Precarious Work in the H&M Global Value Chain

Asia Floor Wage Alliance (AFWA) was officially formed in 2006 and includes up to 71 organizations, which constitute a network from 17 countries across Asia, Europa and North America to represent garment industry trade unions, NGOs, consumer groups and research institutes.

The Center for Alliance of Labor & Human Rights (CENTRAL) is a local Cambodian NGO. The organization empowers Cambodian working people to demand transparent and accountable governance for labor and human rights through legal aid and other appropriate means.

SLD is a Delhi-based labour rights organisation, that believes in equitable development through social and economic well-being of labour, migrants, and women workers; and through cultural renewal among disenfranchised people. SLD is a national organisation that originated with a focus on the National Capital Region and works with partners in Uttar Pradesh, Bihar, Jharkhand, and Kerala.

The National Centre for Development Cooperation, or CNCD-11.11.11, includes nearly 80 development NGOs, trade unions and associations engaged in continuing education for international solidarity in the French Community and Community of Belgium.

The United Workers Congress (UWC) is a strategic alliance of workers that are either by law or by practice excluded from the right to organize in the United States. This national network represents a base of workers, and also regional networks and individual organizations in industries where there is no national network.

EXECUTIVE SUMMARY

On Thursday, December 10, 2015, 6000 garment workers in Phnom Penh, Kampong Speu and Kampong Som organized to protest employment practices in global value chains headed by H&M and other key international retailers. Supported by the Coalition of Cambodian Apparel Workers Democratic Union (CCAWDU), Cambodian workers sought fair wages and working conditions. In India, garment workers from six factories that produce for brands including H&M and Gap rallied in solidarity.

On May 4, 2016, these actions were joined by solidarity actions at H&M stores in 11 cities across the world. From diverse sites across the garment global production network (GPN), workers and their allies called upon brands, including H&M, to ensure their rights to earn a living wage, unionize without dismissal and resist labour law changes that undermine freedom of association, maintain poverty level minimum wages and facilitate flexible employment relations (Finster 2015).

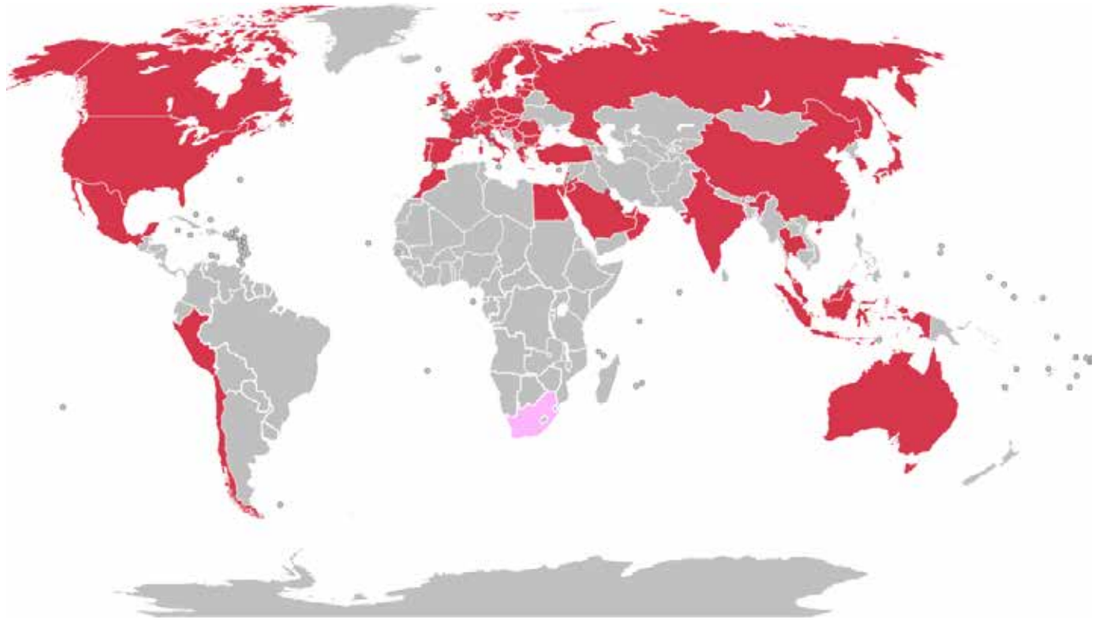
The growth of global production networks (GPNs) within the garment industry is an important source of employment in many countries. Jobs for workers at the base of the garment global value chain, however, typically entail precarious employment relationships, low wages, excessive working hours and poor working conditions (Ghosh 2015).

H&M operates in 61 markets with 3,900 stores; works with 900 suppliers representing 1,900 factories; and employs more than 116,000 employees across their global production network. (ILO 2014; Donaldson 2016a). H&M saw sales rise globally in 2015 and plans to open 425 new stores in 2016 (Donaldson 2016b). Brands like H&M wield the potential to transform working conditions through their supply chains. Recognizing their responsibility to uphold human rights at work, H&M has set themselves apart from other brands by committing to ensure fair living wages, safe workplaces and accountability for rights violations within their supply chains. These commitments stake a powerful corrective to high pressure sourcing models within the garment global production network that create overwhelming incentives for factories to reduce costs and speed production by ignoring labour standards.

According to a 2013 statement by the then global head of sustainability at H&M, Helena Helmersson, these measures will not impact consumer costs: “Wages are only one part of sourcing costs,” she explained. “We don’t think there will be any impact on prices” (Passariello 2013).

However, while projecting a public commitment to sustainability, results of H&M initiatives are yet to be seen—causing workers to question H&M’s commitment to decent work. As explained by Athit Kong, Vice President of the Coalition of Cambodian Apparel Workers Democratic Union (C.CADWU):

“H&M’s PR rings hollow to workers who are struggling everyday to feed their families. A sustainability model that is put forth and wholly controlled by H&M but is not founded on genuine respect for organized workers and trade unions on the ground is never going to result in real change for H&M production workers. Instead, it serves as a public relations facade to cover up systemic abuse.”



H&M store locations worldwide as of October 2015. Red indicates current countries and pink indicates planned expansion.
by Barthateslisa licensed under CC BY 2.0.

In recent years, the status of H&M’s commitments to human rights at work has been the subject of numerous studies by labour unions, human rights organizations and their allies—ranging from the Clean Clothes Campaign to Human Rights Watch. H&M has actively engaged critiques, providing detailed responses to documentation of rights abuses in their supply chains. In the lead up to the 105th Session of the International Labour Conference, focused for the first time on Decent work in global supply chains, this report revisits the status of H&M’s commitments to decent work through the lens of rights at work as they are protected under International Labour Organization (ILO) conventions and other instruments.

Shedding light on gaps in implementation of H&M commitments, violations of international labour standards and challenges H&M may face in upholding commitments to decent work, this report contributes new research collected through interviews with 251 workers in Cambodia and India engaged in H&M supply chains. These recent findings, collected between August and October 2015, are situated in context of both previous studies on H&M supply chains in Cambodia and India and the broader context of the global production network.

This report contributes new research collected through interviews with 251 workers in Cambodia in India engaged in H&M supply chains.

Section one provides a brief overview of global production networks in general and the garment global production network in particular. It outlines key shifts in employment relationships as production processes evolve to include several companies across multiple countries. This section also traces the concentration and distribution of control over production processes across various actors in the garment global production network.

Section two reviews H&M's public commitments to promoting decent work in their supply chains, including: the H&M Roadmap to a Fair Living Wage; Model Factory Programme; production unit disclosure; partnerships with the ILO; and the Accord on Fire and Building Safety in Bangladesh. Where possible, it includes discussions and research on the efficacy of these initiatives to date.

Section three provides a brief overview of the market share of Asian garment value chains and more focused country profiles on the Cambodian and Indian garment industries. These sections aim to contextualize empirical findings on working conditions presented in the final section of the report. This context is particularly significant since H&M sources roughly 80% of its products from Asia (Donaldson 2016a).

Section four discusses, in detail, the intensive labour exploitation and abuse faced by workers in H&M supply chains in Cambodia and India. Recent empirical findings are supplemented with evidence of rights violations drawn from existing studies. In this section the human rights violations and consequences of precarious work in the H&M supply chain are articulated thematically in order to surface the pattern of rights violations across Cambodia and India.

H&M protest on global day of action, Times Square, New York, 2016
by Sara Ziff licensed under CC by 2.0

Recommendations for the ILO at the International Labour Conference, 2016

As detailed in this report on the garment global production network (GPN), due to the scale of global trade accounted for by GVCs, there is an urgent need for global mechanisms to monitor and regulate GVCs and GPNs. The ILO—the only global tripartite institution—has a unique role to play in setting standards for all of the actors that impact fundamental principles and rights at work.

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TNCs and their suppliers have a duty to obey national laws and respect international standards—especially those pertaining to realization of the fundamental principles and rights at work. A number of ILO core labor standards, such as the Forced Labour Convention, 1930 (No. 29), Protocol to the Forced Labour Convention, 2014 and accompanying Recommendation, already protect workers in value chains. However, as this report details, changes in the modern workplace and globalization of value chains has opened up new gaps in the protection of fundamental principles and rights at work. In addition to clarifying the application of existing standards in global value chains, the ILO should set new standards and enforcement mechanisms and encourage national governments to do the same.

The ILO Tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration), 2006 provides a good starting point. However, within the MNE Declaration, MNE refers only to subsidiaries or franchises. Accordingly, GVCs and GPNs in their current form are not covered by this Declaration. The need of the hour is for the ILO to clarify and update its standards and mechanisms to protect workers employed by transnational corporations (TNCs) across vast GPNs.

The following recommendations emerge from our experience promoting rights at work in global value chains.

1. Given the well-documented and rampant exploitation of workers and resources by MNEs operating through GVCs, and noting the limits on regulation under national legal regimes, the ILO should move towards a binding legal convention regulating GVCs.

1.1. Standards under this convention must be at least as effective and comprehensive as the UN Guiding Principle on Business and Human Rights and existing OECD mechanisms, including the 2011 OECD Guidelines for Multinational Enterprises.

1.2. The Convention should include the following components, among others:

1.2.1. Imposition of liability and sustainable contracting, capitalization and/or other requirements on lead firms to ensure accountability throughout the GVC.

1.2.2. Establishment of a Global Labour Inspectorate with monitoring and enforcement powers.

1.2.3. Publicly accessible transparency and traceability provisions.

1.2.4. Specific provisions that address the

vulnerability of migrant workers on GVCs.

1.2.5. Specific provisions that address the vulnerability of women workers on GVCs.

1.2.6. Limits on the use of temporary, outsourced, self-employed, or other forms of contract labor that limit employer liability for worker protections.

2. Pursue a Recommendation on human rights due diligence that takes into account and builds upon existing due diligence provisions that are evolving under the United Nations Guiding Principles on Business and Human Rights and the 2011 OECD Guidelines for Multinational Enterprises.

3. Take the following complementary measures to protect workers employed in global value chains:

3.1. Recognize the right to living wage as a human right and establish living wage criteria and mechanisms.

3.2. Promote sector-based and transnational collective bargaining and urge countries to remove national legal barriers to these forms of collective action.

3.3. Expand work towards the elimination of forced labour, including promoting ratification and implementation of the Forced Labour Convention, 1930 (No. 29), Protocol to the Forced Labour Convention 1930 and accompanying Recommendation, 2014.

3.4. Continue programs to ensure social protection, fair wages and health and safety at every level of GVCs.

4. Convene research to inform ILO global supply chain programming, including:

4.1. Research on adverse impacts of TNC purchasing practices upon

4.1.1. Core labour standards for all categories of workers across value chains.

4.1.2. Wages and benefits with for all categories of value chain workers. This research should aim to satisfy basic needs of workers and their families.

4.1.3. Access to fundamental rights to food, housing, and education for all categories of value chain workers and their families.

4.2. Research into the range of global actors that may have leverage over GVCs including investors, hedge funds, pension funds and GVC networks that define industry standards such as Free on Board (FOB) prices.

4.3. Research into the technical advice needed by OECD government participants taking a multi-stakeholder approach to address risks of adverse impacts associated with products.

4.4. Research into mechanisms deployed by authoritative actors within GVCs that contribute to violations of fundamental principles and rights at work, including but not limited to attacks on freedom of association, collective bargaining, forced overtime, wage theft and forced labour.

4.5. Since women represent the greatest majority of garment workers, the situation of women should be urgently included in monitoring programmes to assess the spectrum of their clinical, social and personal risks.

4.6. Require an urgent, epidemiological study into deaths and disabilities resulting from conditions of work and life of garment workers. This information should be made available publicly and to international agencies.

5. Organize a Tripartite Conference on the adverse impact of contracting and purchasing practices upon migrant workers rights. This conference should focus on:

5.1. Protection of migrant rights as conferred under the UN International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

5.2. The intersection of migrant rights and ILO initiatives to promote Decent Work in Global Supply Chains.

ACKNOWLEDGMENTS

This report is one in of a series of reports, entitled Workers Voices from the Global Supply Chain: A Report to the ILO 2016. Investigation of production conditions in H&M factories in Cambodia and India was coordinated by the Society for Labour and Development (SLD).

Desk research and writing was completed by Shikha Silliman Bhattacharjee, JD. Data analysis was conducted by Ananya Basu and Vismay Basu. Primary data collection was undertaken by Joel Preston, Phnom Penh based CENTRAL, in Cambodia; and Vismay Basu, Delhi-NCR based Society for Labour and Development (SLD) in India.

This report was edited by Anannya Bhattacharjee. Recommendations for the ILO at the International Labour Conference, 2016 were formulated by a group of organizations, including the international Asia Floor Wage Alliance, Jobs with Justice (USA), National Guestworkers Alliance (USA), and Society for Labour and Development (India).

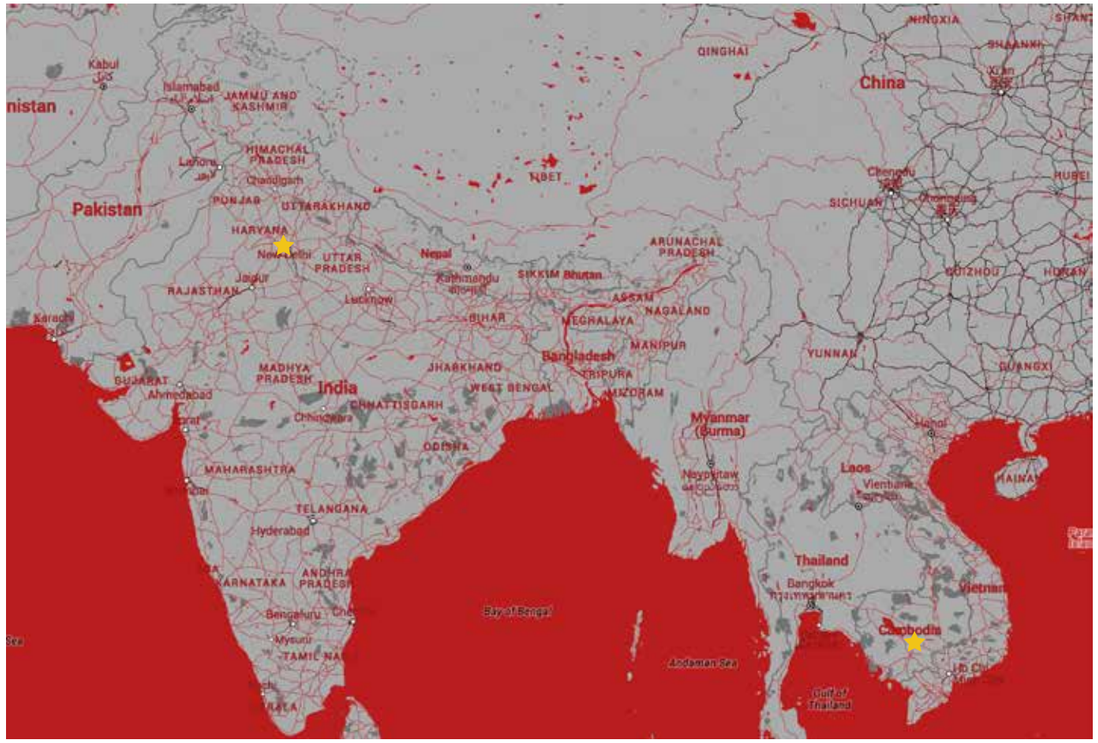
We extend gratitude to the workers who shared their time, experience and materials for the purpose of this study.

