



## Background Study Tirupur

Fair Wear Foundation  
P.O. Box 69265  
1060 CH Amsterdam  
The Netherlands  
Tel: +31 - (0)20 - 408 42 55  
Fax: +31 - (0)20 - 408 42 54  
e-mail: [info@fairwear.nl](mailto:info@fairwear.nl)

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## 1. Introduction

Whenever the FWF starts to operate in countries where garments are being produced for FWF (prospective) member companies, the first step is to make a background study for "members of the FWF". Often this study will refer to a specific region of the country, as garments are often produced in particular regional clusters.

This study has [four](#) different [parts](#) [serving](#) four different purposes:

- 1 To give an overall context to assess the limits and possibilities of the companies involved to improve labour standards.
- 2 To facilitate the verification process by the FWF and the monitoring task of member companies by giving an overview of current legislation, and relevant court cases regarding the labour standards and other types of regulation concerning the labour standards.
- 3 Similar to 2 but then focussing on Health & Safety laws and regulations.
- 4 The background study contains an inventory of the stakeholder organisations that could be asked to participate in the partner network.

This study is a working document. (Parts of) the background study can be updated at any time.

This study refers to the state of Tamil Nadu in India and more specifically the town of Tirupur.

### 1.1. Sources

Contributions to this study have been made by:  
CARE (Community Awareness Research Education) in Coimbatore  
PRIA (Society for Participatory Research in Asia) in New Delhi.

Additional information by the FWF from secondary sources is included. Major sources are:

- IICCI: Comparative analysis of Textile districts in Italy and India. Published by: The Indo-Italian Chamber of Commerce and Industry, Mumbai - 400 025. India.
- Sujana Krishnamoorthy: Structure of the Garments Industry and Labour Rights in India, The Post MFA Context. CEC 2003.
- D. Müller-Falcke: Problems in the development of Local Associations: Some Observations from India. ZEF Bonn.
- Nick Robins and Sarah Roberts (ed): The reality of sustainable trade. IIED (International Institute for Environment and Development) April 2000
- Meenu Tewari and Jeffery Goebel: Small Firm Competitiveness in a Trade Liberalized World. Lessons for Tamil Nadu. April 2002
- G. Joshi (ed): Garment industry in South Asia; rags or riches. ILO 2002.
- <http://www.saarcnet.com/newsarccnet/countryprofile/India/india27.html> (Excerpt from: South Asian Association For Regional Cooperation (SAARC); country profile India)
- Association for Stimulating the Know-how (ASK): Basic information on regional labour conditions in the region of Mumbai, pre-study report for FWF 2001.
- Labor Market and Social Insurance Policy in India: A Case of Losing on Both Competitiveness and Caring. Ramgopal Agarwala and Zafar Dad Khan. World-bank paper. Stock No. 37168
- Nike and Gap India Country Reports (report written by ACCORD for Global Alliance on workers' life situation, <http://www.theglobalalliance.org/pdf/india-needs-assessment-nike-2003.PDF>)



An older study; 'The Labour Process Under Amoebic Capitalism: A Case Study of the Garment Industry in a South Indian Town', by Pam Cawthorne (1989) has been very useful for historic backgrounds.

Moreover, useful information has been gathered during several audits in 2003. During the auditors training that the FWF conducted in November 2003, participants and resource person also provided the FWF with a lot of important facts. We especially thank the colleagues from LINK. Finally, trade unionists present at the meeting the FWF organised on the 21<sup>st</sup> of November in Tirupur also had an important contribution.

## 2. The garment industry

### 2.1. General overview

The aim of this section is to give an analysis that provides us with some understanding of the strengths and weaknesses of the local garment industry and the possibilities for improvement of the labour situation.

### 2.2. Areas where garments are produced

In India a major portion of garments are being made in the state of Tamil Nadu (which is geographically located in the southern most end). Inside the state of Tamil Nadu, the most important garments production region is Coimbatore district where Tirupur region is located. The industry is recently developing in the nearby Erode district. The industry has its wing in the Karur in the Central parts of Tamil Nadu where interior garment furnishing, towels and allied products are made. A large number of garment industries are now established in Madras Export Processing Zone at Chennai. Coimbatore, Dindigul, Madurai and Salem districts are the areas where the yarn manufacturing process is taking place in the spinning mills feeding the garment industry's need.

Apart from Tamil Nadu, Ahmedabad (which is located in the Western Indian state of Gujarat) and Mumbai regions are other large garment manufacturing regions, as are Dehli, Bangalore and the Calcutta region. Bangalore is experiencing fast growth, partly due to relocation of factories from Mumbai and other Northern districts. Reasons cited are that labour costs are lower and the trade union movement is almost absent in the Bangalore garment industries. Like Coimbatore, Ahmedabad and Mumbai are the major textile regions where the then British colonial regime founded many spinning mills as a consequence of growing workers movement in Manchester, United Kingdom. Another reason for the growth of textile mills is the fact that these three regions are known for their black cotton soil and fertile cotton farms. Mumbai is known as Manchester of North India and Coimbatore is known as Manchester of South India. Tirupur achieved its momentum in 80's on account of its export market and change of production from inner wear to T-shirts and reached its export boom in the 90's.

Krishnamoorthy gives the following overview: Region wise apparel exports 2000 (%)

	Quantity	US \$ Value
Delhi	26.3	36.3
Mumbai	23.6	24.6
Tirupur	28.2	13.8
Chennai	9.1	10.1
Bangalore	5.1	8.5

Note the low value/quantity ratio of Tirupur in comparison to Delhi and Bangalore, an issue we'll come back upon.

