



# INDIA

country study 2016



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# LIST OF ABBREVIATIONS

AEPC	Apparel Export Promotion Council
AILS	Ambekar Institute for Labour Studies
AIOE	All India Organization of Employers
AITUC	All India Trade Union Congress
ASK	Association for Stimulating Knowhow
ASSOCHAM	Associated Chambers of Commerce and Industry of India
BIS	Bureau of Indian Standards
BJP	Bharatiya Janata Party
CARE T	Community Awareness Research Education Trust
CBA	Collective Bargaining Agreement
CIE	Council of Indian Employers
CII	Confederation of Indian Industry
CIRM	Central Industrial Relations Machinery
CITU	Centre for Indian Trade Unions
CIVIDEP	Civil Initiative for Development and Peace
CMAI	Clothing Manufacturers Association of India
CSR	Corporate Social Responsibility
CTUOs	Central Trade Union Organisations
DGFASLI	Directorate General, Factory Advice Service and Labour Institutes
EFI	Employers' Federation of India
ESI	Employees State Insurance
ETI	Ethical Trading Initiative
FDI	Foreign Direct Investment
FEDINA	Foundation for Educational Innovation in Asia
FICCI	Federation of Indian Chambers of Commerce & Industry
FWF	Fair Wear Foundation
GDP	Gross Domestic Product
GAFWU	Garment and Fashion Workers' Union
GATWU	Garment and Textile Workers Union
GLU	Garment Labour Union
GNI	Gross National Income
HDI	Human Development Index
HMS	Hind Mazdoor Sabha
ICC	Internal Complaints Committees
ICN	India Committee of the Netherlands
ILO	International Labour Organization
IMF	International Monetary Fund
INTUC	Indian National Trade Union Congress
ITUC	International Trade Union Confederation
MARG	Multiple Action Research Group
MMF	Man-Made Fibers

MNC	Multinational Corporation
MSDS	Material Safety Data Sheet
NFLMW	National Floor Level Minimum Wage
NGO	Non Government Organisation
NTUI	New Trade Union Initiative
PF	Provident Fund
PPP	Purchasing Power Parity
READ	Rights Education and Development Centre
RMG	Readymade Garments
RMMS	Rashtriya Mill Mazdoor Sangh
SAVE	Social Awareness and Voluntary Action
SCs	Schedule Castes
SCOPE	Standing Conference of Public Enterprises
SEWA	Self-Employed Women's Association
SEZ	Special Economic Zone
SIMA	Southern India Mills Association
SLD	Society for Labour and Development
SME	Small and Medium-Sized Enterprise
SOMO	Centre for Research on Multinational Corporations
STs	Schedule Tribes
TEA	Tirupur Exporters Association
TSF	Tirupur Stakeholders Forum
WB	World Bank
WEP	Workplace Education Programme
WTO	World Trade Organisation

# INTRODUCTION

The textile and garment industry plays an important role in India's economic growth, contributing 4% to the country's GDP and employing about 45 million workers. The sector has several main regional clusters. Each hub is characterised by different products and social composition of workers, reflecting different challenges.

Notable differences can be observed between northern and southern hubs. Those differences are reflected in the FWF audit experience. While violations in the area of occupational health and safety were found regularly in both areas, the nature of most other violations changes according to the region. In the north, the second most recurrent violation is the lack of internal and formal means of communication, followed by the absence of legal contracts. In the south, the second highest number of violations is in the area of payment of wages, followed by the lack of internal and formal means of communication. Also the stakeholders reported a different relevance of the various parts of the FWF Code of Labour Practices in the north and in the south of the country, with "Employment is freely chosen" and "No exploitation of child labour" being most relevant in the south due to the hostel setting and high percentages of adolescent workers. Issues of forced overtime, female worker discrimination, lack of freedom of association and collective bargaining, lack of payment of living wages, as well as high levels of informality remain challenges across all of India.<sup>1</sup>

A development that needs to be closely observed has to do with changes in legislation. The Indian government lead by the Bharatiya Janata Party (BJP) is currently trying to pass a comprehensive set of labour reforms, aimed at simplifying labour laws. Trade unions have lamented the difficulties they face in actively participating in the consultation process.

The proposal for simplifying labour laws entails, among other measures, striking down 44 laws, merging them into four labour codes related to industrial relations, wages, social security and welfare, and safety and working conditions. Several new bills amending existing laws on child labour, factories, industrial disputes, contract labour and human trafficking, among others, have been tabled as well.

The proposed reforms also include the introduction of a self-certified compliance report by factories, with 16 central labour laws as a guideline. At the same time, this limits the decision power of labour inspectors on the establishments to inspect; they would instead be randomly selected at central level.<sup>2</sup> This proposal would directly contravene ILO Convention No. 81 (1947) on labour inspection, that India has signed, which grants labour inspectors the power "to enter by day any premises which they may have reasonable cause to believe to be liable to inspection".<sup>3</sup> Labour inspector capacity is already limited: the Department of Labour in Noida, an industrial city just outside New Delhi, only has 12 labour inspectors who, in 2015-2016, carried out 21 inspections in the 964 garment factories established in Noida.<sup>4</sup>

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<sup>1</sup> Stakeholder interviews in May 2016.

<sup>2</sup> Stakeholder interviews in May 2016.

<sup>3</sup> ILO, Labour Inspection Convention No. 81, 1947:

[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312226](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312226)

<sup>4</sup> Stakeholder interview with the Department of Labour, Noida on 24 May 2016.

In June 2016, the government approved the Special Package for Job Creation & Export Promotion in Textile & Apparel Sector which, among other measures, introduces fixed-term employment in the industry. Trade unions and labour NGO see a danger of increased workers' vulnerability, because it becomes easier for factories to hire and fire. The financial package also includes a proposal on the Employers Provident Fund Scheme. Workers earning less than 15,000 INR per month (US\$ 22) would have a voluntary contribution, and the state would pay the employer's contribution. However, this proposal will have to go through Parliament and in some cases also state legislatures to be implemented.<sup>5</sup>

*FWF will continue to provide updated information on India at [www.fairwear.org](http://www.fairwear.org) and will update this country study on a periodic basis in the future.*

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

To make workers and management aware of the complaints mechanism, FWF provides training through its Workplace Education Programme (WEP). During separate WEP training sessions, FWF local 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 Internal Complaint Committees (ICC).

In addition, with the support of the EU delegation in India, FWF piloted a new training programme in Bangalore and Tirupur in 2014. The programme aimed to further reduce economic discrimination against women in garment factories by providing training focused on improving the working relations between line supervisors and workers and supporting female workers with skills to become supervisors.

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

In India, FWF works with a number of local partners, a country representative, as well as a team of auditors, trainers and complaints handlers.

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<sup>5</sup> Ministry of Textiles, Cabinet approves Special Package for Job Creation & Export Promotion in Textile & Apparel Sector, 22 June 2016: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=146416>



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

*This country study should provide a clear and concise picture of the industry, labour law, labour conditions and industrial relations within the textile/garment industry. The study is prepared through gathering information about national laws and local stakeholders' view on labour issues in the garment industry in India. If you would like to learn more on which stakeholders are interviewed for this study, please click [here](#).*

**Chapter 2, *General Country Information*,** provides general country information, describes the economic, social, political, and governance situation, as well as the general human rights situation, using international indicators and comparing India to other Asian garment producing countries like China and Bangladesh.

**Chapter 3, *Stakeholders*,** lists the main stakeholders that have an impact on labour conditions in the garment and textile industry, or that play an active role in monitoring the situation for workers in the industry. This chapter serves as a reference point for stakeholders and brands that want to engage with or consult a local stakeholder to find further information or help concerning their activities in India.

**Chapter 4, *Garment industry*,** presents an overview of the situation for the garment industry in India, including main areas of production, products and prospects.

**Chapter 5, *Industrial relations*,** describes the trade union situation in general and specifically for the garment industry. This chapter provides important information for understanding how well challenges regarding working conditions are handled through social dialogue.

**Chapter 6, *Implementation of the FWF Code of Labour Practices*,** provides an assessment of the implementation of every standard included in the FWF Code of Labour Practices based on national laws and regulations, as well as different stakeholders' views on implementation. It also references official statistics on compliance where available and takes FWF's main audit findings and complaints over the last three years into account.

## 2. GENERAL COUNTRY INFORMATION

India has a land area of 3.3 million square kilometers and a population of 1.2 billion, making it the second most populous country in the world, after China. The population is very diverse, with 22 major languages spoken, in 13 different scripts, although the official languages used by government are Hindi and English.

The World Bank (WB) reported India's GDP at 2 billion USD in 2014, making it the ninth largest economy in the world. Within the BRICS block,<sup>6</sup> China is the second largest economy with a GDP 500% higher than the one of India, although its population is only 10% larger than India's, and Brazil is the seventh largest economy, with only 16% of the population of India.<sup>7</sup>

According to the World Trade Organisation (WTO), India ranks 19th among the world's exporters of merchandise, and is the 8th largest exporter of services. India primarily exports manufactured goods, accounting for 62.3% of total exports, followed by fuel and mining products (23.3 %) and agricultural products (13.5%).<sup>8</sup> The textile and garment export earnings represent about 13% of the country's total in 2014-15.<sup>9</sup>

### 2.1. Economic indicators

India ranks 130th on the 2015 Human Development Index (HDI) of the United Nations Development Programme, and is in the medium development category. Of the FWF priority countries in Asia, China, ranking 90th, qualifies in the high development category.<sup>10</sup> Similarly, China has the highest Gross National Income (GNI) per capita, amounting to 13,170 USD, while Indians have less than half of that amount (5,630 USD) and Bangladesh GNI is 3,330 USD, according to the World Bank.<sup>11</sup>

### 2.2. Social, political & governance indicators

While India has managed to improve its food supplies, eliminating the famines which characterised the country in the pre-independence period, the country still has the highest under-five mortality rate (52.7%) and child malnutrition rate (47.9%) among countries in Asia where FWF is active.

India has also a high rate of gender-based inequality. This is reflected in literacy rates—almost 30% more men than women have a secondary level education—and at the workplace, where more than 50% of males work compared to females, according to the HDI.<sup>12</sup> The 2011 Socioeconomic and Caste Census reported a total of about 334 million literate women in India.<sup>13</sup> Since the mid-2000s, the IMF has observed a trend of lower female participation in the labour market;<sup>14</sup> according to ILO this phenomenon is related to higher female enrollment

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

7 World Bank, Gross domestic product 2014: <http://databank.worldbank.org/data/download/GDP.pdf>

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

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

10 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)

11 World Bank, GNI per capita, PPP (current international \$): <http://data.worldbank.org/indicator/NY.GNP.PCAP.PP.CD>

12 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)

13 Census of India 2011: [http://censusindia.gov.in/Census\\_And\\_You/literacy\\_and\\_level\\_of\\_education.aspx](http://censusindia.gov.in/Census_And_You/literacy_and_level_of_education.aspx)



the labour market;<sup>14</sup> according to ILO this phenomenon 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, areas where employment levels have remained stable.<sup>15</sup> Also, women are generally employed in the informal sector, with only 20% of female workers in the formal economy, and are paid less than men.<sup>16</sup> In India, the gender pay gap reaches 40%.<sup>17</sup>

India ranks higher in the democracy index than China and Bangladesh, especially thanks to high scores in electoral pluralism and civil liberties, according to the Economist Intelligence Unit.<sup>18</sup> India's ranking in the Rule of Law Index is a combination of relatively good performances on order and security, and the constraints imposed on the government, with low performance in the judicial system, according to data from the World Justice Project.<sup>19</sup> On government effectiveness and corruption, India places itself in between China and Bangladesh, and has seen a 2-point improvement between 2013 and 2014, according to Transparency International.<sup>20</sup>

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

	India	China	Bangladesh
<b>Democracy Index (Rank)</b> (Source: Economist Intelligence Unit 2015)	35	136	86
<b>Rule of Law (Rank)</b> (Source: WB 2014)	54.3	42.8	26
<b>Control of Corruption (Rank)</b> (with 0 corresponding to lowest rank, and 100 to highest rank) (Source: WB 2014)	38.9	47.1	18.8
<b>Gender Inequality Index (Rank)</b> (Source: HDI 2015)	130	40	111
<b>Government effectiveness (Rank)</b> (with 0 corresponding to lowest rank, and 100 to highest rank) (Source: WB 2014)	45.2	66.3	21.6

14 IMF, Women Workers in India: Why So Few Among So Many?, March 2015:

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

15 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)

16 IMF, Macroeconomic Impacts of Gender Inequality and Informality in India:

<https://www.imf.org/external/pubs/ft/wp/2016/wp1616.pdf>

17 Paycheck, Gender Pay Gap in India: <http://www.paycheck.in/main/world-map-gender-pay-gap/gender-pay-gap-in-india-1>

18 Economist Intelligence Unit, Democracy Index 2015: Democracy in an age of anxiety:

[http://www.eiu.com/public/topical\\_report.aspx?campaignid=DemocracyIndex2015](http://www.eiu.com/public/topical_report.aspx?campaignid=DemocracyIndex2015)

19 World Justice Project, Rule of Law Index 2015: [http://worldjusticeproject.org/sites/default/files/roli\\_2015\\_0.pdf](http://worldjusticeproject.org/sites/default/files/roli_2015_0.pdf)

20 Transparency International, CORRUPTION PERCEPTIONS INDEX 2014: RESULTS:

<https://www.transparency.org/cpi2014/results>

## 2.3. Income and poverty

According to the 2011 Census, 73% of Indian households live in rural areas, and 75% of them earn less than 5,000 INR (US\$ 75) per month; almost 40% are landless. Among Schedule Castes (SC) households, the percentage of landless households is even higher, at 55%, making them dependent on manual casual labour.<sup>21</sup> These figures help better understand 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.

The richest 10% of the population in India owns 30% of the wealth, whereas the lowest 10% owns only 3.5%. Although inequality is stronger in China, India has seen a steadily increase in inequality in the last decade.<sup>22</sup>

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

	India	China	Bangladesh
Gini index (0 represents absolute equality, 100 absolute inequality)	33.6	37	32.1
Population in poverty defined as 1.25\$ per day (%)	23.6	6.3	43.3
Population living below the national poverty line (%)	21.9	n/a	31.5

Source: HDI 2015

## 2.4. General human rights situation

According to the 2015/2016 Amnesty International report for India, arbitrary arrests and detentions of human rights defenders, journalists and protesters, including workers,<sup>23</sup> continue, facilitated by provisions in the anti-terrorism laws, which are not compliant with international standards. Extrajudicial killings by the police go largely unpunished. Lower castes and indigenous people, especially Dalit and Adivasi women, are victims of violence and discrimination, most prominently in states such as Karnataka, Tamil Nadu, Uttar Pradesh and Bihar. Rape within marriage is still not considered a criminal offence.