FIGURES

ABBREVIATIONS AND ACRONYMS

AFWA	Asia Floor Wage Alliance
AFWA-C	Asia Floor Wage Cambodia
CCAWDU	Coalition of Cambodian Apparel Workers Democratic Union
CCC	Clean Clothes Campaign
CENTRAL	Center for Alliance of Labor and Human Rights
GMAC	Garment Manufacturers Association in Cambodia
HRW	Human Rights Watch
ILC	International Labour Conference
ILO	International Labour Organization
ILRF	International Labour Rights Forum
MLVT	Ministry of Labour and Vocational Training
NCEUS	National Commission on Enterprises in the Unorganized Sector
NCR	National Capital Region
SLD	Society for Labour and Development
TATA	Textiles and Apparel Trade Agreement
TCLF	Textile, Clothing, Leather and Footwear
USAS	United Students Against Sweatshops
WRC	Worker Rights Consortium

METHODOLOGY



This report is based upon 251 structured interviews conducted between August and October 2015 with garment workers in Phnom Penh, Cambodia and the Delhi, National Capital Region (NCR), India

This report is based upon 251 structured interviews conducted between August and October 2015 with garment workers in Phnom Penh, Cambodia and the Delhi, National Capital Region (NCR), India. Interviews were conducted by the Phnom Penh based Center for Alliance of Labor and Human Rights (CENTRAL) in Cambodia and the Delhi-based Society for Labour and Development (SLD) in India.

Empirical findings on working conditions in H&M factories are based upon data collection and analysis of working conditions in 17 H&M supplier factories, including 12 supplier factories in Phnom Penh Cambodia and 5 supplier factories in the Delhi-NCR, India. Selection of factory units aimed to include factories with a variety of ratings under the H&M rating system on labour and environmental issues—including platinum, gold, silver and other.

Interviews lasted between 75 and 90 minutes. All worker interviews were conducted in person with full consent from workers. In order to protect the identity of workers who participated in this study, all individual names have been changed.
To ensure that workers cannot be identified based upon identifying case information, factories are referenced by company name but locations of particular production units have been removed.

Analysis of structured interviews aimed to identify violations of rights at work protected under International Labour Organization standards, national laws and the H&M Code of Conduct.

These findings have been situated in context of the global garment production networks and previous research on H&M supply chains. Secondary sources included reports on production conditions in the garment industry, academic articles and newspaper reports.

Cambodia

In Cambodia, research included investigation of working conditions in 12 H&M supplier companies (Table 1). In order to protect the identity of workers interviewed for this study, names of particular production units have been withheld. In total, we interviewed 201 workers engaged in producing H&M garments within Phnom Penh, Cambodia and surrounding areas.

Supplier	H&M rating	Number of respondents
Eastex Garment Co. Ltd.	Platinum	20
Fu Ling Computer Embroidery Co. Ltd.	Platinum	20
Seduno Investment Cambo Fashion Co. Ltd.	Platinum	20
Vanco Industrial Co. Ltd.	Gold	19
Berry Apparel Cambodia Co. Ltd.	Platinum	19
M&V (Cambodia) International Manufacturing Ltd.	Gold	15
Perfect Growth Private	Gold	15
Tak Son Cambodia (Laundry)	Gold	10
Hung Wah (Cambodia) International Manufacturing Ltd.	Silver	15
NEX-T Apparel Co. Ltd.	Silver	17
Benoh Apparel	Silver	10
Roo Hsing Garment	Other	20
		Total: 201

Table 1: Overview of study respondents in Phnom Penh, Cambodia

India

In India, research included investigation of working conditions in four H&M supplier companies (Table 2). In order to protect the identity of workers interviewed for this study, the names of particular production units have been withheld.

In total, we interviewed 50 workers engaged in producing H&M garments within the Delhi, National Capital Region (NCR).

Supplier	H&M rating	Number of respondents
Shahi Export Pvt. Ltd.	Gold	19
Maharani of India	Silver	14
Jak Group	Other	7
Orion Conmerx	other	10
		Total : 50

Table 2: Overview of study respondents in Delhi-NCR, India

Interviews with workers were conducted at worker housing colonies such as this one in Gurgaon, India.
by Society for Labour and Development

Garment workers in Cambodia travel to work
by CENTRAL

Part 1
Global garment production

This section aims to situate new empirical findings on working conditions in H&M factories in Cambodia and India within the broader context of global production networks in general and the garment global production network in particular. This basic overview outlines key shifts in employment relationships as production processes evolve to include several companies across multiple countries. It also identifies trends in concentration and distribution of control over production processes across various actors in the garment global production network.

Global production networks

The Global Production Network (GPN) is a term that describes contemporary production systems, characterized by production processes that involve several companies across multiple countries. Companies linked through GPNs are related through various legal forms, with exchanges between firms structured so that transnational corporations (TNCs) do not legally own overseas subsidiaries or franchisees but only outsource production to them. The UNCTAD World Investment Report 2013 notes the structure and prevalence of this mode of production:

Today's global economy is characterized by global value chains (GVCs), in which intermediate goods and services are traded in fragmented and internationally dispersed production processes. GVCs are typically coordinated by TNCs, with cross-border trade of inputs and outputs taking place within their networks of affiliates, contractual partners and arm's-length suppliers. TNC-coordinated GVCs account for some 80 per cent of global trade. (UNCTAD 2013)

TNC-coordinated GVCs account for some 80 per cent of global trade. (UNCTAD 2013)

As described by UNCTAD, GPNs shift market relationships between firms from trade relationships to quasi-production relationships without the risks of ownership. Within this model, TNCs drive coordinated production of goods while disbursing risk associated with market fluctuations across global value chains.

Garment global production networks

As described by the International Labour Organization (ILO), the Textile, Clothing, Leather and Footwear (TCLF) is characterized by geographically dispersed production and rapid market-driven changes (ILO 2016). Brands engage in high value market research, design, sales, marketing and financial services. They typically outsource garment production to Tier 1 companies. Tier 1 companies may, in turn, subcontract some or all of the garment production process to manufacturing companies known as suppliers. This production structure allows brands and retailers to drive coordinated production of goods by capitalizing upon new technology, relaxed regulatory frameworks and a supply of low wage labour in developing countries (Ghosh 2015). While brands and retailers do not carry out production, they drive sourcing and production patterns overseas. This production model has

been characterized as a buyer-driven value chain (Barria 2014). According to this model, the structure of garment value chains can be divided into five main segments:

Segment 1: raw material supply, including natural and synthetic fibers;
Segment 2: component supply, including yarn and fabrics;
Segment 3: production networks, including domestic and overseas subcontractors;
Segment 4: export channels established by trade intermediaries;
Segment 5: marketing networks at the retail level. (Ghosh 2015)

Firms that control design, branding and marketing (segment 5) also control sourcing decisions. Production costs are one significant factor in determining sourcing preferences. Decisions regarding how value addition activities and profits are distributed along the value chain, in turn, have a significant impact upon employers, workers and markets in producing countries. Profit generation by capitalizing upon price differentials between markets has been referred to as “global labour arbitrage”(Roach 2004).

Assembly (segment 3) is typically separated organizationally and geographically from other value generating aspects of the value chain. Product suppliers and their workers (segment 3) depend upon orders from marketing networks, firms and brands (segment 5). Tier 1 companies holding primary contracts with brands often subcontract production to smaller suppliers. At this level of the value chain, tier 1 companies compete for contracts with buyers. In a parallel process, subcontractors compete for contracts with tier 1 companies (Ghosh 2015).

Brands typically draw a distinction between their liability for authorized and unauthorized subcontracts. Unauthorized subcontractors may also be unregistered and therefore outside the purview of government regulation. Due to diminished government and brand accountability—especially among unregistered suppliers, working conditions among garment subcontractors have been found to deteriorate (Kashyap 2015). Within this structure, employers and workers engaged in assembly operations, including primary stitching and embellishment, have comparatively little negotiating power (Ghosh 2015).

Rise in employment of contract workers has been attributed to buyer purchasing practices: downward pressure on the prices paid to suppliers combined with increasingly unpredictable and extreme seasonal variation in production, together, require garment suppliers to reduce production costs.

Since 2010, garment brand and retail members of the UK Ethical Trading Initiative (ETI) have reported an increasing reliance on contract labour within garment value chains, marked by a growth in the proportion the workforce that consists of contract workers. Contract work is particularly widespread in Bangladesh, India, Pakistan and Turkey. These trends have been associated with

Wages paid to Indian garment workers leave them no choice but to live in impoverished areas at the outskirts of production hubs.
by Society for Labour and Development

the onset of the global financial crisis in 2007-2008. Rise in employment of contract workers has been attributed to buyer purchasing practices: downward pressure on the prices paid to suppliers combined with increasingly unpredictable and extreme seasonal variation in production, together, require garment suppliers to reduce production costs. Contract workers cost less to employ per unit because they often receive lower wages and rarely receive non-wage benefits, including paid leave and social security benefits. These terms of employment leave contract workers particularly vulnerable to exploitation, with poorer working conditions and a higher risk of serious abuse when compared to directly employed workers (Chan 2013).

Industrial uncertainty caused by buyer purchasing practices is displaced upon workers through flexible job contracts, employment fluctuations and downward pressure on wages.

Due to the structure of garment value chains, workers bear the brunt of global uncertainties within the industry. Industrial uncertainty caused by buyer purchasing practices is displaced upon workers through the use of flexible job contracts, unemployment due to fluctuations in production and downward pressure on wages. Obstacles to freedom of association and collective bargaining further undermine workers’ negotiation power.

Part 2

Overview of H&M initiatives to promote decent work

Brand and retail codes of conduct establishing social and environmental principles have developed in response to anti-sweatshop and consumer-driven accountability movements in Europe and the United States. In some cases, these codes of conduct have been developed through multi-stakeholder initiatives, including corporate, non-governmental organization, trade union, state and academic representatives (Barria 2014).

H&M has explicitly recognized the need to improve working conditions in their supply chains. Their public commitment to promoting decent work has been announced in a range of initiatives, including: the H&M Roadmap to a Fair Living Wage; Model Factory Programme; production unit disclosure; partnerships with the ILO and other industry stakeholders; and the Accord on Fire and Building Safety in Bangladesh [hereinafter, "Accord"]. While codes of conduct and other measures described in this report constitute declarations of intent, with the exception of the Accord, they do not generate binding legal obligations.

This section reviews H&M's public commitments to promoting decent work in their supply chains. Where possible, it includes discussions and research on the efficacy of these initiatives to date.

Sustainability Commitment

The H&M sourcing strategy commits to only allow production for H&M to take place with suppliers and in factories that sign the H&M Sustainability Commitment that outlines a code of conduct for suppliers. According to H&M, these standards apply to factories that are owned by suppliers and factories that receive subcontracts from suppliers.

According to H&M policies on monitoring and grading, new partners are required to comply with the minimum requirements of the Sustainability Commitment from the outset. They must also demonstrate the necessary willingness to work towards full compliance. When assessing a new partner, H&M policies require detailed training in the Sustainability Commitment, compliance screening and in-depth audits.

The Sustainability Commitment is discussed in further detail in Section four of this report in context of working conditions documented in factories producing for H&M (H&M 2016C).

Roadmap to a fair living wage

Articulating a powerful narrative about fairness and respect, H&M has made commitments to ensure that a fair living wage is possible for workers in their supply chains. H&M launched their roadmap to a fair living wage in 2013, committing to pay 850,000 textile workers a fair living wage by 2018. H&M explains their vision of a fair living wage in the following terms:

It has always been our vision that all textile workers should be able to live on their wage. We are focusing on our strategic suppliers to start with. Our goal is that all of them should have improved pay structures for fair living wages in place by 2018. (H&M 2016a)

The H&M roadmap towards a fair living wage considers the role of H&M together with the roles of other supply chain actors in achieving a

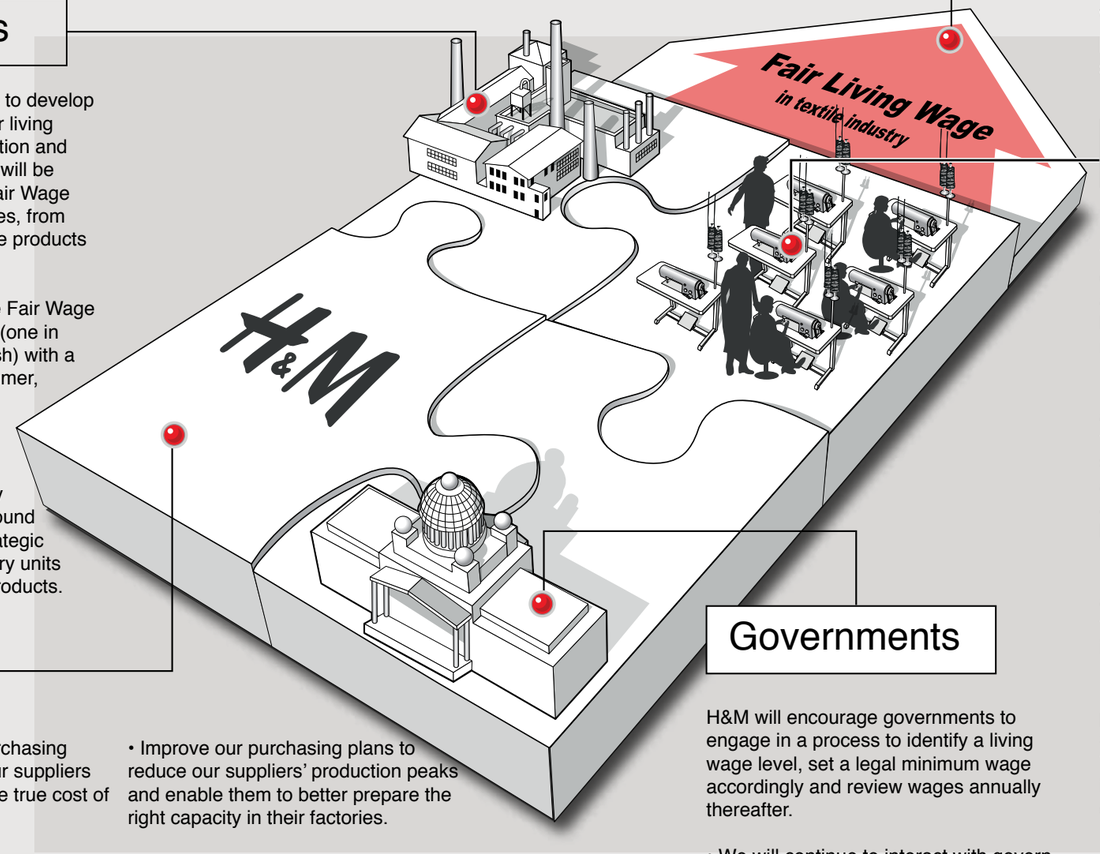
H&M´s roadmap towards a fair living wage in the textile industry

H&M has developed a roadmap based on our vision that a fair living wage covering workers basic needs should be paid by our commercial goods suppliers. It should be enabled through our purchasing practices, and based on a skilled workforce that have their wages negotiated and annually reviewed, involving democratically elected trade unions or worker representatives.