### 2.3. Statistical data on garment production

India exports more than one hundred garment product categories, mainly falling in cotton,



semi-fashion, middle price segment of casual wear, with the main product categories being T-shirts, men's shirts, ladies blouses, ladies dresses and skirts. Member states of EU, U.S.A., Canada, U.A.E, Japan, Switzerland and Australia are the major markets for India's clothing exports.

Textiles and fabrics account for about 12% of India's total exports. About 45% of these are in the form of knitwear. The share of knitted garments in value terms is much lower than in volume terms. There is no doubt that the knitted sector is emerging as the fastest growing sector in comparison with the woven garment sector.

The exports of garments have surged both in quantity and value terms in both rupee and hard currency. The average unit export prices have also gone up considerably. (Source: SAARC). *Still the share of textiles and clothing in the total value of India's exports is declining* (Source: TEA).

Tirupur specialises in knitwear. Over 80% of garments manufactured in Tirupur are for exports. Though knitted garment exports from Tirupur touched U.S. \$ 1.02 billion in the year 2001-2002, the domestic market accounted for only U.S. \$306.12 million of consumption. (Source: IICCI 34)

TEA claims to have manufactured over 76% of national exports of knitwear. This may be the case if we account for the garments purchased by the big buying houses in Mumbai, New Delhi, Calcutta and Bangalore. Tirupur plays a pivotal role, generating as much as 4% of India's total export trade. (Source: IIED, figures for the late 1990s)

External market generates foreign exchange to the tune of over Rs 400 million the year 2001 according to Tirupur Exporters Association (Source: TEA).

Although more than 50% of Tirupur's exports are destined for the US market, they contribute less than half of Tirupur's income, since the main export to the US is white underwear, which has very little value added. The EU on the other hand represents nearly 40% in volume, but more than 60% in value. (IIED)

Table 1 shows strong growth in textile exports in the first half of 2001-02. In particular, readymade garments, which is the most important component, has exhibited strong exports growth of 11.6 percent in value terms.

**Table 1 : Export of selected textile items during 2002-03 (April-October)**

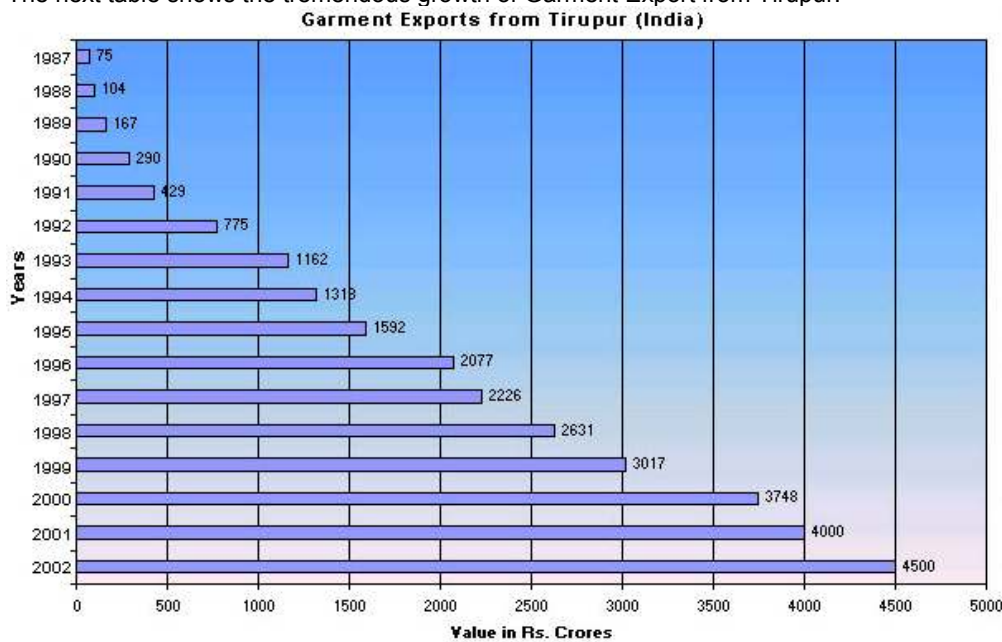
Item	US \$ million				Growth Apr. - Oct. 2002 (percent)
	2000-01	2001-02	Apr-Oct 2001	Apr-Oct 2002	
Readymade garments	5,087.04	4,599.09	2,627.26	2,932.59	11.6
Cotton textiles	3,509.08	3,040.19	1,865.97	1,935.44	3.7
Wool & woolens textiles	359.47	289.09	205.90	167.03	-18.9
Manmade textiles	1,095.13	1,082.69	646.07	781.91	21.0
Silk	501.82	433.39	244.16	241.98	0.9
Total Textiles	10,552.54	9,444.46	5,589.36	6,058.96	8.4

P : Provisional  
Source ; Foreign Trade Statistics of India (Principal Commodities & Countries) DGCIIS. Kolkata.

