



## FWF Guidance for Members:

### The Sumangali Scheme and India's Bonded Labour System

*This guidance document is published in line with FWF's Brand Performance Check system's 'High Risk' policy as outlined in indicator 2.7. Please see Section III for more details.*

#### I. Background

The Indian state of Tamil Nadu is home to some 1,600 spinning mills and employs around 400,000 workers<sup>1</sup>. Sixty percent of these workers are female, coming from rural districts in search of employment. Those in search of work in a spinning mill go to the districts of Erode, Tirupur, Dindigul and Coimbatore. Tirupur, the T-shirt city, has been gaining attention in last few years because of the discovery of its recruitment practices in the spinning mills. In a scheme that is popularly known as Sumangali Scheme, the garment industry of Tirupur and surrounding areas are primarily employing young girls as its workforce. The discovery of the scheme was made by international organisations<sup>2</sup> that subsequently published a series of reports about the practices in Tamil Nadu. A mounting pressure to maintain a viable industry only increases the number of young girls recruited; cheap labour being one way to keep the overall costs down and the industry competitive. The resulting industry is worth millions. In 2007, Tirupur's export was estimated at over US\$ 2 billion. As the hub for cotton yarn production, Tamil Nadu itself accounts for over 65% of the total number of spinning mills in India. Over 80% of the Sumangali Scheme is identified to be in the spinning mills sector and less than 20% in garment manufacturing process<sup>3</sup>.

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<sup>1</sup> Flawed Fabric, 2014, Page 14

<sup>2</sup> Captured by Cotton, 2011; Maid in India, 2012; Understanding Characteristics of Sumangali Scheme in India, 2012; Time for Transparency 2013;

<sup>3</sup> Understanding Characteristics of Sumangali Scheme in India, 2012, FLA & Solidaridad



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The Sumangali Scheme, a form of forced labour in India, is said to have begun two decades ago. The word “Sumangali” in Tamil refers to a happy and content married woman. In a traditional Hindu arranged marriage, it is a practice for the bride’s parents to provide the groom’s family a substantial dowry (illegal by law since 1961), and to bear the expenses of the wedding. If they don’t meet the expectations of the groom’s family, the bride may be subjected to ill-treatment in her marital home. This is why the Sumangali Scheme is also known as the “marriage assistance system”.

Spinning mills employ agents who use the vulnerability of poor families from lower castes, tempting them with a lump sum payment at the end of three years to be used by the parents for their daughter’s wedding. Ostensibly, this system meets the needs of poor families and provides stable workforce to factories in Tamil Nadu (Coimbatore region). Girls aged 14 to 20 are lured by misleading advertisements by “voluntary” consent to work in factories. Once the contract is signed, young girls are under the control of the factory or the agent. They know very little about the hardships of working in spinning mills when they enter the factory.

On September 28, 2013 various Indian newspapers reported that a 17-year-old girl worker was found hanging in a mill in Sulur, Coimbatore district. Whereas the mill owners claimed she committed suicide, her family suspected foul play by the mill management, claiming that her death came after her request for a higher wage<sup>4</sup>.

One main reason suppliers are using the Sumangali Scheme, is to acquire and keep workers during a time of significant labour shortage. And the logic behind using young girls is because culturally they are often nubile and docile, quietly following instructions without asking many questions. Migrant workers from other states are also more submissive to the demands of management. According to a September 2014 stakeholder meeting, spinning mills have completely

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<sup>4</sup> Times of India, The Hindu, The New Indian Express reported on 29th September 2013



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stopped using the word Sumangali for recruitment purposes, but promise of a lump sum payment after the completion of contract period of three years still continues (Rs. 50000-60000). The lump sum payment is called “Provident Fund” (PF)<sup>5</sup> accrued to workers. Often the factory management does not deposit the PF deduction from workers to their PF account, but rather keep the amount and give it to workers at the end of the contract period. For instance, a 17-year-old Dalit<sup>6</sup> girl working in a spinning mill and living in its hostel left the mill in October 2014 after working for two and a half years. The promised lump sum amount or a proportion thereof was not paid to her until January 2015. With the aid of a local organisation, she filed a complaint with the District Commissioner; the case is pending.