Political parties, police and senior public officials are seen as contributing to a climate of religious tensions between Muslim and Hindu communities. Freedom of association and expression are restricted, for example through limitations on foreign funding imposed on NGOs, or the use of sedition charges to counter criticism of the government.<sup>24</sup>

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

22 World Bank, Income share held by highest 10%: <http://data.worldbank.org/indicator/SI.DST.10TH.10>  
and Income share held by lowest 10%: <http://data.worldbank.org/indicator/SI.DST.FRST.10>

23 ITUC, India: <http://survey.ituc-csi.org/India.html#tabs-3>

24 Amnesty International, India 2015/2016: <https://www.amnesty.org/en/countries/asia-and-the-pacific/india/report-india/>

India has ratified most international human rights conventions 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, which deal with the establishment of the Covenant's individual complaint mechanism and the abolition of the death penalty.<sup>25</sup>

Four out of the eight ILO (International Labour Organisation) Core Conventions, those concerning forced labour and discrimination in employment, have been ratified by India. Those pertaining to child labour and freedom of association and collective bargaining remain to be ratified. Several other ILO Conventions relevant to the FWF Code of Labour Practices—such as payment of a living wage and occupational health and safety— and most of the conventions regulating working hours and social security, have not been ratified either. Similarly, conventions regarding maternity protection and migrant workers remain unratified.<sup>26</sup> And, even where ILO standards are reflected in national laws, challenges in the implementation of those standards in the factories and along the supply chain remain.<sup>27</sup>

In June 2014, India supported a UN Human Rights Council resolution on the development of an international binding treaty on transnational corporations and other business enterprises with respect to human rights.<sup>28</sup> The 2013 Companies Act imposed on businesses with specific characteristics<sup>29</sup> the obligation of spending 2% of their average net profit on Corporate Social Responsibility (CSR) activities.<sup>30</sup>

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- 25 International Convention on the Protection of All Migrant Workers and Members of Their Families: [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-13&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4&lang=en), Optional Protocol to the International Covenant on Civil and Political Rights: <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>, and Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty: <http://www.ohchr.org/Documents/ProfessionalInterest/ccpr-death.pdf>
- 26 ILO, Ratifications for India: [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:102691](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102691)
- 27 Stakeholder interviews May 2016.
- 28 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>
- 29 Any company with a net worth of rupees five hundred crore or higher, or turnover of rupees one thousand crore or higher, or a net profit of rupees five crore or higher during any financial year.
- 30 The Companies Act, 2013, Article 135: <http://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf>

## 3. STAKEHOLDERS

*In this section a number of stakeholder active in the garment/textile industry in India are briefly presented. The focus is on stakeholders who are actively part of forming the labour conditions or monitoring the situation for workers in the industry.*

*Do you want to know which stakeholders we consulted for this country study? [Click here.](#)*

### GOVERNMENTAL INSTITUTIONS

#### Ministry of Labour & Employment

The Ministry is the federal governmental agency on labour issues. It develops and implements policies, programmes, schemes and projects for providing social security and welfare measures, regulating conditions of work, occupational health and safety of workers, eliminating child labour from hazardous occupations and processes, strengthening enforcement of labour laws and promoting skill development and employment services. Each state government also has a Department of Labour responsible for implementing the labour laws within its jurisdiction.

<http://labour.nic.in>

#### Labour Bureau

The Labour Bureau, created in 1946 as part of the Ministry of Labour & Employment, is responsible for the collection, collation, and publication of statistics and related information on wages, earnings, productivity, absenteeism, labour turn-over, industrial relations, and working and living conditions. It also tracks important economic indicators like the Consumer Price Index, data concerning industrial, agricultural and rural labourers; wage rate indices, and data on industrial relations and socio-economic conditions in the organised and unorganised sectors of industry.

<http://labourbureau.gov.in/>

#### The Directorate General, Factory Advice Service and Labour Institutes (DGFASLI)

The DGFASLI was setup in 1945 with the objective of advising federal and state governments on the Administration of the Factories Act and the coordination of factory inspection services in the states. The DGFASLI is an office of the federal Ministry of Labour & Employment and serves as a technical arm to assist the ministry in formulating national policies on occupational safety and health in factories and docks. It also advises factories on various problems concerning safety, health, efficiency and well-being of the persons at work places.

<http://dgfasli.nic.in/>

## Ministry of Textiles

The Ministry is responsible for policy formulation, planning, development and export promotion and trade regulation with respect of the textile sector. This includes all natural and manmade cellulose fibres that go into the making of textiles, clothing and handicrafts.

<http://texmin.nic.in/>

## Apparel Export Promotion Council (AEPC)

The Council is the industry body promoting and facilitating the export of garment manufactured products. Twice per year it organises the India International Garment Fair.

<http://www.aepcindia.com/>

## EMPLOYERS ORGANISATIONS

The Council of Indian Employers (CEI) is the umbrella organisation of three employers' bodies: the All India Organization of Employers (AIOE), the Employers' Federation of India (EFI) and the Standing Conference of Public Enterprises (SCOPE). The CEI represents the employer's interests at the Government and the ILO, and is affiliated to the International Organisation of Employers.

## Confederation of Indian Industry (CII)

Founded in 1895, CII has about 8,000 members, from the private and the public sector, including Small and Medium-Sized Enterprises (SMEs) and Multinational Corporations (MNCs), and an indirect membership of over 200,000 enterprises from around 240 national and regional sectoral industry bodies.

<http://www.cii.in/Index.aspx>

## Federation of Indian Chambers of Commerce & Industry (FICCI)

Founded in 1927, FICCI is involved in sector-specific business policy consensus-building, and business promotion and networking. It serves 250,000 indirect members. FICCI has a Textiles Committee, which works with the Bureau of Indian Standards (BIS) for formulation of standards on technical textiles.

<http://ficci.in/index.asp>

*Some garment sector level employers' organisations:*

### **Clothing Manufacturers Association of India (CMAI)**

CMAI has a membership of over 20,000 companies, including ready-made garment manufacturers, exporters, retailers and ancillary industry. With its headquarters in Mumbai, CMAI also has branches in Delhi, Bangalore and Pune. The Association acts as a catalyst of change in the industry by interacting with the government on matters of policies that impact the future of apparel industry. CMAI also guides its members on compliance with various government regulations.

<http://www.cmai.in/>

### **Southern India Mills Association (SIMA)**

SIMA has over 400 textile mills as members, and they employ about 200,000 workers, spread over the states of Andhra Pradesh, Karnataka, Kerala, Pondicherry and Tamil Nadu, as well as a few mills from Gujarat, Madhya Pradesh and Maharashtra. SIMA is equipped with a strong database of the textile industry and a professional, knowledge-based secretariat to advise its members in all the functional areas of textile industry.

<http://www.simamills.org/>

## **TRADE UNIONS**

There are 13 Central Trade Union Organisations (CTUOs),<sup>31</sup> largely associated with the main political parties. The central trade unions engage in representation in committees, councils, government bodies and international organisations. Among the central trade unions, the Hind Mazdoor Sabha (HMS), the Indian National Trade Union Congress (INTUC) and the Self-Employed Women's Association (SEWA) are affiliated to the International Trade Union Confederation (ITUC).<sup>32</sup>

*Some garment sector level unions:*

### **Garment and Textile Workers Union (GATWU)**

Founded in 2005 and with an active membership of 5,000 workers, especially women head of households, GATWU supports garment workers in Karnataka State. GATWU is associated to the New Trade Union Initiative (NTUI), a federation not associated with one political party and not part of the 13 CTUOs.

<https://gatwu.org.in/>

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<sup>31</sup> ILO, Workers' and Employers' Organizations in South Asia:

<http://www.ilo.org/newdelhi/areasofwork/workers-and-employers-organizations/lang--en/index.htm>

<sup>32</sup> ITUC, Survey of violations of Trade Union Rights: <http://survey.ituc-csi.org/India.html?lang=en>



### **Garment and Fashion Workers' Union (GAFWU)**

GAFWU has a membership of over 10,000 garment workers in Chennai, Tamil Nadu state. GAFWU supports workers in struggles against closure, arbitrary retrenchment, sexual harassment issues, etc. GAFWU is an affiliate of NTUI.

### **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 2,000 garment workers.

<https://gatwu.org.in/>

## **LABOUR NGOS**

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

Cividep, based in Bangalore, educates workers about their rights, helps them unionise, 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.

<http://cividep.org/>

### **Foundation for Educational Innovations in Asia (FEDINA)**

FEDINA supports informal workers, women, Dalits and other vulnerable groups, with the aim of enabling them to organise themselves into groups capable of fighting for and demanding their rights. The focus of FEDINA includes the textile and garment sector. The NGO works in south India, namely in Karnataka, Tamil Nadu, Pondicherry, Kerala and Andhra Pradesh.

<http://fedina.org/>

### **Rights Education and Development Centre (READ)**

This organisation was founded in 2001 to support the Arundhatiar Community, composed of the most marginalised among the Dalits in Tamil Nadu State. READ works towards the complete eradication of child labour and forced labour and seeks the empowerment of Arundhatiar women. The NGO works in 101 villages across the Sathyamangalam and Salem Districts of Western Tamil Nadu.

<http://www.readindia.org.in/>

### **HAQ: Centre for Child Rights**

HAQ works holistically to achieve children welfare. HAQ provides legal, psycho-social and rehabilitation support to children victim of child labour, child trafficking, and child sexual abuse in Delhi.

<http://haqcrc.org/>

## Social Awareness and Voluntary Education (SAVE)

Founded in 1993 and based in Tirupur, Tamil Nadu, SAVE's initial aim was to eliminate child labour practices and promote children 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 18 years old and young women employed in camp labour. In 2000 it set up the Clean Cloth Campaign Task Force in Tamil Nadu, and in 2005 the Tirupur People's Forum, to address labour rights violations in the textile and clothing industry.

<http://www.savengo.org/>

## PRIVATE SECTOR INITIATIVES

### Ethical Trading Initiative (ETI)

This multi-stakeholder organisation works on the establishment of a tripartite forum in Bangalore. This Forum provides guidance documents on recruitment practices and living conditions. The organisation is also setting up the North India Supply Chain Alliance to organise contract workers in north India, which will eventually result in the establishment of workers forums or associations.<sup>33</sup> In 2012, ETI set up the Tamil Nadu Multi-Stakeholder Working Group to introduce ethical recruitment and employment practices. The five-year programme's goal is to empower women workers, strengthen industrial relations, build community awareness and support legislative reform. The programme provides trainings on women's health and workers' rights to 6,000 women workers in 15 textile mills and garment factories with the aim of expanding to 20 additional mills and a total of 13,000 women.<sup>34</sup>

### C&A Foundation

In March 2015, the C&A Foundation invested €2.4 million in a two-year programme by the Freedom Fund to establish a "hotspot" focused on eradicating modern slavery in Tamil Nadu.<sup>35</sup>

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<sup>33</sup> ETI, stakeholder interview on 11 May 2016.

<sup>34</sup> ETI, Garments and textiles, India: <http://www.ethicaltrade.org/programmes/garments-and-textiles-india>

<sup>35</sup> Cividep and Femnet, Challenges and Prospects for Decent Employment in Tamil Nadu's Spinning Mills, December 2015: <http://comtrade.un.org/db/mr/daReportersResults.aspx?r=699>

## 4. GARMENT INDUSTRY

*This section gives a general description of the garment industry, but not of the labour relations. These are dealt with in the following section. The aim of this section is to give an analysis of the local garment industry and the possibilities for improvement of the labour situation.*

### ORGANISATION OF THE GARMENT INDUSTRY

India has a long tradition of textiles, which goes back to 3300 BC. Today, the textile and apparel sector has a total turnover of US \$ 108 billion, with the largest portion (US\$ 68 billion) going to the domestic market,<sup>36</sup> and contributes to 4% of the country's GDP.<sup>37</sup> The garment industry constitutes 69% of the whole sector. The country has 55 Special Economic Zones (SEZs) for the garment industry.<sup>38</sup>

According to UN Comtrade, India is the second largest textile and garment exporter after China, and the sixth exporter of garments,<sup>39</sup> with a combined export earnings worth US \$ 38 billion in 2014-15. This amounts to 13% of the country's total export earnings.<sup>40</sup> Ready-made garment is the largest contributor, accounting for 47% of total textiles exports (roughly US\$ 17 billion) in the first nine months of the year 2014-15.<sup>41</sup> In Tirupur alone, export earnings reached US\$ 3 billion in 2013-14.<sup>42</sup> India exports mainly to the US, the EU, United Arab Emirates, Saudi Arabia and China.<sup>43</sup> Since 2005, Vietnam is the fastest growing Asian country in terms of exports, followed by Bangladesh, China and with India further behind.<sup>44</sup> Vietnam is the only one of those countries that is part of the Trans Pacific Partnership (TPP),<sup>45</sup> which provides a relaxation in tariff and non-tariff barriers in various sectors, including the garment and textile sector.

In terms of exports, garments are the third most exported commodity, after pearls and precious stones, and mineral fuels and oils. Garments is the only commodity that saw an increase in exports from 2013 to 2015, while the growth of exports of the first and second most exported commodities slowed down in the same period.<sup>46</sup>

Between 2000 and 2012, Foreign Direct Investment (FDI) to India amounted to US\$ 175 billion of which 0.7 percent went to the textile sector.<sup>47</sup> To address those low levels of FDI in

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36 Apparel Export Promotion Council, Apparel:

[http://aepcindia.com/app/webroot/files/pdf/publication\\_12673\\_1402390072.pdf](http://aepcindia.com/app/webroot/files/pdf/publication_12673_1402390072.pdf)

37 India Brand Equity Foundation, Textiles and Apparel:

<http://www.ibef.org/download/Textiles-and-Apparel-August-2015.pdf>

38 India Brand Equity Foundation, Textiles and Apparel:

<http://www.ibef.org/download/Textiles-and-Apparel-August-2015.pdf>

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

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

41 Ministry of Textiles, Annual Report 2014-2015: [http://texmin.nic.in/sites/default/files/ar\\_14\\_15\\_english.pdf](http://texmin.nic.in/sites/default/files/ar_14_15_english.pdf)

42 India Brand Equity Foundation, Textiles and Apparel: <http://www.ibef.org/download/Textiles-and-Apparel-August-2015.pdf>

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

[http://texmin.nic.in/sites/default/files/stat\\_exports\\_top\\_10\\_ermiu\\_akb.pdf](http://texmin.nic.in/sites/default/files/stat_exports_top_10_ermiu_akb.pdf)

44 Ministry of Textiles, Golden Decade for India's Textile and Apparel Industry, December 2014:

<http://www.alokind.com/Downloads/Indian%20Textile%20Trade%20-Golden%20Period-%20March%202012.pdf>

45 The Trans Pacific Partnership (TPP) is a trade agreement between 12 Pacific Rim countries including the United States and Vietnam

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

47 Labour Bureau, Statistics of Factories, 2012: [http://labourbureau.nic.in/STATS\\_of\\_FACTORIES\\_2012\\_rev.pdf](http://labourbureau.nic.in/STATS_of_FACTORIES_2012_rev.pdf)

manufacture, including in the textile and garment sector, the government launched the “Make in India” campaign in 2014, which allows 100 percent FDI in the sector, among other measures. Such policies would hopefully boost the growth of the external market, with a projected increase to US\$ 65 billion in 2016-2017.<sup>48</sup> The potential growth of the domestic market, which has the main share of the total market value, is believed to be due to population expansion, urbanisation and a large youth population.