(SAARC)

The Tirupur knitwear industry's exports are directed to customers in the following percentages: 10 per cent to departmental stores, 60 percent to importers, 10 per cent to catalogue stores, 5 per cent to retailers and 5 per cent to established consumer brands. Among major customers of Tirupur's exports are Kitaso, Savanbee, Texman, Marine Prod, Norwigs Clipper, Green Knitwear, Roy atsan, Lotto, Arrow, Roytex, Wal-Mart, KDAB, Auchan, Primark, Ether Austin, Clothesline, ther, Norpo-TEX, Dan-Do, V&D Alians Dominos, Oneil and Wibra. ( IICCI)

The next table shows the tremendous growth of Garment Export from Tirupur:



source: TEA

Note: since 1995 the value of the rupee against the Euro has been volatile, but not showing any structural rise or decline. Inflation since the mid-90's has been around 4-8% annually..

The local market for ready made garments still has great scope for development. After the emergence of export based garment production retailers all over India started marketing garments with small faults, garments rejected by the buyers, and excess quantity of garments. Recently big brand companies are marketing garments in major metropolitan cities in India and most of the garments are produced in India.

## 2.4. Raw material

The main raw material in the form of cotton yarn of different thickness is supplied by the agents of hundreds of spinning mills located in Coimbatore, Salem, Erode and other adjoining cities. Several mills have set up their sales depots at Tirupur to provide raw material on exstock basis. Besides, there are also several cotton yarn merchants in Tirupur and Coimbatore.

Speciality stores selling accessories, such as buttons, zips, laces and sewing threads are there in a large number in Tirupur itself. Similarly, the dyes and chemicals that are manufactured mainly in Gujarat and Maharashtra are available through companies sales depots and through merchants dealers in Tirupur itself.



The manufacturers of circular knitting machines and dyeing machinery are mainly located in Punjab, specially in Ludhiana and Amritsar. With the introduction of new technology, imported machinery has been in widespread use in Tirupur. The commission agents and dealers for both indigenous and imported machinery are based in Tirupur providing access to the latest models available worldwide.

Conducive to the need of the export market, innovative service enterprises have been set up by private entrepreneurs. These services are targeted at exporters, suppliers, manufacturers, buyers, importers and the retailers that help their customers to reduce their risk, improve efficiency, provide inputs for cost control, implement and ensure compliance of the mutually agreed quality systems. (IICCI:47)

There is a noticeable absence of adequate capacity in good quality dyeing and finishing processes. These two processes limit the entry of Indian textiles into higher value added products despite a modern spinning sector.

Furthermore, production run sizes are longer in Indian plants across the three processes, resulting in higher waiting times for a lot and higher working process inventory. The average manufacturing and delivery lead times from procurement of yarn to shipment (receipt by customer) for India's apparel exports is between 144 to 182 days, which is often longer than an entire fashion season.

The Tirupur industry also requires better quality and more competitive rates of hosiery yarn because in the knitting process, yarn has to be converted into loops and while a defect in woven fabric is rectifiable, a defect in knitted fabric is not rectifiable and yarn costs contribute to 60 per cent of the cost of the fabric.

In the past few years, however, over 200 units have taken up to modernisation of their production processes with fresh investments. About 800 new knitting machines have been imported from abroad. According to the UNIDO report, soft flowing dyeing machines, compacting machines for minimising residual shrinkage, dyeing machines, computerised colour matching systems and stenter machines for removing deformity in knitwear are some of the many new machines that have been bought by the industry. IICCI:34

Liberalisation of markets led to a shortage of yarn for Tirupur producers. Spinning mills preferred to export yarn, taking advantage from the high prices on the world market.

## 2.5. Description of types of garment production

Early in the 80s export of knitwear, mainly basic T-shirts were made in small quantities. Exports of other knitwear items gained momentum after 1985. In the late 80s the knitwear industry diversified very quickly and took up manufacture and export of other outer garments, viz, cardigans, jerseys, pullovers, ladies blouses, dresses and skirts, trousers, nightwear, sportswear etc.

The knitwear industry in Tirupur has concentrated mainly on the production of garments for the spring and summer seasons. Of late, the industry has diversified its production range to include winter garments, using polar fleece and blended fabrics. At present, winter garments have come to hold a share of 20 per cent in the total production of knitwear in Tirupur. As cotton garments are meant for only the spring and summer seasons, which are short-lived in Europe and Western countries, the industry perforce has to take up production of winter garments which have year-round demand in international markets. (IICCI:44)

Technologies used:

Yarn manufacturing cone machines, winding machines, loom and spinning machines are used. Now modernized equipments are used in few mills. The knitting machines are locally called a Ludhiana machines based on its place of production. Padlock stitching machines, tailoring machines, cutting equipments, scissors, bleaching tanks, compacting machine, dyeing tanks, common effluent treatment plants, water tanks for washing, colouring plants, screen-printing boards, embroidery machines, computers for designing the fashion clothes

and automatic printing machines etc., are used in the manufacturing process.

## 2.6. Description of the supply chain/production network.

Garment production can be split up into the following steps:

1. **Yarn manufacturing / spinning mills**  
(Threads are manufacture from cotton)
2. **Knitting process**  
(Machines convert the threads in garment cloth rolls)
3. **Dyeing and bleaching process**  
(In this process the clothes are bleached first as white garments and then coloured using dyeing process)
4. **Compacting and calending process**  
(In this process clothes are dried and straightened.)
5. **Cutting the cloth** (by hand or machine)
6. **Stitching process**  
(Clothes are cut and stitched as garments.)
7. **Fabric printing**  
(If required logos and slogans are printed in these screen printing process)
8. **Embroidery process**  
(Embroidery designs are made in clothes if required by the design)
9. **Labelling process**  
(Labels of each brand are stitched in the clothes)
10. **Checking process**  
(Garments are checked for any faults like small holes, scratches, imperfect colour, stitching errors etc.)
11. **Ironing process**  
(In this process garments are ironed)
12. **Packing and shipment**  
(All garments are uniformly arranged and each piece is packed in a polythene covers and then packed in cardboard boxes. Finally loaded in containers and shipment.)