H&M will continuously measure the workers own perception of receiving a wage covering their basic needs, which will be used as a guide in our work. The holistic approach covering H&M as well as factory owners, factory employees and governments takes the wage issue to the next level within the fashion indu - stry, encouraging others to do the same.

Vision

A Fair Living Wage, covering workers basic needs, should be paid by all our commercial goods suppliers



Factory owners

H&M will support factory owners to develop pay structures that enables a fair living wage, ensure correct compensation and overtime within legal limits. This will be explored by implementing the Fair Wage Method in our role model factories, from which we will source 100% of the products during five years.

• By 2014, we will implement the Fair Wage Method in three model factories (one in Cambodia and two in Bangladesh) with a first evaluation already next summer, with the aim to be scaled up.

• H&M´s strategic suppliers should have pay structures in place to pay a fair living wage by 2018. By then, this will reach around 850 000 textile workers. Our strategic suppliers are currently 750 factory units producing around 60 % of our products.

Factory employees

H&M will support textile workers at our supplier factories to have access to education, skill enhancement and ensuring they are employed at a level matching their skills. They should also be able to bargain collectively through elected representatives.

• Starting now, we will run vocational training, a Center of Excellence, together with SIDA and the ILO to meet this need. We will train 5,000 students by 2016 and secure that they start at a wage level reflecting their skills and that they are aware of their own rights and responsi- bilities.

• We´ve started a skill development training and will secure employment for 100 supervisors through our Production Management Program in Cambodia.

• We are implementing an industrial relation project in Cambodia in cooperation with Swedish trade union IF Metall, SIDA and ILO. The aim is to strengthen the structures for industrial relations in the country and increase collective bargaining.

• By 2014, we will expand our existing social dialogue project so that 15% of H&M´s supp- liers are trained in social dialogue and have freely elected Workers Participants Commit- tees, with the intention to reach 100% by 2018.

H&M

H&M will further improve our purchasing practices to ensure it enables our suppliers to pay their textile workers for the true cost of labor. Starting 2014 we will:

• Develop our price method to ensure the true cost of labor. By doing this we secure that we pay a price which enables our supp- liers to pay their textile workers a fair living wage and reduce overtime.

• Improve our purchasing plans to reduce our suppliers' production peaks and enable them to better prepare the right capacity in their factories.

• Update our Code of Conduct to better reflect our roadmap and goals.

Governments

H&M will encourage governments to engage in a process to identify a living wage level, set a legal minimum wage accordingly and review wages annually thereafter.

• We will continue to interact with govern- ments and public agencies to advocate for annual wage revision and enforce labour legislation protecting the freedom of associ- ation. We will encourage others to do the

Figure 2: *H&M roadmap towards a fair living wage*

living wage. This strategy aims to address H&M buying practices, provide training for workers to encourage workplace representation, call upon governments to adopt better minimum wage setting processes and work with suppliers to set up improved pay systems.

The term fair living wage references and combines two distinct wage standards: a living wage standard and a fair wage standard. A living wage is protected under Article 23.3 of the Universal Declaration of Human Rights and defined as a wage on which a worker and her family can live with dignity.
While the term living wage refers to the amount that allows a family to live with dignity, the term fair wage refers to wage system within a factory. As defined by the Fair Wage Network, fair wages entail three conditions: (1) compliance with national wage regulations, including minimum wage standards, regular payment, overtime payments, provision of paid holidays and social insurance; (2) proper wage structures within a company, including appropriate wages for skill level and individual and collective performance; and removal of gender pay gaps; and (3) structures that facilitate collective bargaining (McMullen 2016; FWN 2016).

With a name that integrates these standards—without, however, referencing the fair wage paradigm—H&M uses the following definition of a fair living wage:

> A fair living wage should at the very least cover the worker and their family's basic needs and a discretionary income. This wage should be reviewed annually and negotiated with democratically elected trade unions. (H&M 2016a)

With regard to assessing basic needs, H&M

Figure 3: *Basic needs included in Asia Floor Wage calculations*

includes the following parameters: "food, accommodation, health, education, clothing and vacation/leisure. This limited list, however, does not include family care, transporation and discretionary income (CCC 2014)." On the basis of this criteria, H&M reports working closely with two factories in Bangladesh and one in Cambodia to poll workers and understand their wage needs. As of March 2015, H&M claimed that the average wage in their Cambodian pilot programmed reached USD 216 per month before overtime. H&M refused however to disclose the name of the factory. Although H&M aims to roll out this method to all other suppliers, they have not released a formula or methodology for determining living wage rates (AFW-Cambodia).

Filling this conceptual gap, the Asia Floor Wage Alliance (AFWA), a global coalition of trade unions, workers rights and human rights organizations, expands upon this definition and provides a detailed formula for calculating living wages across national contexts. The AFWA definition of a living wage specifies that living wage calculations must include support for all family members, basic nutritional needs of a worker and other basic needs, including housing, healthcare, education and some basic savings.

The Asia Floor Wage Alliance bases their

Figure 4: *Asia Floor Wage calculations consider financial dependents and corresponding responsibility of workers*

calculations on the following considerations:

-
- A worker needs to support themselves and two other consumption units. [One consumption unit supports either one adult or two children.] (Figure 3)
- An adult requires 3000 calories a day in order to carry out physically demanding work in good health.
- Within Asia, food costs amount for half of a worker's monthly expenditure.

Based upon these assumptions, the Asia Floor Wage is calculated in Purchasing Power Parity $ (PPP$). This fictitious World Bank currency is built upon consumption of goods and services, allowing standard of living between countries to be compared regardless of the national currency. In order to calculate annual Asia Floor Wage figures, the AFWA carries out regular and ongoing food basket research (AFWA 2016a).

Accounting for high inflation, Asia Floor Wage figures are calculated annually. As explained by AFWA Coordinator, Anannya Bhattacharjee:

The gap between the minimum wage and the cost of living has widened in recent years. High inflation has sent the cost of living soaring in many Asian countries, but starting salaries remain unchanged—often for several years.
(Pasariello 2013)

AFW annual wage figures are therefore calculated annually based upon up to date national food basket research. For instance, the 2015 Asia Floor Wage figure is PPP$ 1021. These wage figures are then converted into local currency (Table 3)(AFWA 2016b).

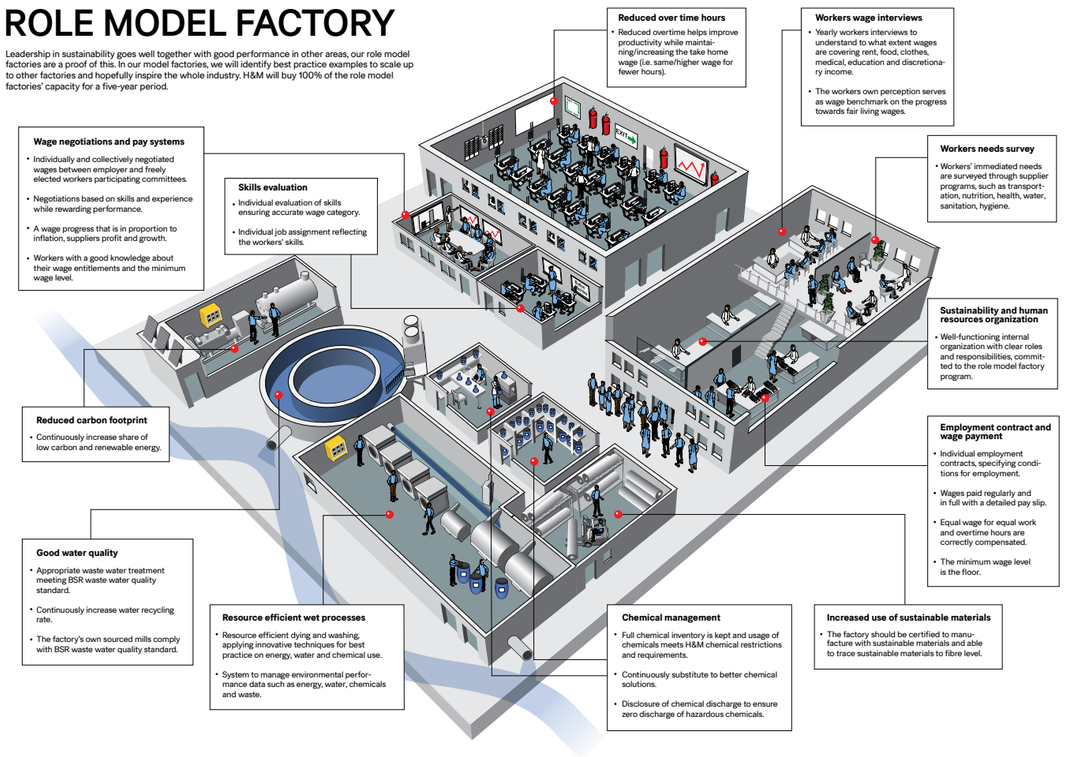
Table 3: 2015 Asia Floor Wage Figure in local currencies

Country	Asia Floor Wage in local currency
Cambodia	1,630,045 Riel
India	18,727 Rupees (INR)
Indonesia	4,684,570 Rupiah
Sri Lanka	48,608 Rupees (SLR)

The AFW wage calculation method provides an instructive model for H&M and other brands in setting living wages that correspond to workers needs and consider rising costs of living.

Model factory Programmes

H&M has announced living wage pilot programmes in three role model factories—two in Bangladesh and one in Cambodia. H&M claims that these pilot programs are testing a fair wage method, which includes encouraging workplace negotiation and developing a wage structure that rewards skill, seniority and performance. H&M reports that these practices are increasing productivity within supplier factories. H&M also reports that they are changing their approach to negotiating prices with suppliers to ensure negotiations do not have a negative impact upon wages (McMullen 2016).



Outcomes of the Model Factory Programme are impossible to verify since H&M has refused to disclose the names of model factories.

According to H&M reports, the pilot programs in Bangladesh and Cambodia have had positive outcomes. Early data released by H&M reported that overtime in the Cambodian factory was reduced to 34 hours a month, take home pay has increased and workers satisfaction with pay systems has also increased 94% (H&M 2015a).

These outcomes, however, are impossible to verify since H&M has refused to disclose either the names of model factories in Bangladesh and Cambodia or the methodology for determining wages. H&M has maintained the secrecy of these facilities despite numerous requests for information from Asia Floor Wage Alliance (AFWA) and Clean Clothes Campaign (CCC) partners—global coalitions of trade unions, workers rights and human rights organizations engaged in promoting decent work in garment global supply chains.

In addition to complete lack of transparency, the Model Factory Programme has been critiqued on the grounds that it is unlikely to scale well to the rest of the H&M production network. H&M model factory programs have allegedly been launched in factories where H&M owns 100% of the output. This type of direct production relationship is uncommon both within the H&M production network and the global garment industry where Tier 1 companies and suppliers typically produce for multiple brands—often simultaneously. This discrepancy between the context of model factory programs and the reality of garment supply chains calls into question the scalability of any fair wage models developed with the model factory programme (CCC 2016b).

Production unit disclosure

H&M started public disclosing suppliers in 2013 and updates supplier lists annually. In 2014, H&M expanded their supplier lists to include factories that are approved to perform subcontracted or designated outsourced work (Donaldson 2015). Lists of suppliers and designated subcontractors are available on the H&M website.

According to an April 2014 letter from H&M to Human Rights Watch, within Cambodia, H&M has distributed a translated copy of its suppliers' list to local unions and labour rights groups to encourage whistleblowing in cases of abusive labour practices (Kashyap 2015).

Public disclosure of suppliers provides a step toward accountability by allowing labour rights groups, the government and other parties to monitor labour rights in their direct supplier and subcontractor factories.

Partnership projects

H&M has signed partnership agreements with the International Labour Organization (ILO) and a range of sustainability initiatives and brands. These partnerships uniquely position H&M to develop models that promote decent work across supply chain contexts and play a role in setting industry standards.

The most recent H&M-ILO partnership, initiated in September 2014, aims to promote sustainable global supply chains in the garment industry. Target areas for intervention include joint initiatives on industrial relations and wages; training and skill development in factories H&M sources from; and initiatives to strengthen employers' and workers' organizations in the global garment industry. This new partnership builds upon previous cooperation between the ILO and H&M in 2005 when H&M joined the ILO Better Factories Programme (BFC) In Cambodia—now mandatory for all Cambodian garment manufacturers. H&M has also collaborated with the ILO to introduce training and skill development programmes in Bangladesh and has joined the ILO Better Work Programme which expands the BFC Cambodia Programme to cover Vietnam, Jordan and Lesotho (ILO 2016).

H&M is also aligned with a range of sustainability initiatives with varied compositions, including brands, trade unions and non-governmental organizations. These include:

- Ethical Trading Initiative (ETI)
- Sustainable Development Goals Fund
- Business Call to Action
- Sida and Swedish Leadership for Sustainable Development
- Solidaridad
- World Wildlife Fund (WWF)
- UN Global Compact (UNGC)
- Sustainable Apparel Coalition (SAC)
- Better Cotton Initiative
- Fair Wage Network
- Business for Social Responsibility (BSR)
- Buyers Forum Bangladesh
- Brands Ethical Working Group India
- CEO Water Mandate
- Leather Working Group
- Clean Shipping Group
- Transparency International Sweden
- Circular Economy 100

While the H&M website presents a long list of collaborative partnerships and research turns out numerous press announcements of declared partnerships, action taken under these collaborations is not easily available.

However, while the H&M website presents a long list of collaborative partnerships and research turns out numerous press announcements of declared partnerships, action taken under these collaborations is not easily available (H&M 2016b). Cambodia was, however, chosen as the first country in which to start the ACT Process. This process initiated by IndustriALL aims to develop industry-wide collective bargaining in Cambodia and other garment-producing countries, backed by reformed purchasing practices among brands to ensure that higher wages can be paid. In September 2015, the ACT delegation, consisting of IndustriALL and representatives from brands including H&M, Inditex, Primark and C&A explained the process in a series of meetings with suppliers, garment unions, the Labour Ministry and the Ministry of Commerce and the garment manufacturers association of Cambodia (GMAC). At the time of writing, no concrete outcomes had been realized under this process (AFW-Cambodia).

Accord on Fire and Building Safety in Bangladesh

On April 24, 2013, the Rana Plaza, an eight-story commercial building, collapsed in Savar sub-district in the Greater Area of Dhaka, Bangladesh. The Rana Plaza industrial factory fire that killed 1,139 workers and injured 2,500 more is considered the most serious fatal accident to have occurred in a textile factory in modern history. Following the devastating collapse of Rana Plaza, H&M was the first and largest buyer to sign the 2013 Accord on Fire and Building Safety in Bangladesh. The Accord is a legally-binding agreement that commits signatory brands and retailers to require their factories to undergo essential safety renovation, provide financial assistance to factories to conduct renovations as needed and stop doing business with factories that fail to undertake renovations according to deadlines established by the Accord's independent inspectorate. Accord inspections are undertaken by qualified safety engineers with in-depth expertise in fire, building and electrical safety. To date, more than 200 brands have joined the programme.