## MAIN EXPORTS FROM GARMENT INDUSTRY

India’s main production is cotton cloths, which accounts for 58% of total cloth production, followed by non-cotton cloths (25% percent of total cloth production) and blended cloths (16%).<sup>49</sup>

The top-10 ready made garment (RMG) 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. Man-made fibers (MMF) and non-cotton products have seen an export growth between 15 and 20% from 2013 to 2015, whereas cotton products saw a decline from 3 to 10% over the same period of time.<sup>50</sup> Despite the growing export market of man-made fiber garments, India retains high excise tax and antidumping duties on MMFs, which are mostly imported because domestic production is limited, and complicated bureaucratic procedures, such as for duty drawback schemes.<sup>51</sup> Another challenge highlighted by industry stakeholders is customs bureaucracy when importing fabrics, which is still largely based on physical controls, resulting in unpredictable delays in production. The need for a technological upgrade of the industry, especially down the supply chain is also stressed. This should include, for example, a shift from power to automatic looms.<sup>52</sup>

## MAIN AREAS FOR GARMENT PRODUCTION

Garment production in India is mainly concentrated in hubs, which are characterised by the specific products manufactured, namely: 1) Tirupur, in Tamil Nadu, for t-shirt, knitwear and hosiery production; 2) the cluster Delhi, Noida and Gurgaon produces women and children RMGs; 3) Indore, in Madhya Pradesh, for children RMGs, and jeans; 4) Ludhiana, in Punjab, for flat knit apparel, especially T-shirts and sweaters; 5) Bangalore, in Karnataka, for men and women RMGs, especially trousers, including jeans, and jackets; 6) Mumbai, in Maharashtra, for shirts and trouser for women and men; 7) Kolkata, in West Bengal, for children RMGs; 8) Jaipur, in Rajasthan, for handicrafts and traditional prints; and 9) Bareilly, in Uttar Pradesh, for hand embroidery.<sup>53</sup>

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

49 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)

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

51 World Bank, Stitches to Riches? Apparel Employment, Trade, and Economic Development in South Asia, 2016: <http://www.worldbank.org/en/region/sar/publication/stitches-to-riches-apparel-employment-trade-and-economic-development-in-south-asia>

52 Stakeholder interviews in May 2016.

53 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)

## PERCENTAGE EMPLOYED IN GARMENT INDUSTRY

Given the high level of informality in the sector, it is difficult to have an accurate number of workers and factories involved in the garment sector. The textile and apparel sector is the second largest employer in the country, only after agriculture.<sup>54</sup> The garment sector alone employs an estimated 8 million workers.<sup>55</sup>

Statistics on garment factories across the country are scarce and vary due to the large numbers of unregistered units.<sup>56</sup> Medium and small factories with less than 100 workers or even micro enterprises employing less than 10 workers are very common, and often operate in the informal economy.<sup>57</sup> This is not always the rule; in Bangalore garment factories are commonly owned by Indian citizens and employ an average of 2,000 workers, the smallest factories have between 500 and 1,000 employees.<sup>58</sup>

Similarly, garment factories in Tirupur are usually owned by Indians, but the size varies. Third tier supply chain factories employ fewer than 25 workers on average, while second tier factories have between 25 and 100, or up to between 100 and 300 workers. First tier factories generally employ 300 to 1,500 workers, and those that produce directly for brands, especially vertically integrated factories, employ from 1,000 to 4,000 workers.<sup>59</sup> Tirupur has about 6,000 garment factories, with recent estimates going as high as 10,000, and an additional 2,000 establishments across Tamil Nadu in Chennai, Madurai and Dindigul. These factories employ about 600,000 workers.<sup>60</sup> There are almost 3,300 textile mills across the country, of which about 3,100 are spinning mills. Tamil Nadu has 1,700 spinning mills alone, and employs an estimated workforce of more than 440,000.<sup>61</sup> Some other figures related to the garment production supply chain are the number of workers employed in the handloom and powerloom sector, which amounts to about 4.3 and 6 million respectively, according to the Ministry of Textile.<sup>62</sup>

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

55 Clean Clothes Campaign, India Factsheet:

<https://www.cleanclothes.org/resources/publications/factsheets/india-factsheet-february-2015.pdf>,

and Danish Trade Union Council for International Development Cooperation, India Labour Market Profile 2014:

[http://www.ulussekretariatet.dk/sites/default/files/uploads/public/PDF/LMP/LMP2015/lmp\\_india\\_2014\\_final\\_version.pdf](http://www.ulussekretariatet.dk/sites/default/files/uploads/public/PDF/LMP/LMP2015/lmp_india_2014_final_version.pdf)

56 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/>

57 World Bank, Stitches to Riches? Apparel Employment, Trade, and Economic Development in South Asia, 2016:

<http://www.worldbank.org/en/region/sar/publication/stitches-to-riches-apparel-employment-trade-and-economic-development-in-south-asia>

58 Stakeholder interview with Cividep 16 May 2016.

59 Stakeholder interview with CARE T on 30 May 2016.

60 Stakeholder interview with SAVE on 11 May 2016.

61 Stakeholder interview with SAVE on 11 May 2016.

62 Ministry of Textiles, Annual Report, 2014-2015: [http://texmin.nic.in/sites/default/files/ar\\_14\\_15\\_english.pdf](http://texmin.nic.in/sites/default/files/ar_14_15_english.pdf)

## SOCIAL COMPOSITION OF THE GARMENT WORKFORCE

The social composition of the employment force in the garment sector varies depending on the production hubs, though in general workers are between the ages of 20 to 40.<sup>63</sup> In Tamil Nadu, various labour NGOs reported a growing number of adolescent female workers, reaching up to 60-70% of the workforce.<sup>64</sup>

In the north, the industry employs mainly male workers, while in the south about 80% of the workers are female, with up to 90% female labour in Bangalore.<sup>65</sup> Female garment employees often stop working for a period of two to three years after having a child.<sup>66</sup> Also, workers generally come from disadvantaged backgrounds and are first generation urban workers.<sup>67</sup>

Due to the high demand for labour in the garment industry, workers move across the country for job opportunities. In the south, migrants largely come from the north-eastern states, such as Assam, Manipur and Meghalaya, as well as Odisha, Jharkhand, Bihar and Uttar Pradesh. In Tamil Nadu, there is also a strong in-state migration. According to Cividep, about 88% of the workers in Tamil Nadu spinning mills are migrants from other parts of Tamil Nadu and 12% come from other states, such as Andhra Pradesh, Telangana, Kerala, Karnataka, Odisha, Jharkhand, Bihar, West Bengal, Assam, Meghalaya, Mizoram, and Manipur.<sup>68</sup> In Delhi, migrant workers mostly come from Bihar and Uttar Pradesh and to a lesser extent from Madhya Pradesh.<sup>69</sup> According to Save the Children, in the National Capital Region (NCR), embroidery and embellishment work is mostly done in Muslim migrant communities or by women who migrated from eastern Uttar Pradesh.<sup>70</sup> Because the industry mostly serves the spring/summer fashion season, it experiences fluctuations in production volume. Therefore, many workers are employed as casual (migrant) workers. Casual workers in the north generally go back to their rural villages for the harvesting season (i.e. July to September) when the garment industry slows down production, while those working in the south go back to their villages for the festival season (October or November).<sup>71</sup> Stakeholders reported a high turnover both in Delhi and Bangalore, workers leave seeking better wages or due to harassment and bad relations with management.<sup>72</sup>

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63 Stakeholder interview with the Ambekar Institute for Labour Studies on 4 May 2016.

64 Stakeholder interviews with SAVE on 11 May 2016 and CARE T on 30 May 2016.

65 Cividep and FLA, Taking Care of business: Childcare in Bangalore's Apparel Industry, June 2012:  
[http://www.fairlabor.org/sites/default/files/childcare-in-bangalores-apparel-industry\\_0.pdf](http://www.fairlabor.org/sites/default/files/childcare-in-bangalores-apparel-industry_0.pdf)

66 Stakeholder interview with Cividep 16 May 2016.

67 Cividep, Garments Sector and Unionisation in India - Some Critical Issues, March 2011:

<http://cividep.org/backdoor/wp-content/uploads/2013/01/garment-sector-and-unionisation-in-india-report.pdf>

68 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/>

69 Stakeholder interview with ASK on 23 May 2016.

70 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>

71 Stakeholder interview with the Ambekar Institute for Labour Studies on 4 May 2016.

72 Stakeholder interviews with CIVIDEP on 13 May 2016 and ASK on 23 May 2016.



# 5. INDUSTRIAL RELATIONS

## ORGANISATION OF EMPLOYERS AND TRADE UNIONS IN THE GARMENT SECTOR

India has not ratified the ILO Core Conventions No. 87 on Freedom of Association and Protection of the Right to Organise, and No. 98 on the Right to Organise and Collective Bargaining. ILO Convention No. 135 on Workers' Representatives has not been ratified either. Despite the protection granted by the Constitution,<sup>73</sup> the right to freedom of association and collective bargaining are limited by the 1929 Trade Union Act,<sup>74</sup> which in practice results in difficulties to unionise.<sup>75</sup> Indeed, India is classified as category 5, "no guarantee of rights", by the International Trade Union Confederation (ITUC) Global Rights Index, which ranks 139 countries against 97 internationally recognised indicators to assess where workers' rights are best protected in law and practice.<sup>76</sup>

The large majority of stakeholders described the relations between employers and workers as still dominated by feudal dynamics, where employees are to be thankful for the job provided and should not demand improvements.<sup>77</sup> Employers fear a reoccurrence of the large strikes that were rife in the Mumbai textile sector in the 1970s and 1980s. These strikes partly led to the industry moving further south into Tamil Nadu and Karnataka.<sup>78</sup>

Distrust toward unionisation by factory management is aggravated by the involvement of politics and cases of collusion in the registration process of trade unions and the police in the suppression of strikes, according to several labour NGOs and trade unions. Once the legal number of workers to form a trade union is reached, 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, which means that trade unions are generally not present at factories.<sup>79</sup> This then leads to additional limitations in the outreach of the trade unions existing at the state or federal level: workers cannot go to trade union offices during working hours and trade unions are not present where workers live. Unionisation is particularly discouraged in Special Economic Zones (SEZs), where workers are told that unionisation would lead to a decrease in Foreign Direct Investment, with the consequent loss of their jobs.<sup>80</sup>

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73 The Constitution of India, Article 19: <http://lawmin.nic.in/coi/coiason29july08.pdf>

74 ITUC, Survey of violations of Trade Union Rights: <http://survey.ituc-csi.org/India.html?lang=en#tabs-2>

75 Stakeholder interviews conducted in May 2016.

76 ITUC, New ITUC Global Rights Index - The world's worst countries for workers, 2014:

<http://www.ituc-csi.org/ituc-global-rights-index-2015>

77 Stakeholder interviews in May 2016.

78 Stakeholder interviews with Cividep on 16 May 2016.

79 Stakeholder interviews in May 2016.

80 Stakeholder interviews with CITU on 13 May 2016.

## UNION DENSITY IN COUNTRY

Unionisation is generally increasing, with almost 47 million workers registered as members of trade unions, representing 9.7% of the total workforce.<sup>81</sup> However, unionisation in the garment sector remains low, at less than 5%,<sup>82</sup> largely due to management practices that discourage workers from joining trade unions. Workers that try to join a trade union are either transferred or subjected to unfair dismissal, according to the vast majority of stakeholders.<sup>83</sup> Unionisation rates are lowest among female workers, especially those residing in hostels in the south of the country. According to various stakeholders, this happens because these women have little knowledge of trade unions, as their freedom of movement is limited to the factory and the hostel.<sup>84</sup> An additional challenge to trade union outreach in the south is the language barriers caused by the high numbers of migrant workers.<sup>85</sup> As the industry relies significantly on contract and piece rate workers,<sup>86</sup> difficulties to unionise are also linked to lack of employment stability.<sup>87</sup>

## COLLECTIVE BARGAINING AGREEMENT COVERAGE IN COUNTRY

Collective bargaining agreements are largely underutilised in India, and figures on the number of agreements signed are scarce. The lack of compulsory legal recognition of trade unions by the employer weakens the position of trade unions in the process of collective bargaining. If the employer does not recognise the trade union, the latter has no right to represent the workers during the negotiations. Finally, there is no legal obligation on employers to engage in collective bargaining.

## COLLECTIVE BARGAINING AGREEMENT COVERAGE IN GARMENT INDUSTRY

Collective bargaining is very limited in the garment sector. One of the few exceptions is the Tirupur Tripartite Wage Agreement, which covers workers producing for the export market. The first of such agreements 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. According to the World Bank (WB), the inflation rate ranged from

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81 Clean Clothes Campaign, India Factsheet:

<https://www.cleanclothes.org/resources/publications/factsheets/india-factsheet-february-2015.pdf>

and Danish Trade Union Council for International Development Cooperation, India Labour Market Profile 2014:

[http://www.ulansekretariatet.dk/sites/default/files/uploads/public/PDF/LMP/LMP2015/lmp\\_india\\_2014\\_final\\_version.pdf](http://www.ulansekretariatet.dk/sites/default/files/uploads/public/PDF/LMP/LMP2015/lmp_india_2014_final_version.pdf)

82 Clvidep, Garments Sector and Unionisation in India - Some Critical Issues, March 2011:

<http://cividep.org/backdoor/wp-content/uploads/2013/01/garment-sector-and-unionisation-in-india-report.pdf>

83 Stakeholder interviews in May 2016.

84 Stakeholder interview with the Ambekar Institute for Labour Studies on 4 May 2016, with SAVE on 11 May 2016 and with GLU on 26 May 2016.