Production units in the Tirupur region (Approximate)	
Operations	Number of Units
Knitting / Stitching Units	2500
Dyeing and Bleaching	750
Fabric Printing	350
Embroidery	150
Other ancillary units	250
Compacting and Calending	200

Other sources cite over 5000 garment companies in Tirupur although only 904 are listed (1998 figures, Joshi 62).

One of the main explanations for Tirupur's remarkable commercial success is the congregation of hundreds of small (less than 30 employees) units performing different phases of the production chain, from spinning and knitting through bleaching and dyeing to embroidery and stitching. The high degree of vertical and horizontal integration results in a highly flexible production system. There are many industry associations in Tirupur who look after their



members and act as quasi-judicial institutions which help resolve inter-firm commercial disputes.

Export garment production in Tirupur is thus not typical OPT production. Many company buy cloth themselves, organise dyeing and finishing or even do the knitting themselves.

Tirupur's competitive position has been built on the back of skilled labour, low wages, production flexibility, a strong customer-focus, entrepreneurial drive and inexpensive sources of local cotton. The city's greatest advantage over its competitors is the minimum order quantity. Small orders allow importers to develop large sample ranges in a cost-effective manner and Tirupur's willingness to make very small sample runs is highly regarded. Most firms in Tirupur have taken a 'cost minimisation' approach to their production facilities, and obsolete technology, poor pollution control, and an unsafe working environment are now posing serious problems for small- and medium-scale firms. The main barriers facing them in overcoming these problems are lack of finance, technological know-how and skilled workers. (IIED, note the contradictory statement on skilled workers) .

Tirupur has a unique significant presence at the lower end of the international hosiery and knitwear market. Most Tirupur entrepreneurs accept to cater to the lower end of the market on a contract manufacturing basis. Almost every household in the town undertakes some activity directly linked to the knitwear industry. The town's dusty and narrow bylanes, are lined with residence-factories (most houses have dedicated at least one room to these activities) spinning cotton into yarns, or knitting yarn into fabric, or simply separating and dividing the waste and scrap fabrics back into yarn for reprocessing. A whole range of industrial units catering to ancillary functions such as manufacture of cartons, polythene bags, zips, buttons, tapes and other packing material, has also spawned in a big way. IICCI

Large garment export units are owned by mostly single family and in few cases by corporate bodies. Some companies are registered as corporate companies with board members however most of the firms are registered as small scale industries to avail loans and to draw little attention from labour inspectors. Apart from local people, large number of North Indians and some foreign ownership also exists mostly in Madras Export Processing Units who frequently install companies for availing government subsidiary for foreign investment and shift to other export processing units in other countries.

There are a limited number of vertically integrated production units from the knitting stage through processing, printing, stitching and finishing stages. There is a large number of units involved in doing cutting, making and trimming (CMT) using knitted fabrics in pieces. (IICCI:44)

Unit values of Indian yarn and fabric exports are generally lower than world average prices. Some of the main reasons are as follows. For knitted garments the supply chain is through merchants. The merchants give the manufacturers the specifications and they manufacture and hand over their products to the merchants for sale. Within India, competition among the various players in each sector is strong, and sellers are often willing to discount the prices of their products in order to get business. Buyers who visit India therefore tend to negotiate with several parties before finalizing their orders.

Quality can not always be guaranteed. Hence most foreign buyers lack the confidence to buy products in India which are aimed at the upper-middle segment and premium end of the market.

India supplies products mostly at the "mass" end of the market where there are many-often cheaper-supply bases such as China and Mexico. Where comparable products are available from alternative supply sources, competition limits the ability of Indian producers to increase their unit values,



At the centre of the Tirupur Hosiery cluster are the cotton knitwear garment exporters who may be either manufacturer exporters or merchant exporters. According to a UNIDO report, the non-exporting manufacturers undertake subcontracting tasks mainly for the exporters and in addition they market the knitwear for the domestic market. There are a number of different types of agents and traders who facilitate the marketing activity. These actors are selling agents, depot sales agents, commission agents and general merchants. In Tirupur, the marketing agents have a strong role to play. They have developed specialization in different geographical market segments, domestic and overseas, as also in product based segments. Further specialization has developed to the extent that there are agents who market only the rejected goods and the export surplus material.

A noticeable feature in recent years has been the influence exerted by buying houses and buying agents of foreign organizations who have pitched their tents in Tirupur. The buying houses and agents constantly interact with the manufacturers and help them decide on quality specifications, type of fabric to be used and the garment patterns, and styling.  
IICCI:33

The following quote from a UNIDO study on integrated clusters of small firms in India, seems to an exact description of the case in Tirupur:

“There is a high degree of inter-dependence among the small firms in the vertically integrated clusters. This is usually witnessed in the case of hosiery, textile processing and metal products, in all of which it is possible to split the production process and farm out to separate firms due to non perishable character of the product. Second, this becomes feasible if it requires a degree of specialization for each of the processes involved. This phenomenon may also be witnessed due to splitting up of units to remain small for easy management, for escaping labour regulations that come into force when the firm grows to become large and/or to enjoy the policy related advantages that the small firms are entitled to.” (Unido: General review study of SME clusters in India, page 14)

In the Tamil Nadu garments industry it is common to find large firms that have grown large ‘horizontally, by splitting off production into many units under a single company.’ Each unit can be registered as a small-scale unit (Tewari/Goebbel).