Due to failed compliance with the Accord, 78,842 garment workers in Bangladesh continue to produce garments for H&M in buildings without fire exits.

Victims trapped by rubble of Rana Plaza
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Although H&M was not producing at Rana Plaza during the disaster, they continue to make clothing in Bangladesh. H&M is currently one of the biggest apparel buyers in Bangladesh, taking in roughly USD 5 billion in garment goods each year (Donaldson 2016a).

While H&M was the first signatory of the remedial accord, the gesture to date has proved largely symbolic. According to a September 2015 report by Clean Clothes Campaign (CCC), International Labour Rights Forum (ILRF) and Worker Rights Consortium (WRC), H&M is far behind in completing the required fixes.

Focusing on the subset of contract factories that H&M has deemed the best performers in its supply chain on labour and environmental issues, the report shows that all of these factories have failed to meet mandated timeframes for repairs and the majority of all renovations have still not been completed despite lapsed deadlines. Required renovations range from designating clear fire exits to installing fire-grade doors that do not automatically lock workers into burning factories. Due to failed compliance with the Accord, as of 2015, 78,842 garment workers in Bangladesh continued to produce garments for H&M in buildings that did not have fire exits (CCC 2015).

Thousands of garment workers and their unions rally on the one-year anniversary of the Rana Plaza collapse that killed more than 1,100 garment workers.
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Part 3

Asian garment value chains

	2000	2003	2008	2013
TOTAL (in billion US$)	**197.64**	**233.23**	**363.87**	**460.27**
China	18.25	22.32	33.09	38.55
Bangladesh	2.56	2.42	3.21	5.11
Hong Kong, China	12.25	9.93	7.67	4.77
Viet Nam	0.92	1.49	2.40	3.74
India	3.02	2.71	3.01	3.66
Indonesia	2.40	1.74	1.73	1.67
Cambodia	0.49	0.69	0.83	1.11
Malasia	1.14	0.88	1.00	1.00
Pakistan	1.08	1.16	1.07	0.99
Srilanka	1.42	1.08	0.94	0.98
Export Share of top 10 Asians	**43.54**	**44.41**	**54.95**	**61.57**
Export Value of top 10 Asians	**86.06**	**103.59**	**199.94**	**283.38**

Table 3: Asian countries' share of global apparel exports, 2000-2013

Globally, Asia tops apparel exports worldwide. In 2013, more than 60% of the 460.27 billion dollars in global apparel exports originated from 10 Asian countries, including—in order of market share: China, Bangladesh, Hong Kong, Viet Nam, India, Indonesia, Cambodia, Malaysia, Pakistan and Sri Lanka (Table 3).

Concentration of garment production in Asia can be attributed to a range of factors. Low wages, government policies, trade practices, transaction time, currency appreciation and infrastructure availability all influence the location of global production network activities. For instance, China has systematically leveraged economies of scale through major investment in the infrastructure of supply-chain cities. These global supply chain hubs lower transportation costs and increase the rate at which goods enter the market. Accordingly, although labour costs are much lower in India than in China, Chinese firms retain a competitive advantage in the non-labour components of their costs (Ghosh 2015).

Due to a range of factors—including poor capacity, limited resources, infrastructural needs and, in some cases, adverse disposition towards protective labour standards—national labour standards in producing countries remains weak. Proclivity toward driving down labour standards, furthermore, is often linked to dominant global policy frameworks that prescribe labour deregulation as a prerequisite to attracting investment capital (Ghosh 2015).

The following sections provide an overview of garment value chains in Cambodia and India. These country-level overviews provide basic information on market structure and workforce demographics.

Women dominate the Cambodian garment production sector, comprising an estimated 90-92% of the industry's 700,000 workers.
Cambodian garment workers, exact location undisclosed, by Asia Floor Wage Alliance.

Cambodia

Cambodia entered the export-oriented global garment and textile industry in the 1990s with the passage of the 1993 Constitution of the Kingdom of Cambodia which established a free market in Cambodia (CCC 2016a; CCHR 2014). Between 1995 and 2006, bilateral trade agreements with the United States, the European Union and Canada spurred growth in the garment industry. With the exception of a downturn in 2008 during the global economic crisis, the industry has shown consistent growth (Kashyap 2015). Between 1995 and 2014, the sector grew 200-fold (ILO 2015).

Today, garment and textile exports are critical to the Cambodian economy. In 2013, garments accounted for 13% of the Cambodian GDP (CCC 2016a). Cambodian global exports amounted to roughly USD 6.48 billion, of which garment and textile exports accounted to USD 4.96 billon. By 2014, garment exports totaled USD 5.7 billion.

At the time of writing, top brands sourcing from Cambodia include H&M, GAP, Levi Strauss & Co., Adidas and Target.

The US, EU, Canada and Japan are the largest importers of Cambodian garments, textiles and shoes (Kashyap 2015). At the time of writing, top brands sourcing from Cambodia include H&M, GAP, Levi Strauss & Co., Adidas and Target (CCC 2016a).

The Cambodian garment industry is largely foreign-owned, with Cambodians owning less than 10% of factories (Kashyap 2015). An estimated 85% of garment factories located in Cambodia are foreign controlled, predominantly by investors from China, Hong Kong, Malaysia, Singapore, South Korea and Taiwan (Kashyap 2015; CCC 2016). Foreign owned companies have kept the production processes within Cambodia limited. The majority of factories undertake "cut-make-trim" production functions—manufacturing clothes from imported textiles based upon designs provided by international buyers. This exclusive focus on producing garments circumscribes the range of employment available to firms and workers in Cambodia (Ghosh 2015).

Phnom Penh is a hub for garment factories. However, garment production has expanded to other areas, including the adjoining Kandal province. In these areas, factories vary in size and operations, ranging from export licensed factories with up to 8,000 workers to small, unmarked factories employing fewer than 100 workers. These smaller factories largely fill subcontracts for larger suppliers. Outsourcing of production to smaller factories may be either authorized or unauthorized by apparel brands (Kashyap 2015).

Women between the ages of 18 and 35 dominate the Cambodian garment production sector, comprising an estimated 90-95% of the industry's estimated 700,000 workers.

Women between the ages of 18 and 35 dominate the Cambodian garment production sector, comprising an estimated 90-95% of the industry's estimated 700,000 workers (Barria 2014; Kashyap 2015). These numbers do not, however, include women engaged in seasonal, home-based garment work (Finster 2015; Kashyap 2015).

The garment industry has been a major source of employment for young women from rural areas who migrate for employment to garment production hubs (McMullen 2013). In a February 2012 hearing before the Permanent People's Tribunal held in Phnom Penh Cambodia, Asia Floor Wage Alliance-Cambodia (AFWA-C) reported that these internal migrants work far from their families and communities and are thereby cut off from traditional support networks. Despite their numerical majority within the garment sector, they remain within low skill level employment and rarely reach leadership positions in their unions (Barria 2014).

Workers were found to intake an average of 1598 calories per day, around half the recommended among for a woman working in an industrial context.

Malnutrition is also prevalent among Cambodian garment workers. Data gathered by tracking monthly food purchases by 95 workers employed in a range of garment factories in Cambodia, compared with recommended amounts and workers' Body Mass Index (BMI), revealed that workers were found to intake an average of 1598 calories per day, around half the recommended among for a woman working in an industrial context (McMullen 2013).

Sexual harassment is a significant concern for women workers but due to lack of legal awareness, women rarely if ever seek access to justice in cases of abuse (Barria 2014).

Labour protections

Article 36 of the 1993 Constitution of Cambodia provides for basic labour rights, including the right to freely chose employment, equal pay for equal work, recognition of household work, the right to obtain social security and other social benefits and the right to form and to be members of trade unions.

The Cambodian Labour Ministry is responsible for establishing policy standards and engaging in monitoring and compliance. The 1997 Cambodian Labour Law governs all garment factories, irrespective of their size. Provisions of the 1997 law regulate working conditions in factories, including protection against discrimination, wages, overtime work, minimum age, pregnancy entitlements, leave and occupational health and safety standards. The Labour Ministry has also issued model internal factory regulations. Despite these protective measures, enforcement of these standards is weak. This is due in part to inefficient labour inspections, corruption and rapid expansion of the number of factories in Cambodia (Kashyap 2015).

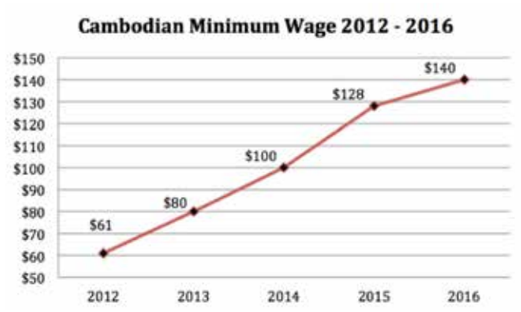

Figure 5: Progressive increase in Cambodian minimum wages, 2012-2016

A 2011 government regulation outlines a set of permission and notifications for suppliers engaged in subcontracting. The government also set up an inter-ministerial commission comprising members drawn from Labour, Commerce and Interior Ministeries to trace unregistered subcontractor factories and ensure labour compliance. Under these guidelines, factories with export licenses subcontracting to unregistered factories can face temporary suspension of their export licenses and repeat offenders may have their licenses evoked (Kashyap 2015).

In October 2015, the Cambodian government announced a revised minimum wage of USD 140 per month. This marked increase from the minimum wage of USD 66 in November 2011 is the result of significant wage protests in recent years that succeeded in gaining progressive minimum wage increases between 2011 and 2015 (Figure 5). Wages are also increased through the addition of bonuses, including transport, attendance, health and seniority bonuses (McMullen 2016). Current minimum wages, however, still fall short of the USD 177 per month called for by garment workers and unions.

Better Factories Cambodia

In 1999, Cambodia signed the Textiles and Apparel Trade Agreement (TATA) with the United States, under which the United States imposed quotas to imports from Cambodia. Under TATA, Cambodia's import quotes were to be increased annually in exchange for a gradual improvement in working conditions in the factories, in compliance with domestic and international labour laws and standards. In 2001, in order to monitor compliance with TATA, the International Labour Organization (ILO) created Better Factories Cambodia (BFC). BFC, a third-party monitor, is tasked with monitoring factories with an export license. Although TATA expired in 2004, the BFC continues to monitor compliance with labour laws and standards within the garment industry. Participation in the BFC monitoring programme is required in order to hold a government export license (CCHR 2014). According to January 2015 data, BFC monitors 536 garment and 12 footwear factories (Kashyap 2014).

BFC publishes an overview of working conditions within factories through synthesis reports. Factory-level monitoring reports are made available to factories free of cost and international brands for a cost. Third parties, including labour unions and NGOs are unable to access monitoring reports unless the factory authorizes access. Labour rights groups have called for greater transparency in BFC monitoring and reporting. In March 2014, BFC launched a Transparency Database that publicly names 10 low compliance factories every three months.

Brands can participate in BFC by endorsing BFC, purchasing monitoring reports, employing BFC training and advisory services and joining the BFC buyers forum—a platform that brings together buyers, government authorities, factories and unions to discuss key concerns and possible ways forward.

BFC has been upheld as a model for the IFC-ILO Better Work Programme that operates in other garment producing countries, including Vietnam, Indonesia, Bangladesha and Haiti. Although BFC monitors some subcontractors that supply to export licensed factories, mandatory monitoring is limited to export-oriented factories (Kashyap 2015).

Garment Manufacturers Association in Cambodia

In 1999, the Garment Manufacturers Association in Cambodia (GMAC) was established with the expressed purpose of increasing collaboration between all stakeholders, including the Cambodian government, to create a better business environment. GMAC was officially registered with the Ministry of Social Affairs, Labour, Veteran and Youth Affairs as an employer organization. In 2014, GMAC members included 593 different garment and footwear factories operating across Cambodia. In practice, GMAC acts as a powerful lobby for garment manufacturers to influence the Cambodian government to implement business friendly policies and legislation (CCHR 2014).

India

Since the adoption of liberalized economic policies during the economic reforms of 1991, the Indian export garment industry has emerged as one of the leading industrial segments in the Indian economy. Export earnings of the apparel industry alone were valued at USD 15.7 billon in 2014 and combined textile and apparel export earnings were valued at USD 40 billion. In 2013, textiles and clothing contributed 4% to the gross domestic product. In 2014, the Indian textile and garment industry employed 45 million workers. Despite the significant segment of Indian workers employed in the garment industry, national level data on economic and social profile of the garment workforce remain alarmingly thin (Kane 2015).

Today, the major hubs of garment manufacturing

In 2014, the Indian textile and garment industry employed 45 million workers.

are located in the industrial clusters of the Delhi-National Capital Region (NCR), Bangalore in Karnataka, Ludhiana in Punjab, Mumbai in Maharashtra, Jaipur in Rajasthan, Kolkata in West Bengal and Tirupur in Tamil Nadu (Roy 2015).

A majority of workers are migrants who migrate to the industrial clusters from Andhra Pradesh, Bihar, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal (ICN 2016). For instance, up to 80% of garment workers in Bangalore are believed to be migrant workers (Bain 2016). Despite the staggering presence of low wage migrant workers in the unorganized sector and their significant economic contributions, there are large gaps in government and civil society services to protect their rights. For instance, India's Inter-State Migrant Workmen Act, 1979, aims to regulate

working conditions but is inadequate and unimplemented, with no gender perspective (Roy 2015).

Modernization of the Indian textile industry has been pursued vigorously since the mid-1980s with the elimination of the licensing regime, quotas, and quantitative restrictions in an attempt to attract state-of-the-art machinery and technology, know-how and skill sets from abroad. The massive drive towards modernizing the textile industry has gone hand-in-hand with firms resorting to widespread informalization of the workforce. Within the textile industry, this trend has been most apparent in the ready-made garment industry, which has become a leading outsourcing destination for TNCs over the past two decades (Sridhar 2014).

Approximately 60% of garment workers in India are women, although workplace demographics shift depending upon the region (Kane 2015). Long working hours, hazardous working conditions, lack of basic services such as first aid, drinking water and sanitation affect women workers more severely than men (Chen 2007). Women workers

Long working hours, hazardous working conditions, lack of basic services such as first aid, drinking water and sanitation affect women workers more severely than men

are also particularly vulnerable to lewd comments, sexist taunts and other forms of harassment from supervisors and male employees. Extended hours in the informal garment sector also places women workers in extremely unsafe and precarious scenarios. They must travel at night through poorly lit areas where they face growing incidences of rape, sexual assault and physical violence. Women workers are also rarely given sick leave and denied pay during maternity leave in violation of the Maternity Benefit Act, 1961. The vulnerability of unorganized sector women garment workers is heightened since most are from socially weaker or marginalized sections of the society. Their ability to bargain collectively is further undermined by high levels of labour mobility within the garment sector.

Labour protections

Proliferation of unorganized work within India's garment sector has led to a sharp increase in the number of precarious workers engaged in work that was once protected. Common employment practices to transform protected work into precarious work include use of short-term contracts, casualization, use of labour supply agencies and employment of foreign and domestic migrant workers. These employment strategies are also used to restrict collective bargaining and reduce the bargaining power of unions. As a result, jobs that were once associated with regulated wages and labour standards governing paid leave, maternity benefits, workplace safety, retirement and other non-wage benefits are now uncertain, unpredictable and risky for workers.