The situation in some of the bigger spinning mills in Tirupur have improved with workers being paid every month and salary slips being issued, but the percentage of such factories is small. In fact, a follow up study<sup>7</sup> done by SOMO and ICN in 2014 exposed the dark side of the industry relating to the Sumangali Scheme. According to the International Labour Organisation (ILO), the defining feature of the Sumangali Scheme is its promise of a lump sum<sup>8</sup>, (arguably) characterizing it as a form of bonded labour under Indian law<sup>9</sup>. Apart from the misleading lump sum promise, the Sumangali scheme is associated with employing child labour and juvenile workers. These young workers experience limited freedom of movement, excessive working hours, abusive work environment, sexual harassment, no adequate leave, and discrimination on the basis of caste. The Sumangali Scheme has complex problems resulting from a complex society, but should be viewed within the context of Hindu culture and the Indian caste system. In the majority of cases the practices within

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<sup>5</sup> Social Security measure for workers that is mandated by the Indian law. Article 6, Employees’ Provident Fund and Miscellaneous provisions Act, 1952

<sup>6</sup> A member of the lowest caste according to the Indian caste system who were traditionally regarded as untouchables

<sup>7</sup> Flawed Fabric, 2014

<sup>8</sup> Unpublished working document of ILO on Sumangali

<sup>9</sup> The Bonded Labour System (abolition) Act, 1976



the Sumangali Scheme, though widely accepted, are not legal according to Indian law<sup>10</sup>.

## II. FWF and Sumangali(-like) Situations

Most of the workers employed under a Sumangali(-like) Scheme are found in spinning mills. Fair Wear Foundation's mandate allows it to work in the Cut/Make/Trim (CMT) units and to only investigate the spinning mills if vertically integrated to the CMT. Since all Sumangali-like schemes look different from the next one, each situation in a production site needs to be treated differently. The most recent situation found in December 2014 involved hostel workers of a vertically integrated factory (both a spinning mill and a CMT) was as follows:

- Workers are only allowed to visit their homes every six months of employment. In the case of migrant workers from the North, it's once every year.
- Workers are not allowed to possess mobile phones. Paid phones installed for workers come with several constraints.
- It is common for workers to work overtime and on their days off without being adequately compensated.
- The mobility of workers is limited. Even in cases of emergencies, workers often find themselves at the mercy of management.
- The monthly wage of workers is way below the living wage. Pay slips given to workers do not reflect all details of their wage.
- The health and sanitation of worker dormitories is an issue.

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<sup>10</sup> Ibid 8, Trade Union Act 1926, The Juvenile Justice (Care and Protection) Act, 2000, Inter State Migrant Workmen Act, 1981



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Given the findings, employment under Sumangali(-like) Schemes is clearly in violation against several FWF Code of Labour Practices; in particular restriction of workers' freedom of movement which falls under the code "employment is freely chosen".

Migrant workers recruited under Sumangali(-like) Schemes are at higher risk. Therefore, the District Commissioner<sup>11</sup> issued a notification at the end of year 2014 instructing all factories employing migrant workers who live on factory premises to register with the district office. Over past few years FWF has been trying to address the issues related to scheme workers through trainings of top and middle level management and also improve the quality for young workers living in hostels.

### III. What has FWF done already?

Fair Wear Foundation's first approach towards tackling Sumangali(-like) Situations has been to make its local team of trainers and auditors increasingly aware of problems associated with Sumanagli(-like) Schemes. In this process a few of them have become specialists on this issue, e.g. additionally trained by the International Labour Organisation (ILO) during the 2013 Gender Academy in Italy. Factory audits in high-risk areas (such as Tamil Nadu) include the inspection of situation of dormitories/hostels where migrant workers live. Assessments include their working lives as well as living needs. Findings of audits and trainings are consistently followed up by FWF, together with local and international stakeholders. Support is given to management and workers to help them understand the risks and to change practices step-by-step. FWF has begun bringing in experts from North India (speaking Oriya or Hindi, namely from the regions of where workers are recruited) to ensure language barriers are minimized.