85 Stakeholder interview with the Ambekar Institute for Labour Studies on 4 May 2014 and GLU on 26 May 2016.

86 Clvidep, Garments Sector and Unionisation in India - Some Critical Issues, March 2011:

<http://cividep.org/backdoor/wp-content/uploads/2013/01/garment-sector-and-unionisation-in-india-report.pdf>

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

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

6.4 to 12% in the same period.<sup>88</sup> The agreement was renewed for an additional four-year period from April 2016, with a percentage wage increase of 18% for the first year and 5% for the following three years for workers employed in cutting, tailoring, ironing, packing, fabrication, checking, labelling, hand folding, damage spotting and fabrication. Workers employed in hosiery, the majority of workers in Tirupur, are left out of the agreement.<sup>89</sup> The WB reported an inflation rate of 5.9% in 2015.<sup>90</sup>

## LOCAL GRIEVANCE MECHANISMS FOR WORKERS

The 1947 Industrial Disputes Act, amended in 2010, provides that employers with at least 20 employees must provide for a Grievance Settlement Authority to settle individual disputes. However, this is not implemented in practice.<sup>91</sup> The law also provides for the establishment of a Works Committee in factories with 100 or more employees. This committee should be composed of an equal number of management and workers representatives. Workers' representatives are to be elected by employees. The Works Committee should promote "good relations between the employer and the workmen".<sup>92</sup>

The 2013 Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act provides for the establishment of Internal Complaints Committees (ICC) in factories with more than 10 employees, where victims of sexual harassment can file complaints.<sup>93</sup> The Department of Labour (DoL) in Noida reports a high level of compliance with the law under its jurisdiction,<sup>94</sup> which is not the case throughout the country.<sup>95</sup> According to the majority of trade unions and NGOs, most labour disputes go unreported, especially those pertaining to sexual harassment, physical and verbal abuses.<sup>96</sup> Given the high offer of jobs, workers often prefer to change job rather than raise a complaint.<sup>97</sup> Among the labour disputes that do get reported, the large majority are dealt with at the factory, with the worker approaching the supervisor to find a settlement. In some cases, workers approach political parties or trade unions to negotiate with the employer. Although workers can file a complaint directly to the relevant DoL, trade unions are used as intermediaries by employees, particularly in industries with higher unionisation rates. A small percentage of disputes reach labour courts.<sup>98</sup>

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88 World Bank, Inflation, consumer prices (annual %): <http://data.worldbank.org/indicator/FP.CPI.TOTL.ZG?page=1>

89 The Financial Express, Tirupur garment units sign wage pact with unions:

<http://www.financialexpress.com/article/markets/commodities/tirupur-garment-units-sign-wage-pact-with-unions/233018/>

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

91 Stakeholder interview with NTUI on 17 May 2016.

92 The Industrial Disputes Act, 1947: <http://www.iitbbs.ac.in/notice/sexual-harassment-of-women-act-and-rules-2013.pdf>

93 The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013,

<http://www.iitbbs.ac.in/notice/sexual-harassment-of-women-act-and-rules-2013.pdf>

94 Stakeholder interview with DoL Noida on 24 May 2016.

95 Stakeholder interview with CARE T on 31 May 2016.

96 Stakeholder interviews in May 2016.

97 Stakeholder interview with ASK on 23 May 2016 and with GLU on 26 May 2016.

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

## STATE ROLE IN INDUSTRIAL RELATIONS

The relevant state government has the authority to refer an industrial dispute to a board for settlement, or to the Labour Court or a Tribunal for arbitration, depending on the industry.<sup>99</sup> As an important player regarding legal remedies through labour courts, the DoL in each state can facilitate dispute resolution between employees and employers through its mediation 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 that the 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 bonus. Alternatively, should mediation fail, the DoL can refer the dispute to the corresponding labour courts.<sup>100</sup> Disputes regarding the Provident Fund (PF) or Employees State Insurance (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. At the federal level, an additional mechanism is the Central Industrial Relations Machinery (CIRM), which is part of the Ministry of Labour and Employment and, among others, prevents and settles industrial disputes at the central sphere, the federal level, but the garment sector is not covered under the central sphere.<sup>101</sup>

## MECHANISMS FOR SOCIAL DIALOGUE (NATIONAL/SECTORAL)

According to the Centre for Indian Trade Unions (CITU), various tripartite bodies exist to enable national dialogue on labour related issues in India at the federal level. These include: the Indian Labour Conference; the National Minimum Wage Advisory Committee; the Central Advisory Committee on Minimum Wages; the National Social Security Board for unorganised workers; the Tripartite Committee on Conventions—which makes recommendations on which ILO convention India should ratify—and the Employees' State Insurance Corporation Board. However, several of those entities do not meet regularly and their recommendations to the government are not always enforced. These remain mostly theoretical exercises of social dialogue rather than contributing to actual change on the ground.<sup>102</sup>

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99 The Industrial Disputes Act, 1947: <https://mahakamgar.maharashtra.gov.in/images/pdf/industrial-disputes-act-1947.pdf>

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

101 Ministry of Labour and Employment, Annual Report 2013-2014:  
[http://labour.nic.in/sites/default/files/Annual\\_report\\_2013-14.pdf](http://labour.nic.in/sites/default/files/Annual_report_2013-14.pdf)

102 Centre for Indian Trade Unions, stakeholder interview on 13 May 2016.

## 6. IMPLEMENTATION OF THE FWF CODE OF LABOUR PRACTICES

*In this chapter the implementation of every part of the **FWF Code of Labour Practices** is examined by looking at official statistics on compliance (where available), laws and regulations, as well as different stakeholders' opinion and analysis on implementation. Each section starts with quoting the FWF Code of Labour Practices. Text in italics is quotes from relevant laws.*

The various chapters of the FWF Code of Labour Practices increase in relevance depending on whether the garment production is located in the north or in the south of the country. Although "Employment is freely chosen" is an important standard, and forced overtime is a general problem across the industry, limitations of freedom of movement for garment workers living in hostels is a recurrent problem in the south of India.

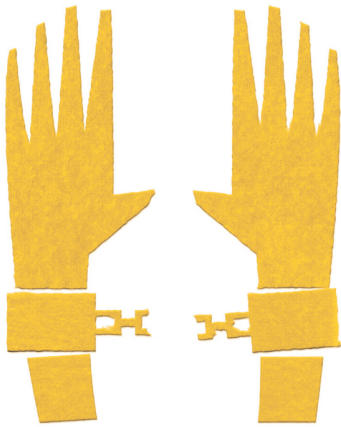
Women are discriminated against both in the north and in the south. However, the type of discrimination varies. For example women in the north are generally assigned to unskilled tasks, unlike in the south, where women instead experience wage gap challenges and humiliating punishment in case of mistakes. The standard "No exploitation of child labour" is mostly relevant in the south, where a significant number of adolescent workers is employed in the industry without enjoying the protection prescribed in the law and instead facing long working hours and lower wages.

"Payment of a living wage" has not been attained in the industry across country, as minimum wages are lagging behind living wages. "Freedom of association and the right to collective bargaining" also presents challenges both in the north and in the south. These are partially due to non-exhaustive legal protection, as well as a deep-rooted distrust in unionisation by factory management. This translates in unfair dismissal of workers participating in trade union activities and violent suppression of strikes. With informality reaching more than 90%,<sup>103</sup> contract and migrant workers are the groups at most risk of abuses such as lack of payment of social security benefits. Finally, the highest non-compliances found through audits regard the standard "Safe and healthy working conditions", as sexual harassment remains largely unreported.

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103 Stakeholder interviews in May 2016.

## 6.1. Employment is freely chosen



*"There shall be no use of forced, including bonded or prison, labour"*  
(ILO Conventions 29 and 105)"

### OFFICIAL STATISTICS ON COMPLIANCE

The ILO estimates that about 21 million people worldwide are victims of forced labour.<sup>104</sup> According to the Ethical Trading Initiative (ETI), 11.7 million people were estimated to be in bonded labour in India in 2013.<sup>105</sup> The Ministry of Labour and Employment reported that 279,399 bonded labourers were rehabilitated in 2013-2014.<sup>106</sup>

### LAWS AND REGULATIONS

The International Covenant on Civil and Political Rights, which contains a prohibition on forced labour, was ratified by India in 1979. The country also ratified the two ILO Core Conventions related to forced labour: in 1954 Convention No. 29 on Forced Labour, and in 2000, Convention No. 105 on the Abolition of Forced Labour.

The prohibition of forced labour is stated in the Constitution. The 1976 Bonded Labour System (Abolition) Act prohibits any service arising out of debt, although this does not cover the full extent of forced labour practices.<sup>107</sup> The ILO Committee of Experts on the Application of Conventions and Recommendations has repeatedly criticised India for its inaction to implement its legislation on bonded labour and for failing to prosecute perpetrators of such an offence.<sup>108</sup> Human trafficking is regulated by the Indian Penal Code, but forced labour is not included, even in its 2013 amendment.<sup>109</sup>

The newly proposed Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill of 2016 has been criticised for not being detailed enough on the implementation of its provisions.<sup>110</sup> The enforcement of the law, which is the responsibility of state governments, varies from

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104 ILO, Forced labour, human trafficking and slavery: <http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm>

105 ETI, Business and human rights in India: <http://www.ethicaltrade.org/issues/business-and-human-rights-in-india>

106 Ministry of Labour and Employment, Annual Report 2013-2014:  
[http://labour.nic.in/sites/default/files/Annual\\_report\\_2013-14.pdf](http://labour.nic.in/sites/default/files/Annual_report_2013-14.pdf)

107 Definition of Forced Labour: Forced labour refers to situations in which persons are coerced to work through the use of violence or intimidation, or by more subtle means such as accumulated debt, retention of identity papers or threats of denunciation to immigration authorities. ILO:  
[http://www.ilo.org/global/topics/forced-labour/news/WCMS\\_237569/lang--en/index.htm](http://www.ilo.org/global/topics/forced-labour/news/WCMS_237569/lang--en/index.htm)

Definition of Bonded Labour: the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined. UNHCR: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/SupplementaryConventionAbolitionOfSlavery.aspx>

108 ILO, Normlex: <http://www.ilo.org/dyn/normlex/en/f?p=1000:20010:0::NO::>

109 Indian Penal Code, Section 370.

110 India Today, Anti-trafficking draft Bill is toothless: Experts, 31 May 2016:  
<http://indiatoday.intoday.in/story/anti-trafficking-draft-bill-is-toothless-reports/1/681332.html>



state to state, but has generally been inadequate.<sup>111</sup> Three laws provide for the timely payment of wages to workers, including casual and migrant workers.<sup>112</sup> The 2014 Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act regulates the living conditions in the hostels where mostly female textile and garment workers find accommodation in Tamil Nadu. The Act states that 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.<sup>113</sup>

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Numerous stakeholders highlighted forced overtime as a common issue in the garment sector, both in the north and in the south of the country. According to labour NGOs and trade unions an average of two hours of daily overtime is carried out under threat of transfer or dismissal in garment factories in the north of the country.<sup>114</sup> These overtime practices takes advantage of the need workers have to work additional time, as they very often do not receive living wages. If workers do not reach production targets within the eight working hours, overtime hours are not paid; in other cases overtime is paid at single rather than at double rate, according to trade unions, although ASK reported that in the Delhi area the first two hours of overtime are generally paid at double rate.<sup>115</sup>

In the south, where workers are sheltered in hostels, also known as “camp coolie” (camp labour), they are forced to two eight-hour-shift in a row, according to some labour NGOs.<sup>116</sup> Hostel workers have their freedom of movement restricted to the hostel and the factory compound, according to Cividep, Garment Labour Union (GLU) and the International Trade Union Confederation (ITUC).<sup>117</sup> SAVE and GLU also added that hostel workers, who are inter-state migrants or come from north-eastern states, do not choose their employment freely. Rather, they are assigned to a certain garment factory or textile mill by the contractor or the intermediary that recruits them in their place of origin.

In October 2015, the ITUC and GLU—with FWF’s assistance—filed an observation to the ILO Committee denouncing the sumangali practice in the garment sector in Tamil Nadu. This practice affects young unmarried women, mostly aged between 15 and 18, although some are as young as 12. These women are employed in spinning mills for three to five years, with

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111 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/>

112 Payment of Wages, 1936, Section 13 A; The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service, 1979, Section 23; and The Contract Labour (Regulation and Abolition) Act, 1970, Section 21.

113 Tamil Nadu Government Gazette, No. 15 of 2014: <http://www.stationeryprinting.tn.gov.in/extraordinary/2014/154-Ex-IV-I-E.pdf>

114 Stakeholder interview with the Ambekar Institute for Labour Studies on 4 May 2016, with NTUI on 17 May 2016 and with ASK on 23 May 2016.

115 Stakeholder interview with ASK on 23 May 2016.

116 Stakeholder interview with SAVE on 11 May 2016 and with CARE T on 30 May 2016.

117 Stakeholder interview with Cividep on 16 May 2016 and with GLU on 26 May 2016, and ITUC, ILO Committee of Experts on the Application of Conventions and Recommendations. <http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/committee-of-experts-on-the-application-of-conventions-and-recommendations/lang--en/index.htm>

the promise of a lump sum payment at the end of the period. Should the worker leave her job before the end of the contract period, no lump sum is paid.<sup>118</sup> Most women are from the Dalit community in draught prone areas of Tamil Nadu, although more and more women travel from Odhisa.<sup>119</sup> FWF developed a policy for its members on the sumangali scheme in 2015, including preventive and remediation steps for its production sites in India.<sup>120</sup>

## FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

During the FWF audits, evidence of forced and/or bonded labour is difficult to find and is mostly linked to forced overtime. In nearly all factories in north India and in some factories in the south, there is no system in place to communicate to workers regarding voluntary or pre-announced overtime hours. This happens all the more in factories with no policies and procedures in place. In the absence of such a system, working hours are forced in nature.

In some cases, auditors observed that factories had given loans and advance payments to workers without keeping records or mentioning deductions on wage slips. This poses a risk of bonded labour.

In 2014, sumangali-like practices were found in a hostel of a vertically integrated factory (both a spinning mill and a Cut-Make-Trim (CMT) facility), where freedom of movement of adult workers was unlawfully limited, and they were not allowed to possess mobile phones.<sup>121</sup> While the 2014 Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act establishes that adolescent workers should not leave the premises without being accompanied by a guardian or family members, FWF audits found that this is often also applied to adult female workers (often with the consent of their parents).

## WORKER COMPLAINTS, RELATED TO 'EMPLOYMENT IS FREELY CHOSEN'

*FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the member(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.*

FWF received one complaint on forced overtime; the worker refused to engage in overtime and was consequently dismissed. More details about this complaint are available on the [FWF website](http://www.fairwear.org/ul/cms/fck-uploaded/Sumangaliupdate2015.pdf).

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118 ILO, The strange and persisting case of Sumangali (or, the highway to modern slavery), November 2015

119 ITUC, ILO Committee of Experts on the Application of Conventions and Recommendations, 9 September 2015

120 FWF, FWF Guidance for Affiliates: The Sumangali Scheme and India's Bonded Labour System March 2015:

<http://www.fairwear.org/ul/cms/fck-uploaded/Sumangaliupdate2015.pdf>

121 FWF, FWF Guidance for Affiliates: The Sumangali Scheme and India's Bonded Labour System March 2015:

<http://www.fairwear.org/ul/cms/fck-uploaded/Sumangaliupdate2015.pdf>

## 6.2. There is no discrimination in employment



*"In recruitment, wage policy, admittance to training programs, employee promotion policy, policies of employment termination, retirement, and any other aspect of the employment relationship shall be based on the principle of equal opportunities, regardless of race, colour, sex, religion, political affiliation, union membership, nationality, social origin, deficiencies, or handicaps"* (ILO Conventions 100 and 111)

### OFFICIAL STATISTICS ON COMPLIANCE

India is the worst performing country among countries in Asia where FWF operates in both the Gender Development and the Gender Inequality Indexes, according to the 2015 Human Development Index report.<sup>122</sup> Similarly, the World Economic Forum ranks India 108th out of 145 countries in the 2015 Global Gender Gap Index, whereas China ranks 91st and Bangladesh 64th.<sup>123</sup> Women are generally employed informally, representing only 20% of workers in the formal economy, and are paid less than men; according to the International Monetary Fund (IMF)<sup>124</sup> there is a gender pay gap of 40%.<sup>125</sup>

The 2001 census shows the estimated number of persons with disabilities is over 21 million, or 2.1% of the total population,<sup>126</sup> with an unemployment rate of approximately 74% among people with disabilities.<sup>127</sup> The 2001 census also reported 307 million migrants in India, largely internal migrants. Only 6.1 million migrants come from abroad.<sup>128</sup> According to the 2011 census, 16.2% of the population, or 166.6 million people, were Scheduled Castes (SCs) members, and 8.2 percent, or 84.3 million people, were Scheduled Tribes (STs)<sup>129</sup> members.<sup>130</sup> Unemployment reaches 4.6% among SCs and 4.5% among STs<sup>131</sup>, compared to the 3.6% overall country unemployment rate, according to the World Bank (WB).<sup>132</sup>

122 United Nations Development Programme, Human Development Report 2015:

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

123 World Economic Forum, Global Gender Gap Index 2015: <http://reports.weforum.org/global-gender-gap-report-2015/rankings/>

124 IMF, Macroeconomic Impacts of Gender Inequality and Informality in India:

<https://www.imf.org/external/pubs/ft/wp/2016/wp1616.pdf>

125 Paycheck, Gender Pay Gap in India: <http://www.paycheck.in/main/world-map-gender-pay-gap/gender-pay-gap-in-india-1>

126 Census of India 2001, Disabled Population: [http://censusindia.gov.in/Census\\_And\\_You/disabled\\_population.aspx](http://censusindia.gov.in/Census_And_You/disabled_population.aspx)

127 Ministry of Statistics and Programme Implementation, National Sample Survey Office, India - Survey of disabled persons, NSS 58th Round: July 2002 - Dec 2002: <http://mail.mospi.gov.in/index.php/catalog/118>

128 Census of India 2001: [http://censusindia.gov.in/Data\\_Products/Data\\_Highlights/Data\\_Highlights\\_link/data\\_highlights\\_D1D2D3.pdf](http://censusindia.gov.in/Data_Products/Data_Highlights/Data_Highlights_link/data_highlights_D1D2D3.pdf)

129 Scheduled Castes and Scheduled Tribes are indigenous groups officially recognised as socially disadvantaged in India. The Constitution of India recognises both groups. Those groups enjoy positive discrimination and are protected by various laws, including The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA); The Provision of the Panchayats (Extension to the Scheduled Areas) Act, 1996; Minor Forest Produce Act 2005; the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2012; and the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Bill, 2013.