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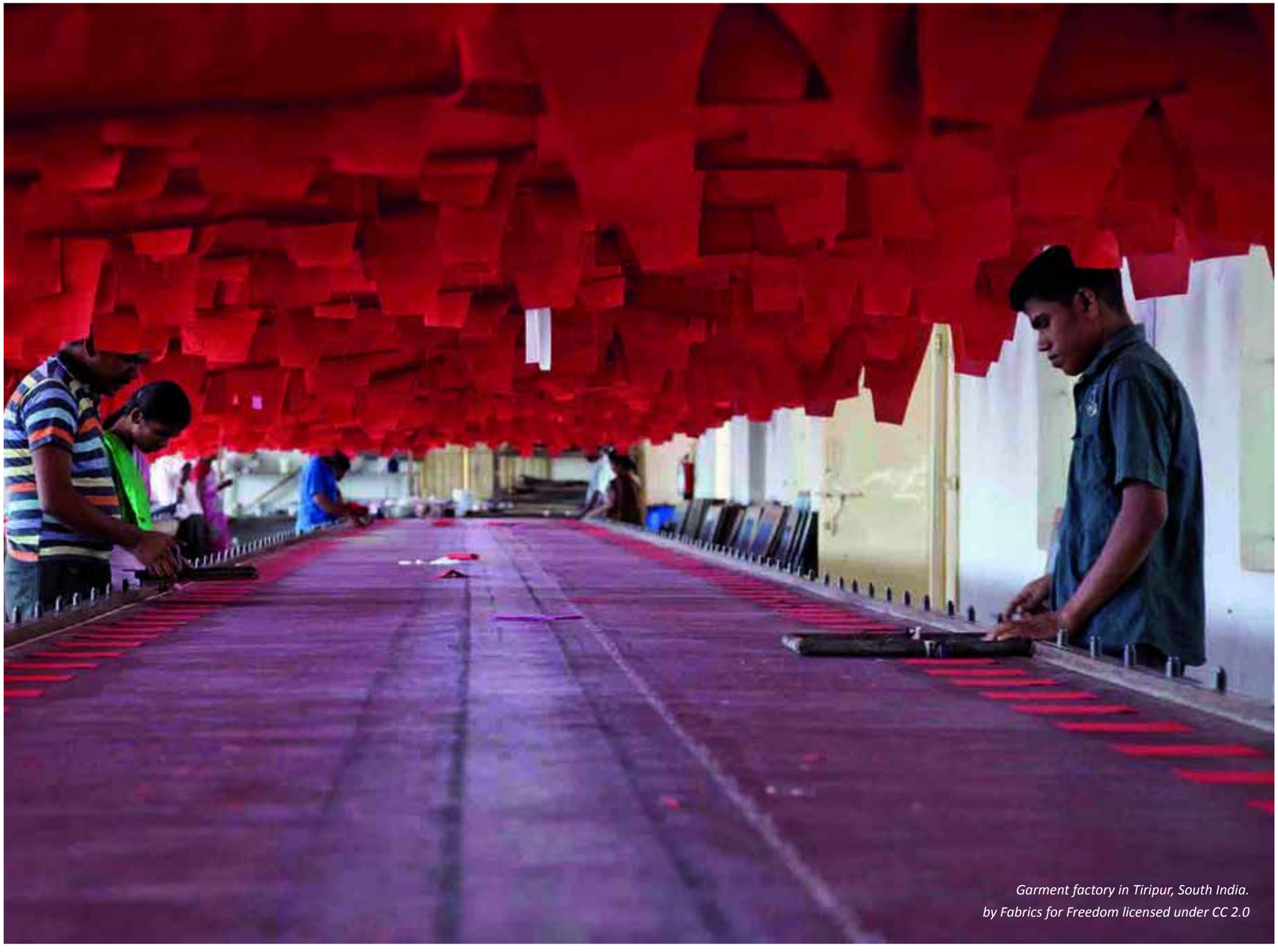
In 2015, the Indian government proposed a series of labour laws changes that would further

In 2015, the Indian government proposed a series of labour laws changes that would further weaken protection for workers in the garment industry.

weaken protection for workers in the garment industry. The proposed 2015 Draft Code on Wages dilutes protective standards, including minimum wage standards, prohibitions on gender-based discrimination in remuneration and protected bonuses; opens the door to rights abuses, including arbitrary and illegal wage deductions and forced labour; and undermines accountability by dismantling labour law inspection and accountability mechanisms, restricting the functioning of workers organizations and trade

unions and systematically undermining access to justice (Bhattacharjee 2016).

The proposed 2015 Draft Code on Industrial Relations undermines the rights of trade unions by creating barriers to registration, imposing restrictions on union governance structures, reducing obstacles to canceling union registration and prohibiting strikes and lockouts. Workers are also increasingly vulnerable to retrenchment and changes in service without prior notice. The 2015 Draft Code on Industrial Relations simultaneously weakens accountability for upholding labour standards by diluting government inspection authority, removing existing arbitration forums and appeals mechanisms and lowering incentives to speedily resolve industrial disputes. Finally, standing orders—establishing conditions and regulations—no longer apply to establishments with less than 100 workers. Standing orders, moreover, can now be established without workers' input as previously required under the principle act (Bhattacharjee 2016).



Garment factory in Tiripur, South India.
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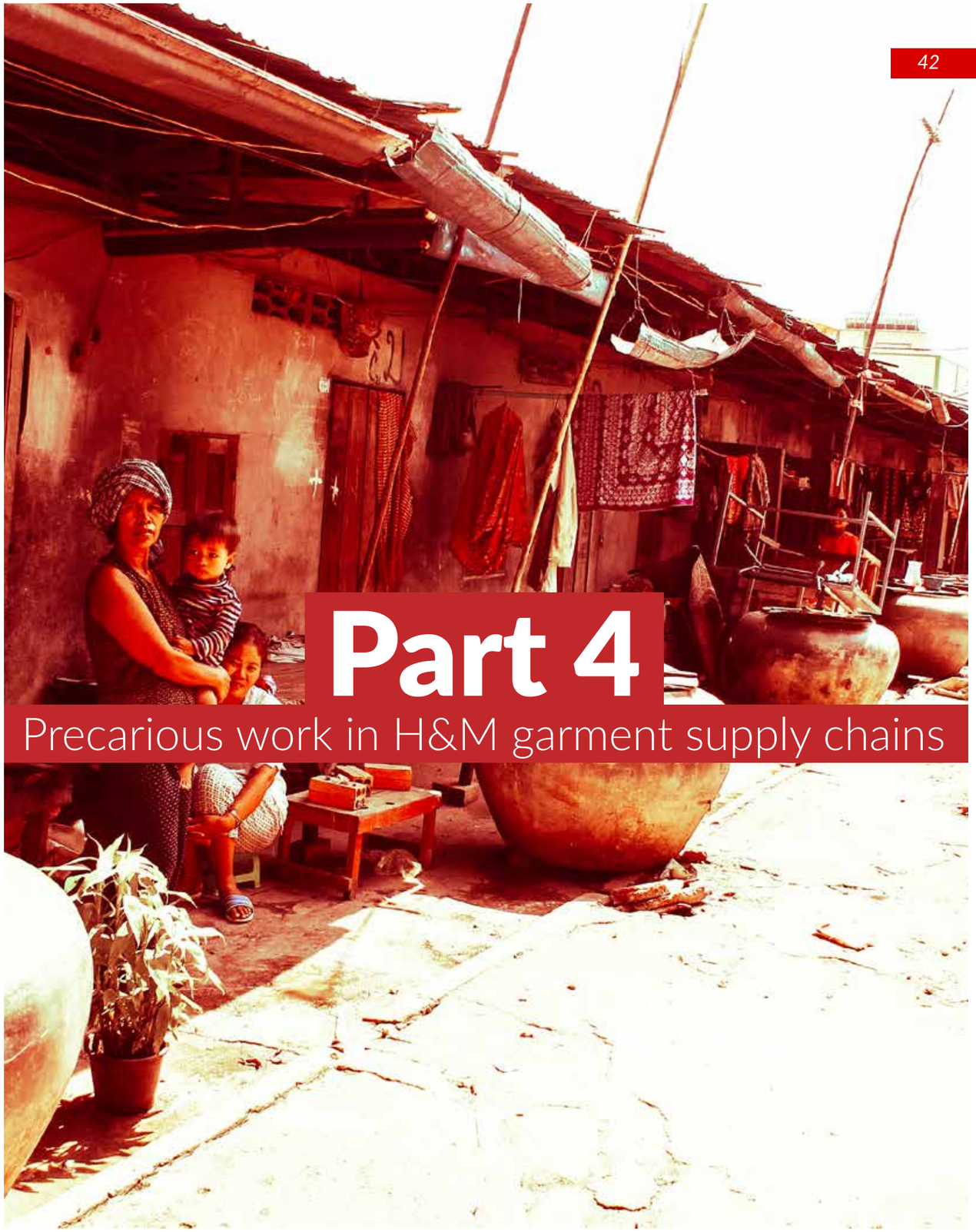

Part 4

Precarious work in H&M garment supply chains

The term precarious work refers to employment that is uncertain, unpredictable and risky from the perspective of the worker (Kalleberg 2009). As employers within the H&M supply chain seek to easily adjust their workforce in response to supply and demand conditions, they generate more non-standard work. Suppliers, in turn, adjust to increased risk through precarious employment relationships characterized by low wages and temporary work.

Proliferation of precarious work has a far-reaching impact upon the nature of work and workplaces and the gender-based distribution of work. Consequences of precarious work include greater economic inequality, insecurity and instability among workers. These forces have severe impacts on workers lives and their roles within their families and communities (Kalleberg 2009).

H&M has set themselves apart from other brands by publicly committing to ensure decent work across their supply chain, including by regulating rights abuses perpetrated by subcontractors and ensuring that their purchasing practices facilitate fair living wages for workers. This study seeks to identify gaps in implementation of these commitments by identifying persistent violations of rights at work within H&M value chains in Cambodia and India. It draws upon evidence of rights violations collected through 251 structured interviews conducted between August and October 2015 with garment workers in Phnom Penh, Cambodia and the Delhi, National Capital Region (NCR). The information from these interviews is supplemented by evidence of rights violations documented in recent studies and news reports.

Within this section, human rights violations and violations of rights at work are articulated thematically in order to surface the pattern of rights violations across Cambodia and India. As the *lex specialis* or specialized law in this area, this study uses ILO labour standards protecting workers as a primary benchmark to identify rights violations. The iteration of these rights violations across Cambodia and India suggests the structural nature of these abuses, reproduced across contexts and integrally linked to the structure of the garment GVC.

Temporary and contract workers

The ILO Termination of Employment Convention, 1982 (No. 158) and Termination of Employment Recommendation, 1982 (No. 166) govern the use of short-term contracts. These instruments call upon states to ensure that contracts for specific periods are not used to diminish protection against unfair termination. Instead, fixed term contracts should be limited to conditions where the nature of work, circumstances or interests of the worker require them. In instances where short-term contracts are renewed one or more times, or when they are not required, states are instructed to consider fixed term contracts as contracts of indeterminate duration (R166, Art. 3).

In order to curb arbitrary dismissals, states are required to implement safeguards including written warning followed by a reasonable period for improvement. Where an employer needs to terminate a worker due to economic, technological, structural or other like considerations, these decisions should be made according to pre-defined criteria that consider the interests of the worker as well as the employer (R166, Arts. 8, 23). Although neither Cambodia nor India has ratified Convention No. 158, this

convention and corresponding recommendation provide significant guidance on emerging international norms governing termination of employment.

Temporary and contract employment relations are common modes of maintaining a precarious workforce across global production networks.

Temporary and contract employment relations are common modes of maintaining a precarious workforce across global production networks. Short-term contracts make it easier to hire and fire workers. Precarious employment relationships with workers engaged in labour intensive processes have allowed employers within the garment GVC to ensure that labour costs are not expended during cycles when production wanes.

Illegal use of short-term contracts is common in the Cambodian and Indian garment industries—including in H&M supply chains. Threats of non-renewal undermine workers' ability to demand safe workplaces, exercise their rights to freedom of association and refuse overtime work. As a result, illegal use of short-term contracts undermines ILO core labour standards protected under the Declaration on Fundamental Principles and Rights at Work, including the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and Right to Organize and Collective Bargaining Contention, 1949 (No. 98).

H&M's 2008 Guidance for Implementation of Good Labour Practices explicitly addresses a range of issues related to contract duration and employment security. The 2008 Guidance advises that an employment contract must never include clauses stating conditions that are below the legal requirements. It also explicitly states that contracts may not be used as a means to restrict the worker's right to compensation and or employment security. Finally, the Guidelines specify that short-term contracts may not be used as a measure to deprive workers of social benefits. In March 2015, H&M released a statement indicating that they intend to adopt stricter requirements for suppliers, particularly where short-term fixed labour contracts and undeclared facilities are concerned. In response to the Human Rights Watch Report, "Work faster or get out," documenting labour rights abuses by subcontractors producing for the H&M supply chain, H&M wrote: "We recognize that the frequent use of short term, fixed duration contracts, in the Cambodian garment industry constitutes an illegal breach of workers' rights, which needs to be addressed by us and other buyers"(Donaldson 2015).

Cambodia

Under Cambodian labour law, factory owners can either engage workers on undetermined duration contracts (UDCs) or on fixed duration contracts (FDCs) that specify a contract end date. Factory managers can issue FDCs and renew them one or more times for up to two years. If an FDC is extended so the total period of the contract is more than two years, then the contract will automatically turn into a UDC.

FDCs and UDCs confer workers with distinct benefits upon termination:

An FDC terminates on a specific end date, or earlier with the agreement of both parties or in cases of serious misconduct or "acts of god." If an employer prematurely terminates an FDC for any other reason, the employee is entitled to remuneration equal to the wages she would have received until the natural end of the contract. If the period of an FDC is more than six months, employees are entitled to notice prior to termination.

UDCs can be terminated at will by the employer or employee, but are subjected to specific notice periods based upon the length of time the employee worked. During these prescribed notice periods, the worker is entitled to two days of leave per week, with full payment, to search for new employment. If a UDC is terminated without notice or without compliance within specified notice periods, the employee is entitled to receive wages and benefits equal to those they would have received during the notice period.

The UDC is distinct from the FDC because it fundamentally safeguards employees against unemployment by providing supported transition to alternate employment.

According to Better Factories Cambodia (BFC), however, factories persist in using FDCs beyond the two-year duration. BFC reported a drop in factory compliance with the two-year rule on FDCs from 76% of factories surveyed in 2011 to 67% of factories surveyed in 2013-2014. Since 2011, BFC has also consistently found that nearly one third of all factories in each survey period used FDCs to avoid paying maternity and seniority benefits (BFC 2014). Employers also use threats of nonrenewal of such agreements to pressure workers into non-voluntary overtime (CCHR 2014).

Cambodian workers have challenged the abusive use of FDCs in collective disputes before the Arbitration Council. The Council has consistently ruled that according to article 67 of the 1997 Labour Law, factories cannot engage workers on FDCs beyond two years and that if they do, such workers are entitled to the same benefits and protections as workers on UDCs. The Garment Manufactureres Association in Cambodia (GMAC) has contested this interpretation of the 1997 Labour Law.

In response to inquiries from Human Rights Watch in 2014, H&M representatives told Human Rights Watch that in 2015, their suppliers would be required to adhere to the Arbitration Council ruling on the use of FDCs and that failure to do so would be treated as a violation of H&M's Code of Conduct and factored into internal audit processes (Kashyap 2014).