Small firms with 100- 200 machines are the most agile and able to handle both, small-batch orders, and large orders by subcontracting out portions of the job to smaller firms. “Larger firms have more trouble adjusting to global market shifts, [at least in garments].” (Apparel Export Promotion Council 2001).

Therefore the use of the distinction between small and larger enterprises often is not very clear in the Tirupur context. “Designation of the sector as smallscale means that firms which are expanding simply register spatially separate further units of production (despite common ownership), thus giving the somewhat distorted impression of an industry composed solely of small and medium sized individual firms.”(Cawthorne 11).

The complex group structures that arises out of the de-centralised structure of the industry in Tirupur, provides for complications when auditing firms. Single units often belong to larger groups under family ownership. Plants to be audited may have other units of the same group next door that are not part of the audit, for instance because they are involved in processes that do not belong to the specific definition of the garment industry in the Code of Conduct. For instance spinning, dying and finishing. Also other CMT units may be part of the group, but then it is said that they are not producing for the buyer that ordered the monitoring. Companies however often fail to provide a fully separate administration for the different units. Also in peak periods, other units might take over some of the production, whatever is being said.



## 2.7. Strengths and Weaknesses

The Tirupur industry has certain strengths like the ability to take up small orders at short notice. The industry is also able to produce the entire range of knitwear at low cost and reasonably good quality.

However, among the weaknesses of the industry are the occasional delays in delivery, the inability of many firms to match the quality standards demanded at higher price points and the inability of the industry at the lower end of the market to compete with the Chinese and exports from Bangladesh and Sri Lanka.

It is perceived that among the major threats faced by the industry are the phase out of quotas, non-tariff barriers on account of the environment and social issues like child labour and personal safety norms and the inability to reap benefits of economies of scale due to fragmented holding of the manufacturing capacity. (IICI:37)

Thus Tirupur can be said to specialise in relatively low volumes, fashion sensitive products but not of high value garments for niche markets. This is in line with India's overall export profile, concentrated on the cotton, semi-fashion middle price segment. (ILO/Joshi 44) The minimum scale for efficient production in India is much lower than for example in China or Bangladesh. The degree of subcontracting is much higher (ILO/Joshi 46). The industry is highly dependent on agents and buying companies.

The state government and local municipal authorities have been too slow to cope with this dynamic growth. The variance between the town's infrastructure and the actual requirements has led to a sharp rise in the cost of almost every basic social input. The present export-driven prosperity is letting Tirupur's entrepreneurs meet these costs, but the paucity of adequate infrastructure could soon thwart its growth.

Water scarcity is the biggest problem in Tirupur. This is further aggravated by a 50% growth in population in the past ten years, presently pegged at 500,000. Another problem identified is the issue of industrial pollution. (IICI)

Overall costs of living are high, according to some higher than for example in Bangalore.

Another weakness is the lack of 'permanent' skilled workers. (Krishnamoorthy 55)

The low level of overall productivity can also become a major hindrance. According to the Global Competitiveness Report 1999, wage adjusted for productivity in India is very high, much higher than in China for example. Specific for the Tirupur garments industry is the problem of low productivity due to slack periods between seasons that also leads to low utilisation levels of imported machinery. This is caused by the fact that industry in Tirupur has concentrated mainly on the production of garments for the spring and summer seasons. Tirupur companies are looking to diversify its production range to include winter garments, but they are faced with the problem that Tirupur has no image for winter merchandising, like China and Vietnam. Hence Tirupur producers did not succeed in gaining a market share in fleeces.

One of the larger Tirupur companies is Astro Apparel's. Its chairman Mr. Venkatasubramanian 'believes the real issue is labour productivity. Without adding a single new piece of machinery, he believes it would be possible to grow his turnover from the current Rs 9 crore to Rs 15 crore in a year.

In October last, Venkat was part of a 32-member team that visited the Guangzhou province in China. He found that both the costs of labour and raw material were almost the same as back home. The crucial difference was productivity. According to Venkat, the Chinese worker had a 200-250% higher productivity using the same machinery.

Back in Tirupur, Venkat began to secretly monitor his workers' productivity levels. But once the workers got to know, they stopped working. They weren't keen on their wages being

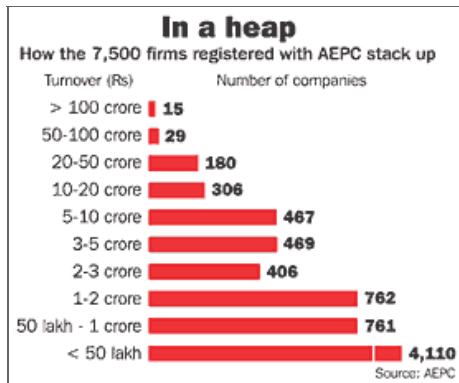


linked to productivity. Venkat is facing a peculiar situation today. Typically, his order flow is such that his factory operates at full capacity for eight months in a year. During this period, workers often have to work overtime, mostly till 9 p.m.

Also the lack of scale seriously impedes the industry. 'A hopelessly fragmented industry. Even single orders have to be processed at several locations. That's changing, but slowly. Some SMEs in Tirupur are collaborating successfully, but the trend hasn't caught on everywhere'. It's the increasing size of orders in the past two years that's forcing the change. If they aren't signing up for a consortium, producers are increasing capacity. Two of Tirupur's largest exporters - Eastman Exports and Centwin Textiles - have doubled capacity in the past two years and plan to do so again in the next two. A measure of the growth: 30% of India's textile machinery orders last year was from Tirupur.'