130 Ministry of Home Affairs, 2011 Census Data - Scheduled castes and scheduled tribes:

[http://censusindia.gov.in/Census\\_Data\\_2001/India\\_at\\_glance/scst.aspx](http://censusindia.gov.in/Census_Data_2001/India_at_glance/scst.aspx)

131 Labour Bureau, Fourth Annual Employment & Unemployment Survey Report (2013-14):

[http://labourbureau.nic.in/Press\\_note\\_4th\\_EUS.pdf](http://labourbureau.nic.in/Press_note_4th_EUS.pdf)

132 World Bank, Unemployment, total (% of total labor force): <http://data.worldbank.org/indicator/SL.UEM.TOTL.ZS>

## LAWS AND REGULATIONS

India ratified the two ILO Core Conventions related to non-discrimination: No. 100 on Equal Remuneration in 1958, and No. 111 on Discrimination (Employment and Occupation) in 1960. However, ILO Convention No. 156 on Workers with Family Responsibilities, 1981, has not been ratified by India.

The Constitution prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth.<sup>133</sup> The Equal Remuneration Act (1976) prohibits discrimination between workers and provides for the payment of equal remuneration to men and women. The act seeks to ensure that employers do not discriminate on the basis of gender, in matters of wage fixing, transfers, training and promotion. It establishes payment of equal remuneration to men and women workers, for the same work or work of similar nature and for the prevention of discrimination against women in matters of employment.<sup>134</sup> The 1946 Industrial Employment (Standing Order) Central Rules provides for the establishment of a mechanism to receive complaints regarding unfair treatment or wrongful dismissal within the factory.<sup>135</sup> Several laws provide for the establishment of crèches at the workplace, including the 1948 Factories Act, the 1970 Contract Labor Act and the 1980 Inter- State Migrant Workers' Act, relevant to the garment industry. The Factories Act and other relevant state legislations, such as the 1969 Karnataka Factories Rules, the 1950 Tamil Nadu Factories Rules and the 1950 Uttar Pradesh Factories Rules, provide the standards that crèches must meet in factories employing more than 30 women.<sup>136</sup>

According to the Persons with Disability Act (1995), 3% 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.<sup>137</sup> Incentives should be provided to reach a 5% employment rate for persons with disabilities in both the private and public sector.<sup>138</sup> A study by the National Human Right Commission from 2013 reported that the implementation of the Persons with Disabilities Act was far from satisfactory due to inefficiency and ineffectiveness of enforcement mechanisms and weaknesses in the functioning of government officials.<sup>139</sup>

The Inter-State Migrant Workmen Act passed in 1979 requires that all contractors obtain a license from the government in order to recruit and employ migrant workers from other states.<sup>140</sup> The 1980 Inter-State Migrant Workmen Regulation of Employment and Conditions of Service

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133 The Constitution of India, Article 15: <http://lawmin.nic.in/coi/coiason29july08.pdf>

134 The Equal Remuneration Act, 1976, Section 5: [http://labour.gov.in/sites/default/files/equalremuneration\\_act\\_1976\\_1.pdf](http://labour.gov.in/sites/default/files/equalremuneration_act_1976_1.pdf)

135 Industrial Employment (Standing Order) Central Rules, 1946, Schedule I, Section 15:

[http://pblabour.gov.in/Content/documents/pdf/acts\\_rules/industrial\\_employment\\_standing\\_orders\\_rules.pdf](http://pblabour.gov.in/Content/documents/pdf/acts_rules/industrial_employment_standing_orders_rules.pdf)

136 Cividep and Fair Labor Association, Taking Care of Business, June 2012:

[http://www.fairlabor.org/sites/default/files/childcare-in-bangalores-apparel-industry\\_0.pdf](http://www.fairlabor.org/sites/default/files/childcare-in-bangalores-apparel-industry_0.pdf)

137 The Person With Disabilities Act, 1995, Article 33: <https://sadm.maharashtra.gov.in/sadm/GRs/PWD%20Act.pdf>

138 The Person With Disabilities Act, 1995, Article 41: <https://sadm.maharashtra.gov.in/sadm/GRs/PWD%20Act.pdf>

139 National Human Right Commission, Report on Implementation of the Persons with Disabilities Act, 1995 (PWD) -

140 Some Glimpses, 10 December 2013: [http://nhrc.nic.in/Documents/Publications/Rpt\\_Imp\\_PWD\\_Some\\_Glimpses.pdf](http://nhrc.nic.in/Documents/Publications/Rpt_Imp_PWD_Some_Glimpses.pdf)

The Inter-State Migrant Workmen Act, 1979:

<http://labour.tripura.gov.in/sites/default/files/Inter-StateMigrantWorkmenAct1979.pdf>

Central Rules provides for migrant workers performing tasks neither same nor similar to other tasks performed by other workers not to be paid less than the lowest category of worker employed by the establishment or the minimum wage established at central or State level, whichever is higher.<sup>141</sup>

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Discrimination in the garments sector happens on various levels, though women are generally worst off both in the north and in the south of the country. According to ASK, low female employment in the garment sector in the north reflects in part the employers attempt to avoid providing additional services, like crèches, as well as deep rooted beliefs embedded in society that women are unable to do skilled work, for example tailoring.<sup>142</sup> NTUI also reported discrimination based on the category of workers: in the north, for example, helpers are among the most discriminated against in the industry. These categories often include certain vulnerable people, like women and lower castes, who are discriminated through being given higher production targets and lower wages.<sup>143</sup>

In the south, women employed in the garment sector and living in hostels are particularly at risk of discrimination because of their social vulnerability and lack of support networks. According to Cividep, they are often Dalits in Tamil Nadu and migrants from Odisha, as well as from STs in Bangalore.<sup>144</sup> In Bangalore, female garment workers are paid about 500 INR (US\$ 7) less per month than their male counterpart in about 95% of garment factories, according to the Garment Labour Union (GLU).<sup>145</sup> When a worker makes a mistake, punishments are typically more humiliating for women; they can be made to stand for two hours or get cloths thrown at them, according to trade unions.<sup>146</sup> SAVE reported discrimination based on caste and religion, with upper caste workers getting promoted to supervisor and management positions more easily.<sup>147</sup>

Workers are generally recruited into the industry through social connections, for example through older workers or intermediaries from the same village of origin.<sup>148</sup>

## FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

Discrimination based on religion and caste is rarely observed in the FWF audits. Although women are generally found to receive equal pay for equal work during audits, gender discrimination mostly lies in the type of tasks assigned to women. For example, in the north of the country, women are employed in unskilled work, such as thread cutting and packing. In the south of India, although women occupy skilled positions, such as tailors, they are seldom employed as line supervisors. The most common reasons for this form of discrimination given

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141 The 1980 Inter-State Migrant Workmen Regulation of Employment and Conditions of Service Central Rules, 1980, Rule 25: <http://admis.hp.nic.in/himpo/Citizen/LawLib/CO158.HTM>

142 Stakeholder interview with ASK on 23 May 2016.

143 Stakeholder interview with NTUI on 17 May 2016.

144 Stakeholder interview with Clvidep on 16 May 2016.

145 Stakeholder interview with GLU on 26 May 2016.

146 Stakeholder interview with CITU on 13 May 2016 and NTUI on 17 May 2016.

147 Stakeholder interview with SAVE on 11 May 2016.

148 Stakeholder interview with the Ambekar Institute for labour Studies on 4 May 2016 and NTUI on 17 May 2016.

by the factory management are that women do not have leadership qualities or the skills to be a supervisor, or they claim that women workers themselves do not aspire to be supervisors.

During the FWF audits, it is generally observed that, despite management claims of hiring on the basis of merit and skill, most workers are actually hired through recommendations of fellow workers or contractors, who help recruit workers from their native villages. Indeed, many migrant workers from Uttar Pradesh, Bihar and Rajasthan work in factories in north India. In south India, migrant workers are found to migrate mostly from Odisha, Tamil Nadu and Bihar.

## WORKER COMPLAINTS, RELATED TO 'NO DISCRIMINATION IN EMPLOYMENT'

*FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the member(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.*

There have been no worker complaints on discrimination in employment in India.



## 6.3. No exploitation of child labour



*"There shall be no use of child labour. The age for admission to employment shall not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years." (ILO Convention 138)*

*"There shall be no 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. [...] Children [under the age of 18] shall not perform work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals." (ILO Convention 182)*

### OFFICIAL STATISTICS ON COMPLIANCE

Over 215 million children are involved in child labour worldwide, ILO research shows.<sup>149</sup> According to the 2001 census, 12.6 million children (5% of children between 5 and 14 years old) were engaged in child labour in India.<sup>150</sup> The 2011 Census reported 8.2 million children were employed.<sup>151</sup> This reflects a decrease that, according to Save the Children, is at least partially overtaken by the growth of child labour in the informal sector.<sup>152</sup> When children from 5 to 18 years old are considered, then 35.3 million children are working in India.<sup>153</sup> The Centre for Research on Multinational Corporations (SOMO) and the India Committee of the Netherlands (ICN) reported that 60 percent of workers in the spinning mills in Tamil Nadu are below 18 years old.<sup>154</sup> The National Child Labor Program rehabilitated 64,050 children working in hazardous employments during 2013-2014.<sup>155</sup>

### LAWS AND REGULATIONS

India ratified the Convention on the Rights of the Child in 1992, and the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia in 2002. However, the country has not ratified ILO Convention No. 138 on Minimum Age Convention or ILO Convention No. 182 on Worst Forms of Child Labour.

The Indian Constitution mandates free and compulsory education for children between 6 and 14 years old, and this mandate is enacted through the 2009 Right to Education Act. The Constitution also prohibits the employment of children below 14 in factories, mines or hazardous

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149 ILO, World Report on Child Labour 2013:

[http://stopbornearbejde.dk/sites/default/files/World\\_Report\\_on\\_Child\\_Labour\\_EN\\_20130429.pdf](http://stopbornearbejde.dk/sites/default/files/World_Report_on_Child_Labour_EN_20130429.pdf)

150 Ministry of Labour & Employment, Annual Report 2013-2014:

[http://www.labour.gov.in/sites/default/files/Annual\\_report\\_2013-14.pdf](http://www.labour.gov.in/sites/default/files/Annual_report_2013-14.pdf)

151 National Commission for Protection of Child Rights, 2014: <http://ncpcr.gov.in/showfile.php?lid=930>

152 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>

153 National Commission for Protection of Child Rights, 2014: <http://ncpcr.gov.in/showfile.php?lid=930>

154 Centre for Research on Multinational Corporations and India Committee of the Netherlands, Flawed Fabrics- The abuse of girls and women workers in the South Indian textile industry:

<http://www.somo.nl/news-en/flawed-fabric-the-abuse-of-girls-and-women-workers-in-the-south-indian-textiles-industry>

155 United States Department of Labour, 2014 Findings on the Worst Forms of Child Labor:

[http://www.dol.gov/ilab/reports/child-labor/india.htm#\\_ENREF\\_94](http://www.dol.gov/ilab/reports/child-labor/india.htm#_ENREF_94)

employment.<sup>156</sup> The 1986 Child Labour (Prohibition and Regulation) Act prohibits the employment of children in 18 occupations and 65 processes considered hazardous, including carpet weaving, cloth printing, dyeing and weaving, wool-cleaning, the production of hosiery goods, and the handloom and power loom sectors. The law also establishes a medical certificate to be granted as proof of age of the child.<sup>157</sup> The implementation of the law, which is the responsibility of state governments, is poor, as reflected by the small number of convictions (7,000) against 42,000 prosecutions under the Act between 2009 and 2014.<sup>158</sup> The 2012 Amendment Bill prohibits the employment of children under 14 in all occupations, with the exception of non-hazardous family enterprises and the entertainment industry, and adolescents (between 14 and 18 years of age) in hazardous occupations and processes. In Delhi and Rajasthan the minimum working age is 18.<sup>159</sup>

The 1948 Factories Act regulates the conditions and hours of work of children in factories by, for example, prohibiting night work and work near cotton openers. It also 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.<sup>160</sup>

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Various stakeholders agree that child labour is generally not visible in garment factories, although it is still present in small establishments (10-15 workers) and in textile mills.<sup>161</sup> SAVE reported that proof-of-age documents, such as medical certificates are often forged and according to GLU, alternative proof, like school certificates, are taken from sibling or relatives.<sup>162</sup> Labour NGOs and trade unions have seen that adolescent workers employed in spinning mills and factories are not working within the limits and the provisions of the law. CARE T reports an increase in the number of adolescent workers employed in the Tirupur area, as they represent a cheaper alternative workforce that is able to work for longer hours, an average of 72 hours per week. This results in higher adult unemployment rates and growing social problems among adolescents, such as depression and alcohol addiction.<sup>163</sup>

According to Save the Children, children working in the garment sector in Delhi are mostly employed in embroidery and finishing, for example cutting threads from a pair of jeans, primarily in households and in addas,<sup>164</sup> to supplement their family's income or repay debt.