Among the 11 H&M supplier factories in Phnom Penh surveyed for this study, 9 continued to employ workers on fixed duration contracts.

Investigations for this study, conducted between August and October 2015, found that among the 11 H&M supplier factories in Phnom Penh surveyed for this study, 9 continued to employ workers on fixed duration contracts. Workers unions also consistently cited short-term duration of contracts as a significant workplace challenge. Out of 42 workers employed on fixed duration contracts, 28 did not receive social security, maternity or seniority benefits.

According to CENTRAL, as of December 2015, 31 out of 72 H&M suppliers continued to use illegal contracts. This is despite a March 18, 2015 promise from H&M that under a new internal policy for suppliers, all fixed duration contracts for Cambodian workers with at least two years

As of December 2015, 31 out of 72 H&M suppliers continued to use illegal contracts.

seniority would be converted to contracts of limited duration by the end of 2015. If enforced, CENTRAL estimates that this new policy will benefit 57,979 workers in 31 factories (AFW-Cambodia 2015).

India

According to India's National Commission on Enterprises in the Unorganized Sector (NCEUS), within the garment industry, hiring workers on a regular contract is on decline while short-term and irregular contracts are emerging as the basis of most new recruitment in the sector. These employment trends have led NCEUS to characterize garment workers as "informal workers in the formal sector," appropriately accounting for home-based work, daily wage work and contractual labour. (Pratap 2015; Sridhar 2014).

Use of contract labour is most pervasive in Delhi-NCR with an estimated 60-80% of the garment workforce employed as contract workers.

Use of contract labour is most pervasive in Delhi-NCR with an estimated 60-80% of the garment workforce employed as contract workers. Casual and contract workers lack job security, social security benefits and freedom of association. This facilitates the sidestepping of statutory obligations by employers and creates a constant state of insecurity for workers (Chan 2013).

All 4 H&M supplier factories surveyed in Delhi-NCR for this study employed contract workers.

Investigations conducted between August and October 2015, found that all 4 H&M supplier factories surveyed in Delhi-NCR for this study employed contract workers. For instance, within Maharani of India—a silver rated H&M supplier—the vast majority of workers are hired as contract workers. In one unit of Maharani, of the 14 production lines, no more than 4 lines are comprised of salaried workers. The remaining 10-11 lines are filled by workers hired through intermediary labour contractors and paid by piece rate. These employment practices facilitate arbitrary termination that deprives workers of job security, pension, healthcare, seniority benefits and gratuity. Arbitrary termination or high turnover seriously interferes with exercise of freedom of association.

For instance, within Jak Group, one of the H&M supplier factories investigated for this study, workers in Khandsa, Haryana, experienced sudden layoffs in September 2015. At the time of investigation, Jak held 6 production units in Khandsa, Haryana—identified as Plots number 7, 293, 342, 344, 365 and 704. In September 2015, Plot 7 was shut down due to low orders. All workers employed at Plot 7 were terminated and given their dues. Just 25 days later, Jak reopened Plot 7 and hired workers from Plot 342 in place of terminated workers. Plot 342 workers joined Plot 7. As a result of this manipulation, Plot 7 workers lost their seniority and gratuity and the corresponding ability to seek wages corresponding with their tenure with Jak Group. Plot 7 workers who had formed a union were scattered, disrupting their capacity to exercise their right to freedom of association and engage in collective bargaining.

Workers employed by Jak Group also reported that through various manipulations, workers are routinely required to terminate employment after 8-10 months and rejoin as new workers. This process systematically denies workers access to benefits associated with seniority—including raises and gratuity.

Wage related rights abuses

The ILO Protection of Wages Convention, 1949 (No. 95) aims to guarantee payment of wages in a full and timely manner, whether fixed by mutual agreement, national law or regulation; or payable under a written or unwritten employment contract. The Convention applies to all persons to whom wages are paid or payable. Workers have to be informed of the conditions of their employment with respect to wages and the conditions under which their wages are subject to change.

The ILO Minimum Wage Fixing Convention, 1970 (No. 131) and Minimum Wage Fixing Recommendation, 1970 (No. 135) call for a minimum sum payable to workers that is guaranteed by law and fixed to cover the minimum needs of workers and their families. Under the Minimum Wage Fixing Convention, 1970 (No. 131) minimum wages should be established for groups of wage earners in consultation with employers' and workers' organizations and enforced by law. Lack of inclusion of wage standards in ILO core labour standards constitutes a serious gap in protections. With explicit reference to these international standards, the H&M Sustainability Commitment establishes standards protecting payment of wages:

> Wages must be paid regularly, on time, and must reflect the experience, qualifications and performance of the employee. H&M's minimum requirement is that employers shall pay at least the statutory minimum wage, the prevailing industry wage or the wage negotiated in a collective agreement, whichever is higher. All other types of legally mandated benefits and compensations shall be paid. No unfair deductions are allowed, and the employee has the right to a written specification of how the wage has been calculated." (H&M 2015b)

In a 2015 public statement in response to the Human Rights Watch Report, "Work faster or get out," documenting labour rights abuses by subcontractors producing for the H&M supply chain, H&M noted: "We are evaluating and further improving our purchasing practices to ensure it enables our suppliers to pay a fair living wage and reduce overtime. Our purchasing practices should enable our suppliers to pay a fair living wage" (Donaldson 2015).

This study found that workers producing for H&M did receive minimum wages. These wages do not, however, constitute living wages despite meeting industry standards.

Table 4: Average wages at H&M Gold and Platinum suppliers in Cambodia, USD, July 2015

Supplier and rating	Basic wage	Overtime pay	Holiday and Sunday pay	Bonuses	Average total take home pay
Gladpeer (gold)	128	20.03		24	172.03
Perfect (gold)	128	15.64		26.38	170.02
M&V International (gold)	Workers paid by piece rate at an average of USD 6.87/day	18.22	19.7	32.67	219.11
Eastex (platinum)	126.33	31.66	38.42	24.96	221.38
Seduno (platinum)	124.06	23.08	23.08	23.55	171.68
Vanco (platinum)	128	15.80	15.8	29.80	173.60

Source: McMullen 2016, based upon 51 interviews with workers from six top H&M supplier factories.

Cambodia

The Cambodian Labour Law 1997 guarantees a minimum wage that will ensure workers a decent standard of living compatible with human dignity (Article 104) and equal pay for equal work (Article 106).

At the time of writing, Cambodian minimum wages were USD 140 per month—short of the USD 160 per month demanded as a statutory minimum by garment workers and their unions (AFW-Cambodia 2015). While statutory minimum wages in Cambodia fell below workers demands, workers did earn concessions allowing them to increase their wages through addition of bonuses (McMullen 2016).

According to 2015 AFW annual PPP$ wage figures, calculated based upon up to date national food basket research, a living wage sufficient for workers in Cambodia amounts to 1,630,045 Riel or USD 326—more than double the wages afforded workers under the current Cambodian minimum wage. This rate includes support for all family members, basic nutritional needs of a worker and other basic needs, including housing, healthcare, education and some basic savings.

Average wages calculated among 6 platinum and gold H&M suppliers in July 2015 (Table 4), while exceeding minimum wage standards fell far below AFW living wage calculations. Wage levels ranging from USD 170-221 per month included minimum pay and transportation, attendance, health and seniority bonuses. Average take home pay came in at $187.97 a month but workers estimated they needed $230 a month to live with dignity (McMullen 2016).

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India

At the time of writing, the Haryana government—responsible for setting wages in the Gurgaon garment manufacturing hub within Delhi-NCR—had recently raised minimum wages for unskilled labour, including garment workers, to INR 7,600 [USD 114] per month.

A living wage sufficient for workers in India amounts to INR 18,727 [USD 282.78] per month—more than double the wages afforded workers under the current Haryana minimum wage.

According to 2015 AFW annual PPP$ wage figures, calculated based upon up to date national food basket research, a living wage sufficient for workers in India amounts to INR 18,727 [USD 282.78] per month—more than double the wages afforded workers under the current Haryana

A living wage sufficient for workers in India amounts to INR 18,727 [USD 282.78] per month—more than double the wages afforded workers under the current Haryana minimum wage.

Garment workers in Gurgaon, India live near an open sewer drain
Society for Labour and Development

minimum wage. This rate includes support for all family members, basic nutritional needs of a worker and other basic needs, including housing, healthcare, education and some basic savings.

Faced with non-implementation of the revised Haryana minimum wage, on April 28, 2016, garment and automobile sector workers demanded implementation of minimum wages and an end to contract labour. Workers marched from the District Labour Court to the office of the Additional Labour Commissioner (NCR) to demand wage protection.

The march was carried out by the Garment and Allied Workers Union (GAWU) and other unions, including the Centre for Indian Trade Unions (CITU), All-India Trade Union Congress (AITUC), Bharatiya Mazdoor Sangh (BMS), AICCTU and Hero Motor Corps Union. Women workers' collectives including Nari Shakti Manch and Gharelu Kamgaar Sangathan also took part in the march.

Workers in Jak Group and Maharani factories reported that they received their wages on time, transferred to salary accounts. However, the amount they receive adequate compensation

Garment workers in Haryana, India, including H&M supply chain workers, demand an implementation of minimum wages and an end to contract labour.
by Society for Labour and Development

under Indian wage law. Workers in both Jak Group and Maharani reported that they received single rather than double over time payment—despite being routinely required to work up to 17 hours a day, or 8 overtime hours a day.

Protesting these working conditions, facilitated by contract and piece rate hiring practices, workers engaged by Shahi Export Pvt. Ltd., Maharani of India, Jak Group and Orion Conmerx—including gold and silver rated suppliers to H&M—participated in the march to demand enforcement of minimum wages and an end to contract labour.

Hours of work

The ILO prohibits excessive hours of work and inadequate periods of rest on the grounds that such conditions damage workers' health and increase the risk of workplace accidents. Long working hours also prohibit workers attending to family and participating in the community. ILO standards on working time provide a framework for regulating hours of work. Relevant standards include: the Hours of Work (Industry) Convention, 1919 (No.1); Weekly Rest (Industry) Convention, 1921 (No. 14); Holidays with Pay Convention (Revised), 1970 (No. 32); Night Work Convention, 1990 (No. 171); and Part-Time Work Convention, 1994 (No. 175).

The H&M Sustainability Commitment specifies that working hours must not exceed the legal limit and must never exceed 48 hours per week. In cases in which overtime limits do not exist, overtime should not exceed 12 hours per week. The Sustainability Commitment requires that overtime work be voluntary and compensated consistent with national legal standards. Piece rate work is also entitled to overtime compensation. The Sustainability Commitment also entitles employees to one day off in every 7-day period (H&M 2015b).

Use of production targets and piece rate wages create sustained pressure among workers to meet targets at the expense of taking breaks to rest, use restrooms and even drink water. Across Asian global value chains, workers in divisions ranging from sewing, trimming excess thread, quality checking and packaging are routinely assigned production targets. Many are also paid by piece rate.

Encouraging violation of international labour standards governing hours of work, production targets and piece rate systems also incentivize excessive hours of work and inadequate periods of rest. These conditions damage workers' health, increase the risk of workplace accidents and infringe on freedom of association.

Cambodia

The Cambodian Labour Law, 1997 defines overtime work as work beyond the regular eight-hour day. Regulations governing overtime require that it be limited to exceptional or urgent work and limited to twelve hours per week—or approximately two hours per day. Regulations also stipulate that overtime should be voluntary and employers should not penalize workers who refuse overtime work. Required overtime rates differ based upon whether overtime is performed during the week, a weekly day off (typically Sunday) or on a public holiday (Articles 137, 139, 146, 166).

Almost all garment workers in Cambodia exceed the 48-hour work-week, often without taking paid evening breaks during overtime shifts. According to a 2015 survey of Consumption Expenditure of Garment and Footwear workers in Cambodia, prepared by the Cambodian Organization for Research and Development and the Solidarity Center, 87% of garment workers surveyed

engaged in overtime work in order to meet their basic needs (Finster 2015).

The financial imperative of working overtime due to the persistence of minimum wage standards below living wage standards can be viewed as a form of economic coercion that leads to involuntary or forced overtime.

Consistent with these findings, all 201 workers in factories who produce garments for H&M that were surveyed for this study reported working 2 overtime hours per day. The financial imperative of working overtime due to the persistence of minimum wage standards below living wage standards can be viewed as a form of economic coercion that leads to involuntary or forced overtime.

Researchers have also documented more direct forms of coerced or forced overtime in H&M supply chains. Findings released by Human Rights Watch in March 2015 document systematic circumvention of labour provisions governing overtime by at least one factory that supplies directly to H&M. According to workers interviewed by Human Rights Watch, team leaders in this unnamed supplier factory allegedly told workers that they should work on Sundays—their day off—at an unauthorized subcontractor in order to supplement their incomes and meet production targets. Workers reported working on H&M garments without overtime pay on Sundays and during public holidays. By outsourcing production work to a subcontractor, the supplier factory was able to bypass labour law provisions governing overtime wages and compensatory leave for workers engaged on night or Sunday shifts (Kashyap 2015). This case study illustrates the role of outsourcing in allowing Tier 1 companies to systematically bypass compensatory days off and overtime requirements.

Piece rate systems in H&M production factories in Cambodia causes workers to skip breaks, leaving them exhausted and prone to regular illness.

Finally, according to a 2016 report by Labour Behind the Label, piece rate systems in H&M production factories in Cambodia causes workers to skip breaks, leaving them exhausted and prone to regular illness. Phareak, a worker who produces garments for H&M reported:

We often get sick around once a month. We don't eat enough and work too much trying to maximize the piece rate. Also, we don't stop to go to the bathroom. We often work through lunch breaks or go back into work early, so there is hardly any time to rest (McMullen 2016).

India

Under the Indian Factories Act, 1948, a worker that works in a factory for more than 9 hours a day or more than 48 hours a week is entitled to overtime pay at the rate of twice the ordinary wage rate.

Working conditions in the unorganized garment sector in the NCR frequently amount to sweatshop conditions. Workers engaged in tailoring operations are required to complete nearly 50-60 pieces per hour on an average while piece-rate workers need to process 100-150 pieces hourly (Achanta 2015). Failure to adhere to production targets engenders verbal abuse from managers or supervisors.

Workers reported working a minimum of 9 hours and a maximum of 17 hours per day. Many of these workers far exceeded the 12 hour limit on overtime specified by the H&M Sustainability Commitment.

All 50 workers interviewed for this study, including from Shahi Export Pvt. Ltd., Maharani of India, Jak Group and Orion Conmerx reported working more than 9 hours a day. Workers reported working a minimum of 9 hours and a maximum of 17 hours per day. Many of these workers far exceeded the 12 hour limit on overtime specified by the H&M Sustainability Commitment.
Workers also reported being inadequately compensated for overtime work. Workers in both Jak Group and Maharani production houses reported that they received single rather than double over time payment—despite being routinely required to work up to 17 hours a day, or 8 overtime hours a day. During these overtime shifts, workers employed by Jak Group reported that they were not given food allowance or dinner during overtime shifts as required by law.

Workers paid by daily wage and piece rate reported in Shahi Export Pvt. Ltd., Maharani of India, Jak Group and Orion Conmerx all reported working seven days a week. For instance, in Jak Group production units, workers are routinely required to work until 2 am in order to meet production targets—and then to report to work at 9 am. In violation of the Sustainability Commitment, piece rate workers do not receive overtime rates.