'There are just about a dozen companies with a turnover of over Rs 100 crore. The biggest exporter in the cluster, Eastman Exports, had revenues of Rs 250 crore.

Garment making in Tirupur is still mostly a cottage industry, with factories in sheds and garages running on a few machines. There is no professional management in most of these firms; even the biggest companies are willing to air their views only through the powerful Tirupur Exporters' Association. ' (Businessworld 5 april 2004).



The ever more frequent changes in fashion collections, up to 6 times a year will lead to more (and lower) peaks. Combined with better shop floor management this may improve productivity in a way that is also favourable to workers.

Discussions with the local industry and export associations indicated that in order to meet the exacting requirements of the export market, quality control systems need to be implemented and the skills of the workers and overall level of supervision needs to be vastly improved. IIED 87.

In the mill sector, where most enterprises have only yarn and fabric manufacturing operations, a number of players are looking to increase their added value by becoming more involved in downstream manufacturing operations. For example, many firms are now keen to arrange for the supply of finished apparel products to retail buyers in accordance with those buyers' specific requirements. Although most of these mills do not have garment making operations, they are adding value to their own products by coordinating their operations with those in downstream sectors. This move is evident in the case of exports as well as domestic sales.

Many players are also keen on establishing linkages with garment making centers-such as North Africa and Eastern Europe-which offer locational, quota and tariff advantages in the EU market. Indian producers are considering either establishing their own manufacturing pres-



ence in such regions, or building up supply relationships with key producers who are already there. IICCI:36

Cawthorne (1995, quoted in Krihnsamoorthy: 54) noted two divergent trends among the larger firms: either to move away from direct production and concentrate on the commercial aspects thus adding to the subcontracting model of Tirupur or to integrate all aspects of the production process under one roof, thus establishing a classic factory model which seems to be a break away from the classic Tirupur model. (the large factory model is prevalent in Bangalore's garment industry).

## 2.8. Initiatives to upgrade the industry

In order to encourage garment exports, a centrally sponsored scheme titled Apparel Parks for Exports Scheme has been launched for setting up of apparel manufacturing units of international standards at potential growth centres. Under this scheme, nine Apparel Parks are envisaged, at Bangalore (Karnataka), Ludhiana (Punjab), Kanchipuram (Tamil Nadu), Surat (Gujarat), Thiruvanthapuram (Kerala), Tirupur (Tamil Nadu), Tronica City in Kanpur (U.P.) and Visakhapatnarr (Andhra Pradesh).

Amongst the important policy measures in the decentralised sector activities covering handloom, powerloom, sericulture, handicrafts and wool is the adoption of a cluster based approach in implementation of schemes/programmes in these sectors. (SAARC).

Construction of the apparel park, NAP (Netaji Apparel Park), has started in Tirupur.

Under the Apparel Park Scheme, NAP would beget Rs. 10 Cr for common infrastructure, Rs 3 Cr for Effluent treatment plant, building crèches, centres and Rs 2 Cr for setting Training and R&D centers. TEA has invested money for purchasing the land by spending Rs 4.05 Cr and would also have a Captive Power Plant. The proposed Apparel park would house most modern production facilities comparable to those in the developed countries. There will be eight sheds of 40,000 Sq ft and 45 sheds of 20,000 sq ft, with a provision for vertical expansion. The Park once it becomes operational would bring in a turnover of Rs 1500 Cr and additional employment to 21,000 persons.

Shri A Sakthivel, President, TEA and Chairman and Mg Director of NAP urged the State Government to introduce special labour laws for units that would be set up in the Park.

There are quite some international projects aimed at improving the industry structure in Tirupur. Unido has run a programme in the late 1990's on SME clusters in India and subsequently:

"UNIDO, with the assistance of the Government of India, picked four pilot clusters—textile printing in Jaipur, food processing in Pune, knitwear in Ludhiana, and cotton knitwear in Tirupur—to build in each region an institutional infrastructure to "help small firms in the cluster support themselves.

"UNIDO is now implementing the second stage of its Cluster Program by building working relationships between small garment exporters from Tirupur, one of the chosen clusters, and cotton knitwear firms in Italy with funding from UNDP and the Italian government." (Tewari Goebel 2002)

The Dutch centre for assistance to importers from developing countries CBI runs a project with some 20 companies in Tirupur to prepare them for the post-MFA market. It is called 'Target 2005' and aims at improving their market position and management.

The Textile Committee, the programme coordinating body under the Union ministry of textiles that has a local office in Tirupur runs several campaigns, amongst them the national campaign on quality and compliances in textile and clothing industry. This has three parts:

- (a) To sensitize the industry, primarily the (SMEs) in decentralized sector, to the impact of WTO agreement on Indian textile and clothing industry
- (b) To convey an undiluted message that the Indian textile industry, particularly SMEs, should pay adequate attention to improve the quality of operational processes and the



products so as to sharpen their competitiveness.

- (c) To disseminate information on various compliances/standards/concepts such as ISO 9000 QMS, ISO 14000 EMS, Social Accountability (SA 8000) standards, eco-friendly textiles, technology upgradation, quality inspection and testing, cost reduction alternatives, product innovation and diversification, E-commerce, etc. which have a bearing on competitiveness and market access.