156 The Constitution of India, Article 24: <http://lawmin.nic.in/coi/coiason29july08.pdf>

157 Child Labour (Prohibition and Regulation) Act, 1986:

<http://bba.org.in/sites/default/files/Child%20Labour%20Prohibition%20Act%201986.pdf>

158 Ministry of Labour & Employment, Annual Report 2013-2014:

[http://www.labour.gov.in/sites/default/files/Annual\\_report\\_2013-14.pdf](http://www.labour.gov.in/sites/default/files/Annual_report_2013-14.pdf)

159 Times of India, Child labour age limit raised to 18 years, 26 August 2012:

<http://timesofindia.indiatimes.com/India/Child-labour-age-limit-raised-to-18-years/articleshow/15713593.cms>

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

161 Stakeholder interviews with the Ambekar Institute on Labour Studies on 4 May 2016, CIVIDEP on 16 May 2016, NTUI on 17 May 2016 and ASK on 23 May 2016.

162 Stakeholder interview with SAVE on 11 May 2016 and GLU on 26 May 2016.

163 Stakeholder interview with CARE T on 30 May 2016.

164 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.

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 6 and 10 hours per day). They are largely paid piece rate wages, ranging from 1,000 INR (US\$ 15) to more than 5,000 INR (US\$ 75) per month. On the other hand, children working within their own household are generally enrolled in school, work fewer hours and mostly do not get paid or receive between 100 INR (US\$ 1.5) and 500 INR (US\$ 7.5) per month from their parents. Most of the working children belong to scheduled castes or other backward classes, or are Muslim, and are exposed to health and safety dangers due to needles, cutter, sharp tools, cramped space, poor light and little ventilation.<sup>165</sup>

## FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

Child labour was not found during FWF audits. However, since 2013, violations have been found in two to three factories in relation to the employment of people 15 to 18 years old. Most factories were found to have a lack of maintenance of appropriate license and permission from the labour department when employing young workers. Only one factory in south India was found to be compliant. In 35% of audits conducted between 2013 and 2015, age records of workers are not appropriately maintained or verified by the management. Some of the violations include: missing dental certificate when no proof-of-age documents are submitted by the worker; forged dental certificates, either containing a wrong date of birth or fake doctor's signatures; and no age records of contract workers.

## WORKER COMPLAINTS, RELATED TO 'NO EXPLOITATION OF CHILD LABOUR'

*FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the affiliate(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.*

There have been no worker complaints on child labour. In 2014, an alleged case in a factory in the north was reported and later investigated, but no violation was found. The report of this complaint is available on the [FWF website](#).

<sup>165</sup> 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>



## 6.4. Freedom of association and the right to collective bargaining

*"The right of all workers to form and join trade unions and bargain collectively shall be recognised." (ILO Conventions 87 and 98) "Workers' representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to carry out their representation functions."*  
(ILO Convention 135 and Recommendation 143)

### OFFICIAL STATISTICS ON COMPLIANCE

Across sectors, unionisation is increasing with almost 47 million workers members of trade unions, or 9.7% of the total workforce.<sup>166</sup> However, in the garment sector, only less than 5% of workers are unionised.<sup>167</sup>

### LAWS AND REGULATIONS

India has not ratified the two ILO Core Conventions on this issue: No. 87 on Freedom of Association and Protection of the Right to Organise, and No. 98 on the Right to Organise and Collective Bargaining. Also, ILO Convention No. 135 on Workers' Representatives has not been ratified by India.

The right to freedom of association in trade unions is guaranteed in the Constitution.<sup>168</sup> The 1926 Trade Union Act, amended in 2001, prohibits discrimination against union members and organisers in the formal and informal sectors, without distinction. However, some of the limitations to unionisation in the law include: 1) minimum requirement of 10% or 100 workers, whichever is less, to form a union; 2) limit to the number of "outsiders" (those not employed in the enterprise) allowed to sit on a union executive committee, which adversely impact the trade union's right to organise their administration; and 3) no compulsory recognition of trade unions and no compulsory collective bargaining imposed on the employers. Employees in the public sector have limited rights to organise and bargain collectively.<sup>169</sup>

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<sup>166</sup> Clean Clothes Campaign, India Factsheet:

<https://www.cleanclothes.org/resources/publications/factsheets/india-factsheet-february-2015.pdf>,  
and Danish Trade Union Council for International Development Cooperation, India Labour Market Profile 2014:  
[http://www.ulassekretariatet.dk/sites/default/files/uploads/public/PDF/LMP/LMP2015/lmp\\_india\\_2014\\_final\\_version.pdf](http://www.ulassekretariatet.dk/sites/default/files/uploads/public/PDF/LMP/LMP2015/lmp_india_2014_final_version.pdf)

<sup>167</sup> Clvidep, Garments Sector and Unionisation in India - Some Critical Issues, March 2011:

<http://cividep.org/backdoor/wp-content/uploads/2013/01/garment-sector-and-unionisation-in-india-report.pdf>

<sup>168</sup> The Constitution of India, Article 19: <http://lawmin.nic.in/coi/coiason29july08.pdf>

<sup>169</sup> ITUC, Survey of violations of Trade Union Rights: <http://survey.ituc-csi.org/India.html?lang=en#tabs-2>

Deduction of trade union membership fees from workers' wages is possible only if the worker gave written consent, as per the Payment of Wages Act.<sup>170</sup> The 1947 Industrial Disputes Act provides for the establishment of a works committee for factories with 100 or more employees and the creation of a grievance redressal committee for factories with 20 or more workers. Both committees must be composed of employer and employees.<sup>171</sup> However, the establishment of "workers committees" or company-dominated unions is used by employers to avoid genuine trade union representation.<sup>172</sup>

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

The most common violations related to freedom of association involve police violence, and the arrest and dismissal of striking workers and trade union leaders. One of the latest cases of alleged arbitrary and abusive use of police force against protesting garment workers happened in Bangalore in April 2016, according to Amnesty international;<sup>173</sup> another one took place in a Special Economic Zones (SEZs) in Andra Pradesh in the same month.<sup>174</sup> Unionisation in SEZs is difficult because only employees can enter the SEZs and the right to strike is limited by means of a 45-day notice requirement.<sup>175</sup> Trade unions reported the practice of unfair dismissal of workers involved in trade union activities.<sup>176</sup>

## FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

Findings from FWF audits from 2013 to 2015 highlight the fact that 99% of audited factories had no 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 the management. In the past three years, audits found that no functional grievance mechanism was available to workers in 79% of factories in north India and 64% in south India. Factories in the south often have collective bargaining agreement (CBA) policies. At the same time, the audits showed that the CBAs did not largely exceed legal requirements and workers were mostly unaware of the agreement. Audits reported that works committees and Internal Complaints Committees, if present, discuss often minor issues related to working conditions (for example broken toilet taps), rather than focusing on the main issues of concern such as wages, overtime, and sexual harassment.

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170 The Payment of Wages Act, 1936, Section 7 (2):

<http://www.ilo.org/dyn/travail/docs/625/Payment%20of%20Wages%20Act%201936.pdf>

171 The Industrial Disputes Act, 1947, Chapter II, Section 3 (1) and (2), and Chapter II B, Section 9 (C):

<https://mahakamgar.maharashtra.gov.in/images/pdf/industrial-disputes-act-1947.pdf>

172 University of Pennsylvania, Trade Union Rights in Law and Practice:

<http://labour-rights-indicators.la.psu.edu/country/356>

173 Amnesty International, Karnataka: Allegations of arbitrary and abusive force against women protesters must be investigated, 22 April 2016:

<https://www.amnesty.org.in/show/news/karnataka-allegations-of-arbitrary-and-abusive-force-against-women-proteste/>

174 Stakeholder interview with CITU on 13 May 2016.

175 University of Pennsylvania, Trade Union Rights in Law and Practice:

<http://labour-rights-indicators.la.psu.edu/country/356>

176 Stakeholder interviews in May 2016.

## WORKER COMPLAINTS, RELATED TO 'FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING'

*FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the member(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.*

There have been no worker complaints on freedom of association and the right to collective bargaining.

## 6.5. Payment of a living wage



*"Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income" (ILO Conventions 26 and 131, the Universal Declaration of Human Rights, art 23(3) and art 25(1)). "Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted. Deductions shall never constitute an amount that will lead the employee to receive less than the minimum wage. Employees shall be adequately and clearly informed about the specifications of their wages including wage rates and pay period."*

### OFFICIAL STATISTICS ON COMPLIANCE

Minimum wages vary per state, sector and category of workers. However, the central government fixes the National Floor Level Minimum Wage (NFLMW) and no state government can fix a lower minimum wage. Since July 2015, the NFLMW amounts to 160 INR (US\$ 2.4) per day.<sup>177</sup> Tamil Nadu has no fixed wage for regular textile mill workers, only apprentice workers have a fixed minimum wage of 305 INR (US\$ 4.5) per day. Taking the tailoring industry as an example, the daily minimum wage in Bangalore ranges from 263 to 332 INR (US\$ 4 to 5), in Tirupur from 306 to 333 INR (US\$ 4.5 to 4.9), and in Gurgaon from 306 to 391 INR (US\$ 4.5 to 5.8).<sup>178</sup> Such wages provide only minimal standards of living and do not meet the monthly living wage, which amounts to 18,727 INR (US\$ 281) and equals a daily wage of 720 INR (US\$ 10.8), according to the Asia Floor Wage.

### LAWS AND REGULATIONS

India has not ratified ILO Conventions: No. 95, Protection of Wages Convention, 1949, No. 131, Minimum Wage Fixing Convention, 1970, and No.173, Protection of Workers' Claims (Employer's Insolvency) Convention, 1992.

The Constitution 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.<sup>179</sup> The 1948 Minimum Wages Act mandates the employer to pay the minimum wage fixed by the central and state governments. It also prescribes that overtime wages are to be paid at the rate of twice the worker's ordinary wage rate.<sup>180</sup> The 1950 Minimum Wages (Central Rules) provide that a wage slip be issued by the factory to any worker at least a day before the

<sup>177</sup> Indian Economic Service, National Floor Level Minimum Wage: [http://www.arthapedia.in/index.php?title=National\\_Floor\\_Level\\_Minimum\\_Wage](http://www.arthapedia.in/index.php?title=National_Floor_Level_Minimum_Wage)

<sup>178</sup> Paycheck, Minimum Wages India 2016 – Current Minimum Wage Rate India: <http://www.paycheck.in/main/salary/minimumwages>

<sup>179</sup> The Constitution of India, Article 43: <http://lawmin.nic.in/coi/coiason29july08.pdf>

<sup>180</sup> The Minimum Wages Act, 1948: <http://www.ilo.org/dyn/travail/docs/623/Minimum%20Wages%20Act%201948.pdf>



disbursement of wages.<sup>181</sup> The 1936 Payment of Wages Act prohibits payment in kind and requires wages to be paid on time and without any unauthorised deductions.<sup>182</sup> The 1965 Payment of Bonus Act provides for the payment of bonus to workers in establishments with 20 or more employees on the base of profit/production or productivity. The law applies also to contract workers.<sup>183</sup>

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Stakeholders generally agreed that minimum wages did not correspond to living wages for workers. Various NGOs and trade unions reported difficulties in having minimum wages paid, although Cividep reported that minimum wages are largely paid in garment factories in Bangalore, but not in spinning mills.<sup>184</sup> Several trade unions and the Asia Floor Wage reported “wage theft”, which refers to arbitrary wage deduction such as delay in payments of wages, non-recognition of wages according to the category of skill, non-compliance with overtime payment rates and underestimation of actual overtime worked, wage deductions for Provident Fund (PF) or Employees State Insurance (ESI), which are not deposited on the workers social security account, or non-payment of such benefits to contract workers.<sup>185</sup> Home-based workers paid by piece rate are unaware of the price paid per piece by the factory to the contractor and get paid less, according to various stakeholders.<sup>186</sup> However, ASK reported that piece rate workers in Delhi are skilled and generally get paid more than a minimum wage.<sup>187</sup>

## FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

The FWF audits found that minimum wages are commonly provided to permanent workers. However, audits often found delays in the payment of workers' wages. It is generally difficult to corroborate if workers employed as piece rate, badli<sup>188</sup>, temporary or casual workers are provided minimum wages, since the records for those types of workers are rarely produced by factories during audits. Audit findings revealed that contract workers employed as security guards and housekeeping staff are paid below the minimum wage. For instance, security guards were found to work up to 12-15 hours per day, at times without any weekly days off. However, they are paid for 8 daily working hours, resulting in them earning below the minimum wage. Those findings are more prevalent in the northern part of the country.

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181 The Minimum Wages (Central Rules), 1950, Section 26 (2):

[http://www.ilo.org/dyn/travail/docs/624/Minimum%20Wages%20\(Central\)%20Rules%201950.pdf](http://www.ilo.org/dyn/travail/docs/624/Minimum%20Wages%20(Central)%20Rules%201950.pdf)

182 The Payment of Wages Act, 1936:

<http://www.ilo.org/dyn/travail/docs/625/Payment%20of%20Wages%20Act%201936.pdf>

183 The Payment of Bonus Act, 1965: [http://labour.bih.nic.in/acts/payment\\_of\\_bonus\\_act\\_1965.pdf](http://labour.bih.nic.in/acts/payment_of_bonus_act_1965.pdf)

184 Stakeholder interview with Cividep on 16 May 2016.

185 Asia Floor Wage, National people's Tribunal on Living Wage for Garment Workers in Asia, 2014:

<http://www.livingwage.eu/uploads/images/12.10%20Human%20Right/National%20Peoples%20Tribunal-Syn-thesis%20report.pdf>

186 Stakeholder interviews conducted in May 2016.

187 Stakeholder interview with ASK on 23 May 2016.

188 A “badli” worker is appointed in the post of permanent workman or a probationer, who is temporarily absent.

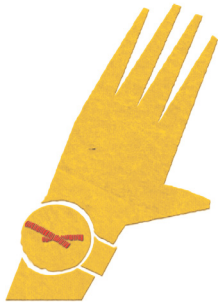
Audits conducted between 2013 and 2015 revealed that at the majority of factories overtime was either paid at single rate or not paid at all. Piece rate workers or casual workers were also found not being paid overtime wages.

## WORKER COMPLAINTS, RELATED TO 'PAYMENT OF A LIVING WAGE'

*FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the member(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.*

In 2014 and 2015, FWF received three complaints related to non-payment or delays in payment of wages. One complaint concerned a threat of deduction from the worker's wage in case the worker would have taken leave. More details on this complaint are available on the [FWF website](#). A second complaint was on the lack of payment of one-month of wages. More information on this complaint is available on the [website](#). The last complaint was related wage slips not being provided to a worker. The report of the complaint can be accessed on the [FWF website](#).

## 6.6. No excessive working hours



*"Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7-day period. Overtime shall be voluntary, shall not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate."*  
(ILO Convention 1)

### OFFICIAL STATISTICS ON COMPLIANCE

Official figures on working hours are unavailable. According to the Ministry of Statistics, about 71% of workers had no paid leave, with the percentage among casual workers reaching 98.<sup>189</sup>

### LAWS AND REGULATIONS

India ratified ILO Conventions No. 1 on Hours of Work (Industry) in 1919 and No. 14, on Weekly Rest (Industry) in 1923. However, the country has yet to ratify the following related ILO Conventions: No.47 on Forty-Hour Week, 1935, No.116 on Reduction of Hours of Work Recommendation, 1962, No. 132 on Holidays with Pay (Revised), 1970, No. 171 on Night Work, 1990, and No. 175 on Part-Time Work, 1994.