Unauthorized subcontracting

Tier 1 companies routinely engage subcontractors to complete orders from brands. Subcontracting funnels work from regulated facilities to unregulated contractors where employees typically work longer, for less and usually in worse conditions. Subcontracting practices make chains of accountability more difficult to establish. Brands typically establish contracts with Tier 1 or parent companies and list these companies exclusively when disclosing production units. In instances where brand labels are sewn in by the parent company, workers in subcontracting facilities may not even know the brand they are producing for (Finster 2015).

As explained by C.CAWDU Vice President, Athit Kong, a former garment worker: "It is the multinational brands who extract by far the

largest profits from the labour of Cambodian garment workers, yet they hide behind layers of outsourcing and subcontracting to avoid responsibility" (Finster 2015).
When contacted by Human Rights Watch, H&M expressly acknowledged concerns raised about subcontracting and reiterated their commitment to protect and promote workers' rights throughout their supply chain. In November 2014, H&M wrote to Human Rights Watch indicating that they were considering taking an approach to addressing abuses among subcontractors that held Tier 1 suppliers responsible for improving working conditions among subcontractors. According to this potential plan of action, H&M could offer support, including technical expertise. As part of this initiative, H&M is also considering asking Cambodian suppliers to enroll in the Better Factories Cambodia (BFC) programme (Kashyap 2015).

In recent years, however, researchers have identified cases in which H&M has not taken action to defend the rights of workers producing H&M products in facilities that subcontract from Tier 1 companies. While H&M has blacklisted unauthorized contractors, this approach does not constructively address the violations faced by workers.

Cambodia

For instance, in September 2014, Full Fortune, a Cambodian subcontractor to Dignity Knitters—a publicly listed H&M supplier—dismissed 27 workers for exercising their right to join a union. The dismissed workers collected H&M garment tags to prove that Full Fortune produced for H&M at the time of the dispute.

When they presented the case to H&M, however, the company blamed unauthorized subcontracting and denied having responsibility for working conditions (Finster 2015).

India

In response to allegations of rampant labour and human rights abuses in textile mills in Tamil Nadu, H&M blacklisted Super Spinning Textile Mills. Within this facility, women and young girls were found working under conditions that amounted to forced labour. In this case, workers reported being lured from their homes by false promises, engaging in work as young as 15 years old, working 60 hours weeks and living in rooms with shared bathrooms that accommodated up to 35 workers. Workers also reported that they did not have contracts. Monthly salaries ranged from USD 25 to USD 65 per month.

Although H&M blacklisted Super Spinning Mills, prohibiting suppliers from ordering yarn from them for H&M orders, the company denied responsibility, claiming that they were only tangentially connected to the mill through a supplier in Bangladesh. H&M did not take any further action to rectify rights abuses faced by workers in the mill (Gustafsson 2014).

Workplace safety

The ILO addresses occupational health and safety in the Occupational Safety and Health Convention, 1981 (No. 155) and its Protocol of 2002, as well as in more than 40 standards that deal with occupational safety and health. Convention No. 155 requires each member state, in consultation with workers and employers, to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. While neither Cambodia nor India has ratified Convention No. 155, this instrument provides meaningful guidance on international standards governing occupational health and safety.

Sexual harassment at work—including physical, verbal and non-verbal harassment—directly undermines workplace safety. Women garment workers engaged in employment relationships characterized by unequal power are particularly vulnerable to abuse.
The H&M Sustainability Commitment obligates employers to take pro active measures to avoid causing harm to any employees in the workplace. The Sustainability Commitment requires employers to maintain access to relevant first aid equipment, doctors and nurses during working hours (H&M 2015b).

Cambodia

Health risks associated with unsafe working environments

The Cambodian Labour Law 1997 incorporates standards of workplace safety, hygiene and cleanliness, with criminal sanctions for failing to implement health and safety measures in the workplace (Articles 80, 229, 230).

Working conditions in garment factories and the impact on the health of garment workers is a pressing concern within the garment industry in Cambodia. The BFC Thirtieth synthesis report on working conditions in Cambodia's garment sector (November 2012 to April 2013) reported significant health and safety concerns. 15% of the factories monitored kept emergency doors locked during work hours, putting workers at risk of death in the event of a fire. 45% failed to conduct emergency fire drills every six months and 53% had obstructed access paths (CCHR 2014)
In a February 2012 hearing before the Permanent People's Tribunal held in Phnom Penh Cambodia, Asia Floor Wage Alliance-Cambodia (AFWA-C) reported health problems associated with poor working environments. Workers and their representatives testified to working conditions described as "humid and hot, noisy, poorly lit, with scarce if any ventilation, the uncontrolled and uninformed use of chemicals, excessive dust, lack of preventative education and little availability of personal protective equipment." These conditions, they reported, are exacerbated by poverty-level wages:

> Women workers are forced to base their nutrition on food with a totally insufficient caloric content, many hours of overtime work become practically mandatory, thus making much worse the chronic exposure to the harmful environment (Barria 2014).

Due to exposure to high temperatures and high levels of chemical substances, exacerbated by poor ventilation systems and nutrition among workers, episodes of mass fainting are a regular occurrence in Cambodian garment factories. According to reports by the Cambodian government, in 2015 1,806 workers fainted in garment and footwear factories—the same number as in 2014 (Kunthear 2016). These 2014 and 2015 numbers mark a 109% increase in the number of people who fainted in 2013 (David 2015).

Cambodian garment worker testifies at People's Tribunal on Living Wage as a fundamental right of Cambodian Garment Workers, which H&M refused to attend.
Asia Floor Wage Alliance

As early as 2011, H&M responded to 284 Cambodian workers fainting at M&V International Manufacturing in Kompong Chhnang Province—an H&M supplier. More than 100 workers were hospitalized. H&M reported launching an investigation (McPherson 2011). The investigative report commission by H&M blamed the fainting on mass hysteria caused by work-related and personal stress (Butler 2012).

Investigation by the UK-based Labour Behind the Label and the Cambodian Community Legal Education Center (CLEC) proposed a more scientific explanation: malnutrition, prevalent among Cambodian garment workers makes them more susceptible to exposure to harmful environments. Data gathered by tracking monthly food purchases by 95 workers employed in a range of garment factories in Cambodia, compared with recommended amounts and workers' Body Mass Index (BMI), revealed that workers were found to intake an average of 1598 calories per day, around half the recommended among for a woman working in an industrial context (McMullen 2013).

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Cambodian garment workers were found to intake an average of 1598 calories per day, around half the recommended among for a woman working in an industrial context.
Asia Floor Wage Alliance

for a woman working in an industrial context.

Despite these significant concerns, H&M refused to attend the People's Tribunal on Living Wage as a fundamental right of Cambodian Garment Workers, held from February 5th-8th, 2012in Phnom Penh.

Sexual harassment in the workplace

Cambodia's Labour Law, 1997 prohibits sexual harassment (Article 172). Cambodia does not, however, have specific legal provisions outlining complaint procedures or promoting safe working environments.

Orders) Act, 1946); Minimum Wages Act, 1948; Payment of Wages Act, 1936; Payment of Bonus Act, 1965; Employees State Insurance Act, 1948; Employees Provident Funds and Miscellaneous Provisions Act, 1952; Maternity Benefit Act, 1961; Employees Compensation Act, 1923; Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; (State) Shops and Establishments Acts, Equal Remuneration Act, 1976 and Child Labour (Prohibition and Regulation) Act, 1986.

Workers, union representatives and researchers report that sexual harassment in garment factories is common. According to some estimates, one in five garment workers experiences sexual harassment, leading to a threatening work environment. Forms of sexual harassment include sexual comments and advances, inappropriate touching, pinching and bodily contact initiated by both managers and male co-workers (Kashyap 2015).

Of the 12 factories investigated for this study, workers from 9 factories reported experiencing sexual harassment in their workplaces. Only 27 out of 201 workers, however, expressed having knowledge of a committee or other mode of addressing harassment within their workplaces.

India

Health risks associated with unsafe working environments

India's Factories Act, 1948 regulates conditions of work in manufacturing establishments to ensure adequate safety, sanitation, health, welfare measures, hours of work and leave parameters for workers employed in factories. The 1987 amendment to the Factories Act, 1948 gave workers the right to information about the nature and extent of workplace hazards and held directors of companies responsible for risks imposed by hazardous waste and other dangers.

Under proposed labour law changes, factories employing 10-40 workers will be governed by the Small Factories (Regulation of Employment and Conditions of Services) Bill, 2014. The 2014 Small Factories Bill suspends application of 14 labour laws to small units. The Bill also reduces standards for health and safety established under the Factories Act, 1948. The Bill does not contain provisions relating to maintenance of cleanliness, adequate ventilation, suitable temperature, measures to contain dust and fumes, and the safety of persons working on machines. It also does not contain any provisions relating to provision of personal protective equipment, periodic medical testing of workers, reporting of work-related accidents and injuries and occupational diseases to the labour authorities. In short, the provisions relating to health and safety in the bill are entirely inadequate.
Defining a factory as small based only upon the number of workers employed in the factory does not adequately account for variation in capital investment, turnover and volume of output. Further, size based classification provides incentives to employers to spread manufacturing work over more than one factory to seek exemptions under the Act. It is unclear what law will apply to industrial units with 1-9 workers (Bhattacharjee 2016).

Health consequences faced by workers in India's garment industry include respiratory illnesses—including silicosis from sand blasting, tuberculosis, ergonomic issues such as back pain, reproductive health issues (irregular period and excessive bleeding) and mental health problems including depression and anxiety.

Health consequences faced by workers in India's garment industry include respiratory illnesses—including silicosis from sand blasting, tuberculosis, ergonomic issues such as back pain, reproductive health issues (irregular period and excessive bleeding) and mental health problems including depression and anxiety. While major accidents are not common, minor incidents such as puncture wounds from needles are a daily occurrence. Other hazards include extended exposure to heat, noise, dust and chemicals; and biological vulnerability due to poor nutrition. For instance, exposure to cotton dust irritates the upper respiratory tract and bronchi. With prolonged exposure, this slowly progresses to chronic, obstructive pulmonary disease.

According to findings of a randomised survey conducted by the Employees State Insurance Corporation in 2014, 60.6% of garment workers surveyed were anemic and 80% of all tuberculosis cases registered in 2009 were from garment workers. Garment workers, largely internal migrants between the ages of 18 and 45 years with lower socioeconomic status, face particular disadvantages in dealing with health-related challenges, including difficulties in accessing medical attention and lack of employment mobility. (Ceresna-Chaturvedi 2015).

Workers employed by Jak Group and engaged in leather work are exposed to toxic chemicals and required to use heavy tools that cause injuries. Workers reported that they were given no masks, no first aid boxes were available and that supervisors callously dismissed injuries.

Only 2 out of the 48 workers interviewed for this study—including from Shahi Export Pvt. Ltd., Maharani of India, Jak Group and Orion Conmerx—received any safety equipment and none of the workers reported receiving any institutional training on safety measures. Among these workers, some were engaged in hazardous production processes. For instance, workers employed by Jak Group and engaged in leather work are exposed to toxic chemicals and required to use heavy tools that cause injuries. Workers reported that they were given no masks, no first aid boxes were available and that supervisors callously dismissed injuries.

Sexual harassment in the workplace

Women garment workers routinely face violence in the workplace, including sexual harassment and physical and sexual violence. India's Sexual Harassment of Work Place (Prevention, Prohibition and Redressal) Act, 2013, mandates employers institute sexual harassment committees to provide clear and accessible grievance mechanisms. Most committees, however, exist only in formal records and fall short of achieving their objective of safeguarding women workers.

According to Elizabeth Khumallambam, Programme Coordinator for Nari Shakti Manch—an organization of women workers in the Delhi-NCR, while most factories have established sexual harassment committees on paper these committees have not materialized in practice. "The names of committee members are not posted, positions are not elected, we don't know if there is an external member and meetings

are not held," Khumallambam explained. "The composition of these committees is entirely unknown."

Consistent with this pattern, all 50 H&M supply chain workers interviewed for this study indicated that, in violation of the 2013 Act, they did not know of any sexual harassment committee established in their workplace. As a result, avenues for relief from sexual harassment remain largely foreclosed.

Freedom of Association

The ILO Declaration on Fundamental Principles and Rights at Work recognizes the right to organize as one of four fundamental rights to be upheld by ILO member states. Together, the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and Right to Organize and Collective Bargaining Convention, 1949 (No.98) outline the right to join a trade union and the right to organize.

The Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) calls upon states to prevent discrimination against trade unions; protect employers' and workers' organizations against mutual interference; and undertake measures to promote collective bargaining. The Right to Organize and Collective Bargaining Convention, 1949 (No. 98), protects workers who are exercising the right to organize; upholds the principle of non-interference between workers' and employers' organizations; and promotes voluntary collective bargaining. Freedom of association and collective bargaining are integral to the protection of other labour rights.

The H&M Sustainability Commitment establishes that all employees have the right ot form or join associations of their own choosing and to bargain collectively. The Sustainability Commitment also indicates that H&M does not accept disciplinary or discriminatory actions from employers against employees who choose to peacefully and lawfully organize or join an association (H&M 2015b).

Cambodia

Cambodia's Constitution guarantees the right to strike and the right to non-violent demonstration. The 1997 Labour Law guarantees workers the right to form unions of their choice and protects workers against interference from employers and discrimination on the basis of union membership.

Termination on the grounds of union membership

Although union membership is significantly higher in the garment industry than in other industries in Cambodia, with at least 37 garment union federations in existence as of 2014, many garment workers remain unrepresented. Union leaders are often targeted by factory owners, and violently beaten by law enforcement officials for striking outside the workplace. Many have faced dismissal or have been fired due to their activities (CCHR 2014). In 9 out of the 12 factories investigated for this study, workers reported that despite union presence collective bargaining is not recognized by management.

For instance, in Zhong Yin (Cambodia) B Textile Co. Ltd, located in Phum Prek Treng, Khum Setbo, Srok Saang, Kandal Proviince—an H&M supplier with a gold rating—105 Coalition of Cambodian Apparel Workers Democratic Union (C.CAWDU) union members were terminated for union activity. On orders from the Arbitration Council, 53 were ordered back to work. In retaliation, the employer terminated another 55 unionized workers.

In response, C.CAWDU completed the legal procedure of announcing a strike. After 7 working days the workers started to strike in front of the factory on February 24, 2016. The peaceful strike continued for 10 days until the factory management hung a court injunction order on the factory wall. During the first days of the strike, many workers were locked inside the factory during lunchtime by factory management in order to prevent them from joining the strike. The workers that were allowed to get lunch outside were under strict surveillance by various authorities including administrators, managers, other unions and local police.

During the first days of the strike, many workers were locked inside the factory during lunchtime by factory management in order to prevent them from joining the strike.

The following days more and workers joined the strike outside the factory walls. The factory management tried various tactics to prevent the strike from continuing, including: renting land surrounding the factory for thousands of dollars so that workers could not enter that area during the strike, providing 5 dollars to the workers who didn't join the strike and providing a car to a person they believed could convince the workers not to join C.CAWDU union strike.

On March 4, 2016 C.CAWDU held a meeting with the factory management and H&M representatives at the Cambodia ILO office. The negotiation results were disappointing with no progress made. The factory continued to reject and neglect implementation of the Arbitration Council award. During the negotiation the factory management promised to propose a date for a follow-up meeting with C.CAWDU but at the time of writing, no proposal had been received.

