-yearly India International Garment Fair.

<http://www.aepcindia.com>

## II. EMPLOYERS

### Confederation of Indian Industry (CII)

Founded in 1895, CII has about 9,000 members, from the private and the public sector, including Small and Medium-Sized Enterprises and Multinational Corporations, and an indirect membership of over 300,000 enterprises from around 265 national and regional sectorial industry bodies. CII has a National Committee on Textile and Apparel that meets two or three times per year, and has a Chair and two Co-Chairs, who are factory owners and retailers.

<https://www.cii.in>

### Tirupur Exporters Association (TEA)

TEA was established in 1990 and has a membership of 951 life members and 155 associate members, all exporters of cotton knitwear who have production facilities in Tirupur.

<http://tea-india.org>

## III. TRADE UNIONS

### Garment Labour Union (GLU)

Based in Bangalore and registered since 2012, GLU is a women-led trade union engaged in organising garment workers in Karnataka State. GLU has a membership of about 5,500 garment workers.

<http://glu.org.in>

## IV. LABOUR RELATED NGOS AND RESEARCH ORGANISATIONS

### Association for Stimulating Knowhow (ASK)

ASK was established in 1993 and conducts assessments, remediation programmes, management system approach interventions, sustainability related research studies, as well as trainings for workers and factory management, including in the garment sector across India. Recently, ASK has been working on the issue of contract labour through the Contract Labour Management System programme with specific focus on migrant workers.

<http://www.askindia.org>

### Community Awareness Research Education Trust (CARE-T)

Established in 2002, CARE-T promotes social, labour and environment standards, sustainable development of the planet, and rights based education in Tamil Nadu, through research, training, awareness and development. In the textile and garment sector, the organisation is focused on forced labour, especially the abolition of false labour schemes, child labour, migrant workers, rehabilitation and empowerment of young female workers, holistic sustainable development of textile and garment sectors and promoting win-win situations for all stakeholders.

<http://www.caret.info>

### Civil Initiatives for Development and Peace India (Cividep)

Cividep, based in Bangalore, educates workers about their rights, supports organising, studies the effects of corporate activities on communities and the environment, and campaigns with many other organisations and individuals for workers' rights and corporate accountability. Cividep focus areas include the garment sector. Currently Cividep is working on improving access to childcare, grievance remedy, social security and advocating for a sexual harassment free workplace for garment workers in Bangalore.

<http://cividep.org>

### Global Production Networks (GPN) Studies

GPN Studies is a new research organisation dealing with the analysis of global production networks, including suppliers/brands dynamics and labour conditions among suppliers. GPN Studies is based in Delhi but also works in Tamil Nadu and its research focus areas include the garment sector.

### KSHITIJ

KSHITIJ has recently been established and aims at providing improved quality of life and well-being to workers, both formal and informal, children and young people. KSHITIJ is a partner of BSR in the HERproject™ in India. The organisation works with workers and managers in the garment and toys sectors.

[www.kshitijwb.org](http://www.kshitijwb.org)



## **Labouring Women and Violence (LWV)**

Building Workplaces Free of Violence Against Women is a three-year, four-country project supported by the International Development Research Centre (Canada). The project is focus on women participation in the labour market in South and South-East Asia, and especially their vulnerability to violence across locations (i.e. home, community, public spaces, and work-places) and how this impacts their entry and experience of waged work. The project in India includes workers in the garment sector.

## **Nari Shakti Manch**

Nari Shakti Manch is a women's collective working with female garment workers and domestic workers in Haryana and Delhi NCR. The organisation builds awareness, capacity and leadership of grassroots women's collectives on violence, gender discrimination, and women's rights and entitlements.

<http://NariShaktiswabhimanmanch.com>

## **READ**

Established in 2001 to support the Dalit community in Erode District, Tamil Nadu State. READ focus its interventions in the textile sector, in particular spinning mills and garment factories, on prevention, protection and redress of workers' rights. READ works with communities, the government, trade unions, suppliers and brands. READ works on grievances, harassment and provides legal aid to workers.

<http://readindia.org.in>

## **Social Awareness and Voluntary Action (SAVE)**

Founded in 1993 and based in Tirupur, Tamil Nadu State, SAVE initially started with the aim of eliminating child labour practices and promoting children's rights in the garment and textile industry. SAVE organised the Women Federation with the participation of poor women to promote their economic development. The organisation lobbies international clothing brands for the protection of children below the age of 18 and young women employed in camp labour. SAVE operates as a campaigner for the protection and promotion of the rights of textile and garment workers. It initiated labour momentum under the Clean Clothes Campaign Task Force in Tamil Nadu in 2000. SAVE was one of the NGOs that established Tirupur People's Forum and the Forum has been convened since 2005 in a democratic manner to address labour rights violations in the textile and clothing industry.

<http://www.savengo.org>

## V. INTERNATIONAL STAKEHOLDERS

### International Labour Organization (ILO) - India

The ILO is a tripartite UN Agency which brings together governments, employers and workers' representatives, and was established in 1919. The ILO office opened in India in 1928 and since then it has provided technical and advisory services on labour rights and standards.

<http://www.ilo.org/newdelhi/aboutus/lang--en/index.htm>

## VI. MULTI-STAKEHOLDERS INITIATIVES

### Ethical Trading Initiative (ETI)

ETI is a global multi-stakeholder initiative to promote the respect of workers' rights across sectors, including in the garment sector. In India, ETI is currently focusing its efforts on supply chain mapping, and establishing multi-stakeholder regional forums and training. ETI is also facilitating dialogue among various stakeholders on the Business and Human Right Framework across the country.

<http://www.ethicaltrade.org>

### Business for Social Responsibility (BSR) HERproject

BSR's HERproject is a collaborative initiative that strives to empower low-income women working in global supply chains. Bringing together global brands, their suppliers, and local NGOs, HERproject drives impact for women and business via workplace-based interventions on health, financial inclusion, and gender equality. Since its inception in 2007, HERproject has worked in more than 700 workplaces across 14 countries and has increased the well-being, confidence, and economic potential of more than 800,000 women. In India, HERproject has implemented programming in more than 100 workplaces, representing 75,000 women workers and a total workforce of 145,000 workers.

<https://www.bsr.org>