The 1948 Factories Act establishes an 8-hour workday, a 48-hour workweek (6 days), and various standards for working conditions. For overtime work, the worker is entitled to receive wages at the rate of twice the ordinary wage rate and piece rate workers are entitled to double their time rate.<sup>190</sup> The law also provides a maximum of 60 hours of work per week (48 hours of regular work hours and 12 hours of overtime), subject to a maximum of not more than 50 hours of overtime over a period of three months. The Factory Act also provides rest periods of half an hour for every five hours of work, one weekly day of rest and 12 working days of annual leave for workers employed at least 240 days in a year. A 2013 ILO Committee of Experts report stated that weekly rest must be granted to all factory employees, irrespective of the number of employees.<sup>191</sup> The proposed 2011 Factories Act amendment, which is yet to pass, would allow, for example, women to work night shifts (10 pm-5 am), provided that they are offered adequate safeguards.<sup>192</sup>

The 1970 Contract Labour (Regulation & Abolition) Act mandates contractors to keep a register containing hours of extra work and overtime calculation, among other information.<sup>193</sup>

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189 National Sample Survey Office, Ministry of Statistics & Programme Implementation, Government of India, Informal Sector and Conditions of Employment in India, NSS 68th Round (July 2011-June 2012).

[http://mospi.nic.in/Mospi\\_New/upload/nss\\_report\\_557\\_26aug14.pdf](http://mospi.nic.in/Mospi_New/upload/nss_report_557_26aug14.pdf)

190 The Factory Act, 1948, Chapter VI, Section 50 (1): [http://pblabour.gov.in/pdf/acts\\_rules/factories\\_act\\_1948.pdf](http://pblabour.gov.in/pdf/acts_rules/factories_act_1948.pdf)

191 ILO, CEARC, Weekly Rest Convention (014), Direct Request, India, 2013:

[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100\\_COMMENT\\_ID:3138846](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3138846)

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

193 Contract Labour (Regulation & Abolition) Act, 1970:

[http://labour.bih.nic.in/Acts/contract\\_labour\\_regulation\\_and\\_abolition\\_act\\_1970.pdf](http://labour.bih.nic.in/Acts/contract_labour_regulation_and_abolition_act_1970.pdf)

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Stakeholders agree that long working hours are part of the industry's practice, with workers staying an average of additional two to four hours daily. Monthly overtime ranges from 60 to 170 hours, an average of 100 hours of overtime monthly is quite common, according to ASK.<sup>194</sup> In Tirupur, weekly working hours can range from 72 to 96, as migrant workers are keener to earn extra money to send back to their families, even though overtime is often paid at single and not double rate.<sup>195</sup> In Bangalore, if workers do not reach the production targets within the eight hours of work, they often stay overtime without being paid.<sup>196</sup> According to the Centre for Research on Multinational Corporations (SOMO) and the India Committee of the Netherlands (ICN), workers in spinning mills are forced to work overtime, often for up to 68 hours per week, with breaks as short as 10 minutes per 8-hour shift.<sup>197</sup>

## FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

Audits often found double recordkeeping in factories, to avoid proof of excessive overtime hours. This trend is found both in the north and in the south of the country. Although the number of overtime hours worked in the south was found to be lower, this could actually be attributed to double bookkeeping. In the northern part, most overtime claims by workers are uncorroborated due to the unavailability of records, and management denial. However, offsite visits also confirm overtime practice which reaches about 70 to 80 working hours per week.

## WORKER COMPLAINTS, RELATED TO 'REASONABLE HOUR OF WORK'

*FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the member(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.*

Between 2013 and 2015, FWF received several complaints on overtime, although it is often mentioned together with other issues, such as lack of payment and dismissal. One complaint concerned overtime hours not paid at premium overtime rate. More details can be accessed on the [website of FWF](#). The rest regarded excessive overtime. The reports of the complaints are available on the [FWF website, here](#) and [here](#).

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194 Stakeholder interview with ASK on 23 May 2016.

195 Stakeholder interview with SAVE on 11 May 2016 and with CARE T on 30 May 2016.

196 Directorate General, Factory Advice Service and Labour Institutes, Statistics on Status of compliance with statutory provisions based on data collected by DGFASLI: <http://www.dgfasli.nic.in/info1.htm>

197 Centre for Research on Multinational Corporations and India Committee of the Netherlands, Flawed Fabrics- The abuse of girls and women workers in the South Indian textile industry:

<http://www.somo.nl/news-en/flawed-fabric-the-abuse-of-girls-and-women-workers-in-the-south-indian-textiles-industry>

## 6.7. Safe and healthy working conditions



*"A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Appropriate attention shall be paid to occupational hazards specific to this branch of the industry and assure that a safe and hygienic work environment is provided for. Effective regulations shall be implemented to prevent accidents and minimize health risks as much as possible (following ILO Convention 155). "Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer are strictly prohibited."*

### OFFICIAL STATISTICS ON COMPLIANCE

According to the latest available statistics of the Directorate General Factory Advice Service and Labour Institutes, which date from 2011, for a total of 325,209 registered factories there were only 743 inspectors and the number of injuries stood at 29,837; of those, 1,433 were fatal.<sup>198</sup> Unfortunately, no specific breakdown for the garment sector was available.

### LAWS AND REGULATIONS

India has not ratified ILO Conventions: No. 155 on Occupational Safety and Health, 1981 and its 2002 Protocol, No. 161 on Occupational Health Services, 1985, and No. 187 on the Promotional Framework for Occupational Safety and Health, 2006.

The provisions on occupational health and safety contained in the Constitution are enacted through two major legislations: the Factories Act and the Mines Act. The 1948 Factories Act deals with occupational health and safety, as well as welfare of workers employed in a factory. The employer shall take the measures necessary for the safety and health protection of workers, including prevention of occupational risks and provision of training and the necessary protective equipment.<sup>199</sup> The law also commands the factory to notify any accident to the relevant authority<sup>200</sup> and to set up a safety committee composed both of workers and management within the factory.<sup>201</sup> The garment workers who work in factory set-ups are covered by the act, but where work is outsourced to smaller units (less than 10 workers) these protections may not be applicable.

The Workmen's Compensation (Amendment) Act adopted in 2009 imposes an obligation on the employer to pay compensation to workers and their dependants in case of injury and

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<sup>198</sup> Directorate General, Factory Advice Service and Labour Institutes, Statistics on Status of compliance with statutory provisions based on data collected by DGFASLI: <http://www.dgfasli.nic.in/info1.htm>

<sup>199</sup> Factories Act, 1948, Section 7A (1) and (2): <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/32063/64873/E87IND01.htm>

<sup>200</sup> Factories Act, 1948, Section 88A: <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/32063/64873/E87IND01.htm>

<sup>201</sup> Factories Act, 1948, Section 41G: <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/32063/64873/E87IND01.htm>

accident, including certain occupational diseases, arising out of and in the course of employment and resulting in disablement or death.<sup>202</sup> The 1948 Employees State Insurance Act is a social security scheme that provides health care and cash benefit payments in the event of employment injury (including certain occupational diseases), sickness and maternity to employees working in “non-seasonal” factories that use power and employ 10 or more employees. The law also covers contract workers.<sup>203</sup> The 1950 related Central Rules stipulate that the employer contributes 4.75% of the worker’s wage and the worker contributes a further 1.75%.<sup>204</sup> Maternity benefits are also provided under the 1961 Maternity Benefit Act, which grants 12 weeks of paid maternity leave and 3,500 INR (US\$ 53) in medical bonus.<sup>205</sup> The ILO international standard is set at 14 weeks.

In 1997, the Supreme Court in the Vishaka v. State of Rajasthan case laid down guidelines, seeking to prevent and prohibit sexual harassment at the workplace and provide for punitive action against those found guilty. Those principles were set into law in 2013 with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act which stipulated that women should not be subjected to sexual harassment in the workplace, in transportation to and from work and in dwelling places. The law prescribes the creation of Internal Complaints Committees (ICC) in factories with more than 10 employees, and Local Complaints Committees established by the government at district level for establishments with fewer than 10 workers. These committees provide a space for victims of sexual harassment to file a complaint. 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.<sup>206</sup>

## STAKEHOLDERS’ OPINION AND ANALYSIS ON IMPLEMENTATION

In garment factories the most common injuries are fingers/hand cuts, needle piercing, back, leg and stomach pain from either sitting or standing for long hours, urinary infections for having limited access to restrooms, and respiratory diseases due to exposure to chemical and cloth dust, according to the various stakeholders.<sup>207</sup> In Bangalore, 25% of factories produce denim clothing and use chemicals that are handled without protection, causing health problems, according to the Garment Labour Union (GLU).<sup>208</sup> Instances of worker deaths in garment factories due to fire still occur, especially in the north, although they are less frequent.<sup>209</sup> In Bangalore, since the 2010 major fire in a garment factory,<sup>210</sup> big companies have a fire system

202 The Workmen’s Compensation (Amendment) Act, 2009:

<http://www.prsindia.org/uploads/media/workmen/The%20Workmens%20Compensation%20Amendment%20Bill%202009.pdf>

203 The Employees’ State Insurance Act: <http://www.esic.nic.in/Tender/ESIAct1948Amendedupto010610.pdf>

204 The Employees’ State Insurance Central Rules, 1950, Rule 51 a and b: [http://www.advocatekhoj.com/library/rules/employeesstate/index.php?Title=Employees%20%20%20State%20Insurance%20\(Central\)%20Rules.%201950](http://www.advocatekhoj.com/library/rules/employeesstate/index.php?Title=Employees%20%20%20State%20Insurance%20(Central)%20Rules.%201950)

205 Maternity Benefit Act, 1961: <http://www.ilo.org/dyn/travail/docs/678/maternitybenefitsact1961.pdf>

206 The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013,

<http://www.iitbbs.ac.in/notice/sexual-harrassment-of-women-act-and-rules-2013.pdf>

207 Stakeholder interview with the Ambekar Institute for Labour Studies on 4 May 2016 and with SAVE on 11 May 2016.

208 Stakeholder interview with GLU on 26 May 2016.

209 NewsMan, Four workers burned alive in garment factory fire off Kolkata, 21 April 2016:

<http://www.newsmen.in/news-item/four-workers-burned-alive-in-garment-factory-fire-off-kolkata/>

210 The Hindu, Garments worth crores destroyed in fire, 17 April 2010:

<http://www.thehindu.com/news/cities/bangalore/garments-worth-crores-destroyed-in-fire/article401007.ece>



in place, according to Cividep.<sup>211</sup> In the south, where the transport of workers to and from factories is common, accidents and deaths occur, according to Cividep and NTUI.<sup>212</sup> Physical, verbal, mental and sexual harassment are experienced by female workers employed in garment factories across the country. Harassment is often perpetrated by supervisors, contractors or co-workers, according to trade unions.<sup>213</sup> Sexual harassment generally goes unreported, as women fear social isolation and job loss. In Tirupur, the majority of factories do not have an Internal Complaint Committee (ICC). Sexual harassment happens more prominently after night shifts; hostel workers are particularly vulnerable as they are those most likely to perform those shifts, according to CARE T.<sup>214</sup>

In the textile mills in the south of the country injuries are more severe and are linked to a lack of training of the workers assigned to perform dangerous tasks, for example in the blowroom, where there is a risk of amputated limbs, and workers can lose their life.<sup>215</sup> Cividep reported some deaths in Tamil Nadu spinning mills, 80% of which were caused by shop-floor accidents due to fatigue; 15% were suicides due to emotional entanglement and 5% in response to sexual harassment.<sup>216</sup>

## FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

Due to their structural nature, OHS violations are the most visible during audits. In north Indian factories, FWF audits highlight the lack of training and capacity building on fire safety, first aid and usage of protective equipment as main concerns. Factories were found to maintain documents on training activities for the purpose of compliance, although those activities are not offered to workers in practice. This leads to lack of awareness among workers on issues concerning evacuation, illness or injury and workplace accidents. The results of the southern factories audited revealed that fire and first aid management practices are considerably better.

Verbal abuse and sexual harassment are not common findings during the FWF audits, but are often observed during the interaction with workers. However, those violations are not reported through grievance mechanisms (i.e. suggestion boxes) in the factories.

Audited factories generally outsource chemical management. However, simple chemicals, such as those for stain removal, are handled at factory level and audits found untrained personnel handling them and no display of Material Safety Data Sheet (MSDS) in factories. Audit findings also found that no ergonomic provisions are taken by the factories to offset potential health risks for workers who are either standing or sitting for long.

Restrooms often lack soap, towels, and hygienic conditions, as sweepers are usually hired on an hourly or weekly basis and not continuously. Female workers lack sanitation knowledge and dispose of fabric cloth or napkins in the toilet, thus blocking the sewage.

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211 Stakeholder interview with Cividep on 16 May 2016.

212 Stakeholder interview with Cividep on 16 May 2016 and with NTUI on 17 May 2016.

213 Stakeholder interview with HMS on 19 May 2016 and with CITU on 13 May 2016 and FWF, Standing Firm against Factory Floor Harassment, 2013:

[http://www.fairwear.org/ul/cms/fck-uploaded/documents/fwfpublishations\\_reports/StandingFirmReportFWF2013.pdf](http://www.fairwear.org/ul/cms/fck-uploaded/documents/fwfpublishations_reports/StandingFirmReportFWF2013.pdf)

214 Stakeholder interview with CARE T on 30 May 2016.

215 Stakeholder interview with SAVE on 11 May 2016.

216 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/>



## WORKER COMPLAINTS, RELATED TO 'SAFE AND HEALTHY WORKING CONDITIONS'

*FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the member(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.*

Since 2013, FWF has received numerous complaints of OHS violations. In a south India factory an injured worker complained about not receiving medical benefits. The report of the case can be accessed on [FWF's website](#). Although initially solved, the complaint was later re-visited, as the worker lamented not having received a disability certificate and related benefits. More details are available [here](#). A complaint on unsafe drinking water and sanitation was received and the report is available on the [FWF website](#). A complaint regarding verbal and physical abuse of a worker by her supervisor was received, and the supervisor was later dismissed. More details are available [here](#). Another complaint received regarded general harassment practices. The report of the complaint can be accessed on the [FWF website](#).

At a factory did not have a sexual harassment policy nor the mandatory ICC in place, following a sexual harassment complaint made to FWF, an ICC was set up, its members trained on the topic and the worker responsible for the harassment made to apologise.

## 6.8. Legally-binding employment relationship



*"Working relationships shall be legally binding, and all obligations to employees under labour or social security laws and regulations shall be respected."*

### OFFICIAL STATISTICS ON COMPLIANCE

According to the latest figures (2011-2012) from the National Sample Survey Office, 72% of workers were employed in the informal sector.<sup>217</sup> Tailoring and embroidery work were among the categories of work with highest informality levels.<sup>218</sup> About 79% of workers in India have no written contracts and 72% are not eligible for any social security benefit, with the percentage going up to 97 and 93 for casual workers respectively.<sup>219</sup>

### LAWS AND REGULATIONS

India ratified ILO Convention No. 118 on Equality of Treatment (Social Security). However, the country has yet to ratify ILO Conventions: No. 102 on Social Security (Minimum Standards), 1952, No. 157 on Maintenance of Social Security Rights, 1982, and No. 158 on the Termination of Employment, 1982.