The Chamber of commerce of the Italian textile town of Treviso has twinned with Tirupur. The Indo-Italian Chamber has thus arranged for Treviso Tecnologia, which is an organisation representing a wide spectrum of the textile industry in Treviso to visit India and Tirupur, where seminars on possible collaboration in the textile sector will be held. Co-operation is envisaged between Treviso Tecnologia and the KnitwearFashion Institute of Tirupur. 'Tirupur could well be Treviso, Italy's famous textile cluster that makes garments for the best names in fashion. But it's not. Unlike Treviso's small companies, the ones in Tirupur do not buy raw material together. Neither do they share information, nor use their collective scale to market their weaves. Treviso's small companies gained their international reputation by collaborating.

The Textile Committee, which earlier policed these very factories has now taken upon itself to bring about this harmony.

The Textile Committee is trying to help the small companies work around their weaknesses. The Committee, through a dedicated cluster development agent (CDA), is asking companies to work collectively to solve their problems. For attaining adequate scale, it is goading smaller companies to form consortiums - pool their manufacturing capacity and solicit orders together.

The Textile Committee's secretary, R.C.M. Reddy, states the obvious when he says that only cost-competitive companies can survive in the garment industry. This means they have to source inputs cheaply, or deliver products at a competitive price. Without size, small companies in Tirupur, Panipat and Ludhiana can do neither.

Reddy's starting point, therefore, is to help companies cut costs to survive. His cluster development agents in various cities are coaxing manufacturers to form consortiums so that they can show a 'respectable' manufacturing scale to buyers, and strong buying power to vendors.

It's alarming then that things are moving sluggishly. Yes, a consortium in Tirupur has bagged a large order from Sara Lee. Another in Ludhiana is buying raw materials together. The solitary consortium in Panipat went to South Africa recently in a bid to win new orders. But these are still isolated instances. On the whole, the entrepreneurs are not stepping forward. They lack trust in collaborating. They expect the government agency to develop all the infrastructure. And many are still wondering if the demise of quotas will boost business. ' (Business-world 5-4-2004)

Tewari Goebel 2002: In the Tamil Nadu case, the most striking example of small business "intermediaries" that we found was TANSTIA-FNF, a novel alliance between Tamil Nadu's largest federation of small- industry associations, TANSTIA, and a German NGO, the Friedrich Naumann Stiftung. The partnership (TANSTIA-FNF) was established in 1995, and is registered as a non-profit organization whose goal is to provide small firms with assistance to meet the new global challenges of today's business environment. Though established at a time when the growing debate on labor standards and third party certification of small suppliers in developing countries was in sharp focus, the alliance did not grow out of concern over that debate about standards and certification.

Individual suppliers who have been able to gain the confidence of their principals are no longer limiting themselves merely to what they produce themselves, but are starting to trade in products which are made by other manufacturers. This trend is apparent in the case of goods for export as well as for the domestic market. IICCI::24

According to a recent article in the Business World, companies in Tirupur have begun to prepare for the post-MFA period by investing in new machinery, and hiring consultants to raise quality standards, implement enterprise resource planning systems and training employees to improve productivity.



### 3. General description of the Industrial relations and labour conditions in the garment industry

#### 3.1. General background

Social legislation is quite strong in India. It has however little impact on reality. Agarwala and Khan note: "So, while the lofty principles of the political and economic establishment led them (the governing elite) to put in place a large body of socially oriented legislation, implementation was never part of the scheme. The distance between noble principles and ignoble practices grew even wider in India since independence, leading to hypocrisy on the part of the powerful and cynicism on the part of the masses."

Although wages are low and working hours long, many workers consider themselves to be fortunate just to have a job in a factory. In India, only 6.7% of the working population comes under 'salaried', 37.3% is casual labour and 56% self employed (Frontline 9-12-2003). Despite economic growth, unemployment is rising. Everyday other workers line up at the gates of the garment factories to try to get a job for the day.

Other sources cite a figure of over 90% of the workforce in India that is employed in the informal sector (Institute for human development 2001). "Also a large share of the workers in the garment industry form part of the informal sector. One definition of the informal sector refers to the activities of the working poor who are not recognized, recorded, protected or regulated by the public authorities. An example of informal sector workers are so-called self-employed workers who run their own micro-enterprise or homeworkers. Another example of the informal sector are small workshops where people consider themselves as working for a boss but where workers have no contract. One of the consequences is that these workers cannot prove that an employer-employee relationship exists, and subsequently can't make any claims related to job security, social benefits, or other legal claims. If they try to organise or demand improvements in their labour situation they can easily be dismissed. In general it can be said that informal sector workers are in a vulnerable position. (CCC: Co-operation between the Clean Clothes Campaign and Indian Trade unions and NGOs, 2001)

Most of the workers are migrated from nearby districts due to famine and poverty and the migrant workers are mostly from the Backward, most backward and scheduled cast families. These migrant workers are mostly landless agricultural coolies. On account of draught, they could no longer survive in their own lands; hence they migrated to Tirupur seeking jobs. The migrant worker is satisfied with the present salary.

In terms of employment generation, the direct employment in the Tirupur garment industry is estimated to be 100,000 skilled, semiskilled and unskilled workers and another 100,000 persons are estimated to be earning their livelihood due to this industry. These indirect activities relate to the forward and backward linkages within the industry such as cotton ginning, yarn spinning, specialist tailoring, calendaring, packaging and other related service activities.