On March 28, 2016 C.CAWDU had a meeting with H&M and IndustriALL. H&M claimed that since they are not the biggest buyer they do not have the leverage to require factory management to implement the Arbitration Council award. H&M did however claim to have contacted Fast Retailing Group, the largest buyer from the factory.

H&M claims that they are "confident that they have used their leverage to its fullest extent" to push for reinstatement of workers facing illegal termination. H&M continues, however, to do business with 13 factories owned by the parent company, Beijing Joywin.

At present, in response to appeals for union members and their allies, H&M claims that they are "confident that they have used their leverage to its fullest extent" to push for reinstatement of workers facing illegal termination. H&M continues,

however, to do business with 13 factories owned by the parent company, Beijing Joywin.

Violent crack down on workers exercising their right to strike

In late December 2013 and early January 2014, more than 200,000 Cambodian garment workers took to the streets to demand a new minimum wage of $160/month. The strike closed the industry for one week and cost manufacturers more than USD 200 million. In response, armed soldiers chased and attacked workers with slingshots, batons, and metal pipes in front of a garment factory in Phnom Penh. During the violence, the soldiers detained ten union leaders and protesters, severely beating some and holding them all overnight at a military base without access to adequate medical treatment.

38 people, some of whom work in the H&M supply chain, were hospitalized during the attack, 25 suffering from bullet wounds, and 13 more were arrested.

The following day, on January 3, 2014, police and military personnel shot and killed at least five striking workers during a renewed mobilization using live ammunition at the Canadia Industrial Park, in southwest Phnom Penh. Those killed by the Cambodian security forces were employed at factories producing clothing for several major multinational corporations, including Puma and Adidas. An additional 38 people, some of whom work in the H&M supply chain, were hospitalized during the attack, 25 suffering from bullet wounds, and 13 more were arrested.

After a five-month campaign spanning more than 20 countries, and 40 major cities around the world, the 23 were released from prison. The government has failed to thoroughly and transparently investigate the deaths, injuries and disappearances that resulted from this violent suppression. Three weeks after the shooting, the government announced that an investigation into the violence had been completed. The report, however, has not yet been made public and high-ranking officials stated that the focus of investigation was to determine responsibility for initiating the violence not to determine responsibility for causing the death and injury of protesters.

Immediately following the strike, the government instituted an interim ban on freedom of assembly prohibiting gatherings of 10 people of more which lasted around three months. Further, the government instituted an interim ban on union registration which lasted for most of the year of 2014.

Since 2012, CENTRAL has documented the illegal or illegitimate termination of more than 6,500, more than 100 cases of violence or serious injury, and more than 100 cases of independent union leaders and members being arrested or summoned to court.

India

The regulatory framework undergirding industrial relations in present-day India was introduced during the 1920's. Significant legislation included the Trade Unions Act, 1926 and Trade Disputes Act, 1929. The Trade Unions Act, 1926, provided for registration of trade unions, gave unions legal status and extended some protection against civil and criminal liability in the course of industrial disputes. However, both the Trade Unions Act, 1926 and Trade Disputes Act, 1929 remained limited in their protection of freedom of association and collective bargaining. Unregistered unions were excluded from protection and the legislation did not obligate employers to bargain with registered unions. The Trade Disputes Act, 1929, severely limited the right to strike and required referral of industrial disputes to a conciliation board or court of enquiry—although the outcomes of a referral were not binding upon the parties.

The Industrial Disputes Act, 1947 applied conditions under which workers were allowed to strike and distinguished between legal and illegal strikes. The Act also designated no procedures to determine the representative union in a particular bargaining unit. Since employers were under no legal obligation to bargain with unions, there was no incentive for collective bargaining. Instead, privileging strong state intervention in industrial disputes, compulsory arbitration lies at the core of the Industrial Disputes Act, 1947, permitting the state to force any conflict into compulsory arbitration and to declare any strike or lockout illegal. These provisions allowed the state to intervene in industrial disputes and direct industrial relationships through civil dispute mechanisms. For the most part, under these provisions, disputes were referred to conciliation, then to the labour commissioner—and if these mechanisms failed, disputes were settled in industrial courts, labour courts or through binding arbitration.

In context of global marketization, India's labour laws have been critiqued for facilitating the rising power of unions and protecting rights at work. In particular, criticism was leveled against inefficiency in India's state machinery for adjudicating industrial disputes and the 1982 amendments to the Industrial Disputes Act, 1947 that were seen as curtailing employers' rights and enhancing bargaining power of unions. Such critiques have been mobilized to advocate for labour law reforms that increase workforce flexibility, decrease the bargaining authority of trade unions and diminish the reach of India's state labour regulatory apparatus. While dejure labour law reforms have been slower to materialize, over the last twenty-five years, industrial relations have been defacto restructured along these lines.

The 1991 reform climate prompted systematic downsizing of the organized workforce. Micro-level studies of this period have documented large-scale employment adjustments in response to adverse demand shocks. For instance, due to the collapse of Ahmedabad's textile factories in the 1980s and 1990s, 36,000 workers lost their jobs between 1983 and 1984. Other systematic measures to achieve labour flexibility during this period have included illegal closures, increased use of contract labour, outsourcing and subcontracting. As a result of such systematic downsizing of the organized sector, workers were increasingly channeled into delivering flexible, labour intensive production activities at low cost and without wage, job or social security.

Reducing the bargaining power of what remains of the organized industrial sector, 2001 amendments to the Trade Unions Act, 1926 required unions to have at least 100 members or to represent at least 10 percent of the workforce in order to register under the Act—making the formation and registration of unions far more challenging than had previously been the case (Bhattacharjee 2016).

Consistent with this systematic attack on freedom of association, all 50 workers interviewed for this study were aware of the existence of trade unions but indicated that trade unions did not exist in their particular factory.

Consistent with this systematic attack on freedom of association, all 50 workers interviewed for this study were aware of the existence of trade unions but indicated that trade unions did not exist in their particular factory. Workers and union organizers interviewed provided a range of explanations for the absence of unions.

Within Jak Group, union organizers reported that workers were under threat of losing their jobs if they openly joined a union. Within Jak Group Plot 7, as a result of sudden layoffs in September 2015, workers who had formed a union were scattered, disrupting their capacity to exercise their right to freedom of association and engage in collective bargaining.

In Maharani of India factories, workers engaged in piece rate work—often working up to 17 hours per day—have no time to exercise their fundamental rights to freedom of association. Further undermining freedom of association, piece rate workers tend to be an unstable workforce as their extremely high targets rapidly wear them out physically, resulting in exceedingly high turnover.

Maternity benefits

Recognizing that pregnancy and maternity can be an especially vulnerable time for working women and their families, the ILO Maternity Protection Convention, 2000 (No. 183) calls for benefits including 14 weeks of maternity leave and cash benefits to ensure that a woman can maintain herself and her child. In order to ensure that a woman can maintain proper conditions of health and a suitable standard of living, Convention No. 183 specifies that earnings shall be no less than two-thirds or her previous earnings or a comparable amount. The convention also requires states to protect women and nursing mothers from work that has been determined to be harmful to her health or the health of her child. Finally, under this convention, employers are prohibited from discriminating against women on the basis of maternity and prevented from terminating a woman's employment during pregnancy or absence on maternity leave or during a period following her return to work—except on grounds unrelated to pregnancy, childbirth and related consequences.
The H&M Sustainability Commitment protects employees from discrimination in employment, including on the grounds of sex, race, colour, age, pregnancy [emphasis supplied], sexual orientation, religion, political opinion, nationality, ethnic origin, disease or disability (H&M 2015b).

Cambodia

In all 4 factories surveyed for this study, all 50 workers reported that women are fired from their jobs during their pregnancy.

As early as 2012, workers organizations began reporting that pregnant women in Cambodia were regularly threatened with dismissal from garment manufacturing jobs.
Asia Floor Wage Alliance

Cambodia's Labour Law 1997 guarantees 90 calendar days of paid maternity leave that can be taken either before or after delivery (Article 182). Women are also guaranteed 50% wages during maternity leave (Article 183). However, these benefits are only applicable for women who have worked continuously for a minimum of one year at the factory. The requirement of uninterrupted service disadvantages women hired under FDCs who are unlikely to have continuous employment. (CCHR 2014).

Since garment factory workers in Cambodia are predominantly women, lack of access to adequate reproductive and maternal health services is a significant issue. As early as 2012, workers organizations began reporting that pregnant women were regularly threatened with dismissal from garment manufacturing jobs. This led many women to terminate pregnancies in order to keep their jobs, Women also force themselves to work until the very last day before the delivery, putting their own lives at risk. Most women on FDCs do not get their contracts renewed after they go on maternity leave (CCHR 2014; Nuon 2011).

Workers from 11 out of the 12 H&M supplier factories surveyed for this study

reported either witnessing or experiencing termination of employment during pregnancy.

Factories employing more than 100 female workers are also required to set up a nursing room and day care center (Article 186). Women are also legally allowed one hour off a day, in addition to regular breaks, for breastfeeding during the first year following delivery (Article 184). However, according to BFC, 67% of factories monitored do not comply with this provision. Many women are required to choose between leaving their jobs in order to breastfeed—thereby losing their only income; or to take them to private day-care centers where they are fed with low-quality formula milk.

Workers from 11 out of the 12 H&M supplier factories surveyed for this study reported either witnessing or experiencing termination of employment during pregnancy.

India

India's Maternity Benefits Act, 1961 protects employment of women in establishments and provides for maternity and other related benefits. Female workers are entitled to a maximum of 12 weeks of maternity leave. Out of these 12 weeks, six weeks leave is post-natal leave. In case of miscarriage or medical termination of pregnancy, a worker is entitled to six weeks of paid maternity leave. Employees are also entitled to one additional month of paid leave in case of complications arising due to pregnancy, delivery, premature birth, miscarriage, medical termination or a tubectomy operation (two weeks in this case) (Sections 6-10).

The maternity leave is awarded with full pay on completion of at least 80 days in an establishment in the 12 months prior to her expected date of delivery. The maternity benefit is awarded at the rate of the average daily wage for the period of a worker's actual absence from work. Apart from 12 weeks of salary, a female worker is entitled to a medical bonus of 3,500 Indian rupees (Section 5).

A pregnant women worker is entitled to a maternity benefit (in the form of medical bonus) of one thousand rupees if no prenatal confinement and post-natal care is provided by the employer free of charge. It can be increased to a maximum limit of twenty thousand rupees. The Central Government is authorized to increase the basic amount every three years. In August 2008, the amount of medical bonus was 2500 Indian rupees which has been later raised in 2011 to 3500 Indian rupees (Section 8).

In all 4 factories surveyed for this study, all 50 workers reported that women are fired from their jobs during their pregnancy.

In all 4 factories surveyed for this study, all 50 workers reported that women are fired from their jobs during their pregnancy. Permanent workers report being forced to take leave without pay for the period of their pregnancy. Contract, piece rate and casual workers reported that although most of the time they are reinstated in their jobs after pregnancy, they receive completely new contracts that cause them to lose seniority.

As detailed in this report on the H&M supply chains in Cambodia and India, there is an urgent need for global mechanisms to monitor and regulate GVCs and GPNs. The ILO—the only global tripartite institution—has a unique role to play in setting standards for all of the actors that impact fundamental principles and rights at work.

Recommendations for the ILO at the International Labour Conference, 2016

The ILO Tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration), 2006 provides a good starting point. However, within the MNE Declaration, MNE refers only to subsidiaries or franchises. Accordingly, GVCs and GPNs in their current form are not covered by this Declaration. The need of the hour is for the ILO to clarify and update its standards and mechanisms to protect workers employed by transnational corporations (TNCs) across vast GPNs.

TNCs and their suppliers have a duty to obey national laws and respect international standards—especially those pertaining to realization of the fundamental principles and rights at work. A number of ILO core labor standards, such as the Forced Labour Convention, 1930 (No. 29), 2014 Protocol to the Forced Labour Convention 1930 and accompanying Recommendation, already protect workers in value chains. However, as this report details, changes in the modern workplace and globalization of value chains has opened up new gaps in the protection of fundamental principles and rights at work. In addition to clarifying the application of existing standards in global value chains, the ILO should set new standards and enforcement mechanisms and encourage national governments to do the same.

The following recommendations emerge from our experience promoting the rights of workings in global value chains.

1. Given the well-documented and rampant exploitation of workers and resources by MNEs operating through GVCs, and noting the limits on regulation under national legal regimes, the ILO should move towards a binding legal convention regulating GVCs.

1.1. Standards under this convention must be at least as effective and comprehensive as the UN Guiding Principle on Business and Human Rights and existing OECD mechanisms, including the 2011 OECD Guidelines for Multinational Enterprises.

1.2. The Convention should include the following components, among others:

1.2.1. Imposition of liability and sustainable contracting, capitalization and/or other requirements on lead firms to ensure accountability throughout the GVC.

1.2.2. Establishment of a Global Labour Inspectorate with monitoring and enforcement powers.

1.2.3. Publicly accessible transparency and traceability provisions.

1.2.4. Specific provisions that address the special vulnerability of migrant workers on GVCs.

1.2.5. Specific provisions that address the special vulnerability of women workers on GVCs.

1.2.6. Limits on the use of temporary, outsourced, self-employed, or other forms of contract labor that limit employer liability for worker protections.

2. Pursue a Recommendation on human rights due diligence that takes into account and builds

upon existing due diligence provisions that are evolving under the United Nations Guiding Principles on Business and Human Rights and the 2011 OECD Guidelines for Multinational Enterprises.

3. Take the following complementary measures to protect workers employed in global value chains:

3.1. Recognize the right to living wage as a human right and establish living wage criteria and mechanisms.

3.2. Promote sector-based and transnational collective bargaining and urge countries to remove national legal barriers to these forms of collective action.

3.3. Expand work towards the elimination of forced labour, including promoting ratification and implementation of the Forced Labour Convention, 1930 (No. 29), 2014 Protocol to the Forced Labour Convention 1930 and accompanying Recommendation.

3.4. Continue programs to ensure social protection, fair wages and health and safety at every level of GVCs.

4. Convene research to inform ILO global supply chain programming, including:

4.1. Research on adverse impacts of TNC purchasing practices upon

4.1.1. Core labour standards for all categories of workers across value chains.

4.1.2. Wages and benefits with for all categories of value chain workers. This research should aim to satisfy basic needs of workers and their families.

4.1.3. Access to fundamental rights to food, housing, and education for all categories of value chain workers and their families.

4.2. Research into the range of global actors that may have leverage over GVCs including investors, hedge funds, pension funds and GVC networks that define industry standards such as Free on Board (FOB) prices.

4.3. Research into the types of technical advice needed by OECD government participants taking a multi-stakeholder approach to address risks of adverse impacts associated with products.

4.4. Research into mechanisms deployed by authoritative actors within GVCs that contribute to violations of fundamental principles and rights at work, including but not limited to attacks on freedom of association, collective bargaining, forced overtime, wage theft and forced labour.

4.5. Since women represent the greatest majority of garment workers, the situation of women should be urgently included in monitoring programmes to assess the spectrum of their clinical, social and personal risks.

5. Require an urgent, epidemiological study into deaths and disabilities resulting from conditions of work and life of garment workers. This information should be made available publicly and to international agencies.

6. Organize a Tripartite Conference on the adverse impact of contracting and purchasing practices upon migrant workers rights. This conference should focus on:

6.1. Protection of migrants rights as conferred under the UN International Convention on the Protection of the Rights of all Migrant Workers. and Members of their Families.

6.2. The intersection of migrant rights and ILO initiatives to promote Decent Work in Global Supply Chains.

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