Social security for organised workers (workers with a direct regular employer-employee relationship within an organisation) is provided through five central acts: the 1923 Workmen's Compensation Act; the 1948 Employees' State Insurance Act; the 1952 Employees' Provident Funds & Miscellaneous Provisions Act; the 1961 Maternity Benefit Act; and the 1972 Payment of Gratuity Act.<sup>220</sup> According to the 1952 Employees' Provident Funds & Miscellaneous Provisions Act, any company employing 20 or more workers must enrol all workers to the Employees' Provident Funds (EPF) and deduct a contribution of 12% of the wage towards the fund, plus an additional 12% contribution on the employers' behalf. The law applies to contract workers too.<sup>221</sup> The 1995 Employees' Pension Scheme Act provides members with 58 years of age and 10 years of contribution with a monthly pension. In 2013, the number of pensions disbursed reached the 4.4 million people entitled to the benefits.<sup>222</sup>

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217 National Sample Survey Office, Informal Sector and Conditions of Employment in India:  
[http://mospi.nic.in/Mospi\\_New/upload/nss\\_report\\_557\\_26aug14.pdf](http://mospi.nic.in/Mospi_New/upload/nss_report_557_26aug14.pdf)

218 Ministry of Labour and Employment, Annual Report 2013-2014:  
[http://labour.nic.in/sites/default/files/Annual\\_report\\_2013-14.pdf](http://labour.nic.in/sites/default/files/Annual_report_2013-14.pdf)

219 National Sample Survey Office, Informal Sector and Conditions of Employment in India:  
[http://mospi.nic.in/Mospi\\_New/upload/nss\\_report\\_557\\_26aug14.pdf](http://mospi.nic.in/Mospi_New/upload/nss_report_557_26aug14.pdf)

220 Government of India, Business Portal of India, Social Security:  
[http://www.archive.india.gov.in/business/manage\\_business/social\\_security.php](http://www.archive.india.gov.in/business/manage_business/social_security.php)

221 Employees' Provident Funds & Miscellaneous Provisions Act, 1952:  
[http://www.epfindia.com/site\\_docs/PDFs/Downloads\\_PDFs/EPFAct1952.pdf](http://www.epfindia.com/site_docs/PDFs/Downloads_PDFs/EPFAct1952.pdf)

222 Ministry of Labour and Employment, Annual Report 2013-2014:  
[http://labour.nic.in/sites/default/files/Annual\\_report\\_2013-14.pdf](http://labour.nic.in/sites/default/files/Annual_report_2013-14.pdf)

In 2008, the Unorganised Workers' Social Security Act was adopted to provide social security benefits to unorganised workers (among which home based workers, self-employed workers, or a worker in the organised sector who are wage workers or not covered by social security benefits). The law enables the central government to formulate welfare schemes for different sections of unorganised sector workers. Under the Act, each unorganised worker shall be registered by the district administration and issued a portable smart card with a unique identification number.<sup>223</sup> As of 2013, 34.3 million cards were issued until March 2013.<sup>224</sup>

The 1947 Industrial Disputes Act establishes the employment relationship and provides rights and protection to "workmen". The act distinguishes between a workman and a non-workman. The vast masses of agricultural and other non-industrial workers were not brought within the scope of this enactment. The 1946 Industrial Employment (Standing Order) Central Rules provides for a one month or two weeks notice period in case of termination of employment for monthly-rate workers or other workers respectively.<sup>225</sup>

The 1970 Contract Labour (Regulation and Abolition) Act regulates the employment of contract labour in certain establishments. Where the nature of the work is not intermittent or casual, no contract labour can be employed. Although the garment industry is not considered seasonal in nature, workers are usually employed for temporary periods and then dismissed before 240 days, so that employers are not bound to pay entitlements to workers as per the 1948 Factories Act. However, several laws covering labour issues provide benefits, including paid leaves, bonus, social security, provident fund, and others, to contract workers as well.<sup>226</sup> In June 2016, the government approved the Special Package for Job Creation & Export Promotion in Textile & Apparel Sector, which included the garment sector in the temporary category of industries.<sup>227</sup>

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

According to the large majority of trade unions and labour NGOs, either the worker or the establishment can be in a situation of informality. In about 90 percent of cases appointment letters are not given or understood by employees.<sup>228</sup> Contract and migrant workers are the most vulnerable to non-legally-binding working relations. In Tamil Nadu, less than an average of 6% of workers receives an identity card.<sup>229</sup> In Tirupur, CARE T reported a lack of knowledge

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223 PRS Legislative Research, The Unorganised Sector Workers' Social Security Bill, 2007:

<http://www.prsindia.org/billtrack/the-unorganised-sector-workers-social-security-bill-2007-434/>

224 Danish Trade Union Council for International Development Cooperation, India Labour Market Profile 2014:

[http://www.ulssekretariatet.dk/sites/default/files/uploads/public/PDF/LMP/LMP2015/lmp\\_india\\_2014\\_final\\_version.pdf](http://www.ulssekretariatet.dk/sites/default/files/uploads/public/PDF/LMP/LMP2015/lmp_india_2014_final_version.pdf)

225 Industrial Employment (Standing Order) Central Rules, 1946, Schedule I, Section 13:

[http://pblabour.gov.in/Content/documents/pdf/acts\\_rules/industrial\\_employment\\_standing\\_orders\\_rules.pdf](http://pblabour.gov.in/Content/documents/pdf/acts_rules/industrial_employment_standing_orders_rules.pdf)

226 The Employees' State Insurance Act: <http://www.esic.nic.in/Tender/ESIAct1948Amendedupto010610.pdf>

and Employees' Provident Funds & Miscellaneous Provisions Act, 1952:

[http://www.epfindia.com/site\\_docs/PDFs/Downloads\\_PDFs/EPFAct1952.pdf](http://www.epfindia.com/site_docs/PDFs/Downloads_PDFs/EPFAct1952.pdf)

227 Contract Labour (Regulation & Abolition) Act, 1970:

[http://hrylabour.gov.in/docs/labourActpdfdocs/Contract\\_Labour\\_Central\\_Rules.pdf](http://hrylabour.gov.in/docs/labourActpdfdocs/Contract_Labour_Central_Rules.pdf)

228 Stakeholder interviews in May 2016.

229 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/>

of workers about their Provident Fund (PF) number, resulting in workers having multiple entries in the PF system every time they joined a new factory. There are also instances where the name of the worker is not entered accurately or when workers that are no longer employed in a factory are kept in the factory's records to show labour inspectors compliance with PF contributions, although in reality benefits are not paid to the account of the worker.<sup>230</sup>

Establishments that work in the informal sector are generally not those where buyers directly source from, but those where the large manufacturing firms that cater to the international or both the international and domestic market, outsource part of the production. Those small units are generally specialised only in one of the typically outsourced activities, such as printing, dyeing, embellishment, tailoring, machine embroidery and button stitching and buttonhole making. Workers in those units are paid piece rates with no benefits. According to Save the Children, this practice happens mostly during the peak season of production of cotton garments in Delhi. A further layer of outsourcing in the informal sector are small households units (addas), where embroidery is done, or family households, where mostly thread cutting is carried out.<sup>231</sup>

A study of the Society for Labour and Development (SLD) uncovered unlawful practices in employing contract workers in the garment industry in Gurgaon, which various stakeholders confirmed to be a practice in other areas of the country.<sup>232</sup> The main violations are:

- *Wage theft, as the contractor pays workers less than what the company actually pays the contractor for the worker's wage.*
- *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.*
- *Workers are regularly engaged in the factory's core activities.*
- *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.*
- *Companies employ more contract workers than declared to labour authorities.*
- *Multiple records are kept by factories providing different figures on number of contract labour employed, rates of wages paid, nature of work, etc.*
- *Contract workers are paid on a monthly basis only for the actual number of days worked in a month or on piece rate.*
- *Workers are dismissed by the contractor without notice or compensation.*
- *Workers lack documentation of their employment.*
- *Workers are deprived of paid leave.<sup>233</sup>*

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230 Stakeholder interview with CARE T on 30 May 2016.

231 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>

232 Stakeholder interviews in May 2016.

233 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/>

## FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

The FWF audits found that factories do not maintain the required documents according to each category of workers, as required. For example, factories lack written contractual agreements with the contractor supplying contract workers. Also, often no record is kept for piece rate, trial or temporary workers, employed especially during peak seasons, who are not even head-counted during evacuation mock drills. Seasonal workers are unreported, often being employed for 239 days and then dismissed or forced to resign to avoid paying them legal benefits such as paid leave, or bonus which workers are entitled to after 240 days of continuous work.

In nearly all factories in the north and about 20% of factories in the south, copies of work contract or appointment letters are not issued to workers, although an original copy is always kept in their personnel files. Most of the times, wage slips and copies of social security payments (ESI and PF), are not provided to the worker. Workers are not issued identity cards either, leaving them without proof of employment. Those practices make it easier for factories to wrongfully dismiss workers. Social security benefits were found to be provided nearly only to permanent workers, leaving piece rate and contract workers without social security protection.

## WORKER COMPLAINTS, RELATED TO 'LEGALLY BINDING EMPLOYMENT RELATIONSHIP'

*FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the member(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.*

From 2013 to 2015, FWF received numerous complaints on forceful dismissal, as hire-and-fire based on seasonality is common in the industry, where workers are dismissed under various pretext (for example coming late to work, joining after having taken few days of leave, worker's refusal to do overtime, etc.). One complaint regarded workers forced to accept a lower wage increase under threat of constructive dismissal. Additional details are available on the [website](#). Another complaint involved a worker dismissed after three days of sick leave. The report of the complaint is accessible [here](#). A worker was forcefully dismissed from his work for not performing a task outside the purview of his work; more information is available on the FWF [website](#). A complaint was taken up to labour court and remains pending, after a worker was accused of theft and dismissed. The report of the complaint is accessible [here](#). Finally, a worker was dismissed without prior notice. Additional details are available on the [website](#).

In 2014 and 2015, several complaints were received regarding non-payment of social security benefits and PF. A complaint dealt with the withholding of legal benefits, such as PF, as retaliatory measure on the worker for having taken some advance money and wanting to leave. The report of the complaint can be accessed on the [FWF website](#). An employer prevented the voluntary termination of workers under threat of not paying their social security benefits. More details on the latter complaint are available [here](#). Seven workers lamented not receiving post-resignation social security payments from the factory. The report of the complaint can be accessed on the [FWF website](#). As of 2014, the PF process was made electronic and thus FWF advises workers to approach the PF department directly for complaints. However, in some cases, the FWF complaints handler assisted the workers when approaching the relevant department.

# SOURCES USED IN THIS COUNTRY STUDY

*The information has been gathered by Emanuela Ranieri-Svendsen, International Human Rights and Business Consultant. The study is prepared through gathering information about national laws and local stakeholders' view on labour issues in the garment industry in India. In addition to this, FWF has gathered information from international recognized sources on the economic, social, political and human rights situation in the country. All resources mentioned were consulted between April and June 2016.*

*The following stakeholders representing public authorities, employers, trade unions and NGOs were consulted in writing this country study:*

## I. GOVERNMENT/PUBLIC AUTHORITIES

### Apparel Export Promotion Council (AEPC)

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/>

### Department of Labour, Karnataka

The Department of Labour in Karnataka is responsible for implementing the labour laws within its jurisdiction and is articulated in five field offices. The stakeholder interview was conducted at the Bangalore head office.

<http://labour.kar.nic.in/>

### Department of Labour, Uttar Pradesh (Noida Regional Office)

The Department of Labour in Uttar Pradesh is responsible for implementing the labour laws within its jurisdiction and is organised in regional offices. The stakeholder interview was conducted at the Noida regional office.

<http://uplabour.gov.in/>

## II. EMPLOYERS

### Associated Chambers of Commerce and Industry of India (ASSOCHAM)

Established in 1920 by five chambers of commerce, ASSOCHAM represents more than 400 Chambers and Trade Associations. ASSOCHAM has a National Council on Textile and Technical Textile.

<http://www.assochem.org>

## **Federation of Indian Chambers of Commerce & Industry (FICCI)**

FICCI is involved in sector specific business policy consensus building, and business promotion and networking. It serves 250,000 indirect members. FICCI has a Textiles Committee, which works with the Bureau of Indian Standards (BIS) for formulation of standards on technical textiles.

<http://ficci.in>

## **III. TRADE UNIONS**

### **Centre for Indian Trade Unions (CITU)**

CITU is one of the 13 Central Trade Union Organisations and support workers across sectors, including garment. CITU is mostly present in Tripura, West Bengal, Kerala, Tamil Nadu and Andhra Pradesh States. About 33% of its members are women and 8 out of 34 CITU office barriers are female.

<http://citucentre.org>

### **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 2,000 garment workers.

<http://glu.org.in/>

### **Hind Mazdoor Sabaha (HMS)**

HMS is one of the 13 Central Trade Union Organisations and is affiliated to the International Trade Union Confederation (ITUC). HMS is not linked to any one political party. HMS mostly works in railway, mining (coal), port and dock, and defense sectors. Out of its total membership, only 200,000 are employed in the garment sector, mostly from Delhi NCR, Punjab and Haryana States.

<http://www.hindmazdoorsabha.com>

### **National Trade Union Initiative (NTUI)**

NTUI is not associated with a specific political party and had its first conference in 2006. The Garment and Textile Workers Union and the Garment and Fashion Workers' Union are both affiliated to the NTUI.

<http://www.ntui.org.in>



## IV. LABOUR RELATED NGOS

### **Ambekar Institute for Labour Studies (AILS)**

AILS was established in the year 1976 by the Indian National Trade Union Congress (INTUC) and the Rashtriya Mill Mazdoor Sangh (RMMS). The Institute mostly focuses on conducting researches related to labour standards in India, including in the garment sector.

<http://www.ambekarinst.com/index.html>

### **Association for Stimulating Knowhow (ASK)**

ASK conducts compliance audits, remediation programmes, management system approach, research studies, as well as trainings for workers and factory management, including in the garment sector across India.

<http://www.askindia.org>

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

CARE T promotes environmental standards, sustainable development, labour standards and rights-based education in Tamil Nadu, through research, training and community awareness. In the garment sector, the organisation is focused on forced labour, especially the sumangali system, child labour and migrant workers.

<http://www.caret.info>

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

Cividep, based in Bangalore, educates workers about their rights, helps them unionise, 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.

<http://cividep.org>

### **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 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 18 years old and young women employed in camp labour. It set up the Clean Clothes Campaign Task Force in Tamil Nadu in 2000 and the TPF in 2005 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 bringing together governments, employers and workers representatives, and was established in 1919. The ILO office opened in India in 1928 and since then provides 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>

### Tirupur Stakeholders Forum (TSF)

In 2010, the Tirupur Exporters Association (TEA), the association of exporters of cotton knitwear in Tirupur, established the Tirupur Stakeholders Forum (TSF), a multi-stakeholder initiative. The initiative brings together TEA, brands, NGOs and trade unions, to understand and solve the problems related to working conditions in the garment sector in Tirupur. One of the results was the publication of the "Guidance for Migrant Women Workers in Hostel & Recruitment Process – Spinning/Garmenting Factories" in 2011.



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