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<sup>11</sup> Administrative head of a district

#### IV. What should FWF members do?

##### **Prevention:**

As a preventive step, FWF members sourcing in India should consult with their current or prospective suppliers to emphasize that employment under Sumangali(-like) Schemes is clearly in violation with the FWF Code of Labour Practices. It is important to identify whether the production site employs migrant workers and whether the employees (no matter whether migrant or not) stay in dormitories/hostels. To ensure that the Code of Labour practice is provided in the languages spoken at the production sites, it is important to understand where the migrant workers come from and what languages they speak. All standard FWF procedures (e.g. posting of Code of Labour Practices, FWF complaint number, option to participate in the Workplace Education Programme, etc.) apply to production sites, subcontractors as well as to dormitories or hostels.

Normally, FWF recommends that all suppliers should be visited at least once per year by FWF member staff to assess risks. FWF strongly encourages member brands to schedule visits to Indian suppliers including dormitories/hostels. As a member brand, one should ensure that suppliers understand member brand's perspective on these issues and their expectations for treatment of workers according to the Code of Labour Practices. For suppliers where risks of violations related to workers employed under a Sumangali(-like) Scheme appear high, member brands should investigate whether other customers have recently conducted high-quality audits, or consider commissioning audits themselves with focus at the production site and living conditions at the dormitories/hostels.

Member brands should also ensure that any agents or intermediates working on their behalf are aware of the risks outlined here.



**Remediation:**

Remediation of Code violations related to workers being employed under a Sumangali(-like) Scheme is likely to be complex. Best practice recommendations are evolving, and member brands are encouraged to contact FWF staff for advice on the latest developments should they need to begin a remediation process.

Remediation efforts should be in line with the following points:

- Legal awareness: Factory management needs to be aware of how and why (according to national and international labour standards) this practice is illegal. Ways to solve and improve the situation of workers recruited and employed in a Sumangali(-like) scheme should always be legal.
- Inclusivity: Solutions should be inclusive to both management and workers and negotiated through a social dialogue. These can be internal grievance mechanisms, democratically elected committees<sup>12</sup>, collaboration with local unions, consultation with local non-governmental organisations (NGO), and/or cooperation with government.
- Alternative provisions: Condemning faulty recruitment practices alone will not result in good practices. It is the responsibility of all stakeholders involved to give alternatives and best-practice examples to factory managements that have employed workers under the Sumangali(-like) Scheme but want to change their current practices.
- Capacity building: Violations of workers rights are of major concern in many factories in India. To ensure sustainable improvements, trainings and awareness-building should be integral to addressing the problems associated with Sumangali(-like) Schemes by informing workers about their rights

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<sup>12</sup> Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013



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- Equality: Violations of the FWF Code of Labour Practices which are found at dormitories/hostels must be remediated to the standards as direct suppliers. Responsibility for the remediation should be shared between the member brand and the supplier.
- Stakeholder Engagement: Given the complexity and sensitivity of the situation, any remediation efforts, with suppliers or subcontractors, should involve consultation with FWF and with legitimate local stakeholder organisations.

### V. Relevant Brand Performance Check system indicators

During the round of Brand Performance Checks that will be conducted starting in January 2019 (for member brands actions in financial year 2018), FWF will pay particular attention to members brands' human rights risk mitigation efforts in India related to the indicators such as:

- 1.4 Member company conducts human rights due diligence at all new suppliers before placing orders
- 1.5 Supplier compliance with the Code of Labour Practices is evaluated in a systematic manner
- 1.9 Member company actively responds if production locations fail to pay legal minimum wages and/or fail to provide wage data to verify minimum wage is paid.
- 2.5 Percentage of production volume from production locations that have been visited by the member company in the previous financial year.
- 4.3 All sourcing contractor / agents are informed about FWF's Code of Labour Practices
- 5.1 Level of effort to identify all production locations





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Remediation of issues found through audits or reported to the FWF Worker Complaint Helpline will be assessed via the relevant Brand Performance Check system indicators, e.g.:

2.4 Degree of progress towards resolution of existing Corrective Action Plans and remediation of identified problems.

3.4 All complaints received from factory workers are addressed in accordance with the FWF Complaints Procedure.

Member company adherence to this guidance document, and overall prevention, risk-management and remediation efforts in India related to Sumangali or Sumangali-like Situations will be evaluated as part of indicator:

2.7 High risk issues specific to the member company's supply chain are addressed by the monitoring system.