One of the characteristics of the Tirupur garment industry is the volatility of the workforce. If a factory cannot provide work, workers will go to another. Workers also use their mobility to get whatever small increase in wages that another factory might offer. Workers may use changing companies to get higher grade jobs by giving false information about their previous job. Companies do not offer long term contracts, wages are paid on a weekly basis and workers are never certain of their employment. When workers are employed they often are willing to work long hours because they are never certain if their future income.

The Tirupur 'business model' pre-supposes a highly flexible labour market. Seven Seas for instance states: 'we have 300 permanent workers but this number can rise to 2,000 or even 3,000 people depending on peak demand' (<http://www.inteletex.com/adminfiles/specialreport/specials/india1.html>).

This flexibility has a downside to business too. At the FWF workshop Tirupur Exporters' As-



sociation (TEA) Executive Secretary Mr. Ramanathan stressed the need to tackle the high out-turn of workers from one company to another, and the low man-machine per capita usage of imported machineries. Another example of how this model impedes further development of the industry: 'Last year, managers from Sara Lee, the leading global lingerie brand, visited his factory (Astro Apparel) and were impressed by the facilities. Not only were they willing to make him an approved supplier, they were ready to place an immediate order that would keep his factory running for the entire year. The only requirement was that Venkat would have to shut his factory by 6 p.m. - in keeping with Sara Lee's good production practices. Now, this was a win-win arrangement. His calculations showed that his workers would earn far more if they worked fewer hours, but for the entire year. The workers couldn't see the point, so much so that Venkat had to eventually decline the order from Sara Lee. "The labourers' attitude in Tirupur is just not conducive. By stepping up productivity, we can produce 150% with the same machines and the labourers will also earn more. But it is just too difficult to convince them" (Businessworld 5-4-2004)

There is a marked difference between the position of tailors and cutters, and that of other less skilled workers. Tailors and cutters often operate as semi self-employed, hiring one self out to the highest bidder. They tend to have a greater preference for piece rates and less for permanent contracts, although one should be careful to generalise.

In Tirupur, tailors and cutters are mostly male, contrarily to for example the Bangalore situation. In general, the garment industry in Tirupur is less feminised than elsewhere.

### 3.2. Labour situation and wages

Living and working conditions of garment workers in general are bad. In the meetings several problems concerning labour conditions were mentioned; wages are low and often based on a piece rate system, workers have to work long hours in order to make a living. Complex chains of subcontracting are present within the country and the sector is characterized by a high number of small units. Even in larger factories minimum wages are not paid." (CCC: Co-operation between the Clean Clothes Campaign and Indian Trade unions and NGOs, 2001)

There is a strict hierarchy of jobs. Knitting machine attendants (in charge of the circular knitting machines and responsible for the production of knitted fabric), cutters, and machinists in the CMT units are all regarded as skilled jobs and the rates of pay are relatively high. There are three main kinds of stitching or sewing machine: overlock, chainlock and flatlock. In addition there are separate machines for button holing (sometimes subcontracted out to workshops) sewing on buttons and labels. There are also hydraulic presses for flattening the garments before packing. All these workers are assisted by (unskilled) helpers. There are women machinists, but in contrary to for instance Bangalore, there are not a majority in Tirupur. Ironmasters are also regarded as skilled workers as are packers, this may presumably reflect the importance of these elements for export orders.

Trimmers and checkers, hand folders/bundlers and label putters are regarded as semi-skilled. These jobs are nearly all performed by women.

These differences are reflected in the TEA wage agreement (see 4.5)

The strict hierarchy of jobs off course hinders internal flexibilisation, where workers can take over each others jobs and again re-inforces the dependency on the model of external flexibilisation (hiring and firing persons on a day to day basis).

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In Tirupur, tailors and cutters are mostly male, contrarily to for example the Bangalore situation. In general, the garment industry in Tirupur is less feminised than elsewhere.



In Tirupur workers use changing companies to get higher grade jobs by giving false information about their previous job.

Auditors should look very well to the situation of checkers: they appear to be the most under privileged.

Also clerical staff should gain attention. Although the main *status* division is between office staff and workers in the factory, the salaries of office workers is often quite a lot less than the ablest machinists. The former are usually paid monthly salaries, and in some case benefits such as ESI while the latter are piece-rated and in many cases temporarily employed from job to job. (Cawthorne 20)

### 3.3. Labour relations

Indian labour relations are organised more on the basis of 'labor adjudication and settlement of disputes' rather than promotion of sound labor management relations or collective bargaining.'

'One way or the other, the history of labor relations in India since independence has been characterized by mutual distrust between labor and management (...). Unfortunately, the situation has not improved with the initiation of economic reforms in the 1990s. In fact structural adjustments introduced since 1991 are seen by unionists as the greatest threat to unions in the coming years. It is widely believed that the reforms are strengthening the hands of the private sector and foreign investors and weakening the position of laborers. It is expected that a large share of new industrial employment will be of a flexible type that is nonpermanent, contract-based, and part-time. This will increasingly reduce the scope for trade union activities. (...) What could have been an instrument for increasing the competitiveness of the Indian economy is proving both divisive and unproductive'. (Agarwala&Khan)

The large majority of garment workers in India is not organised in trade unions. Because the industry is organised along layers of middlemen and sub-contracting chains, often the real owner is not known to the trade unions. Any intervention by the trade unions, for example if they try to organise the workers, in any of those layers is followed by the rearranging of the chain. As a result the workers lose their jobs. The fact that most workers work in the informal sector hampers the formation of trade unions. (CCC: Co-operation between the Clean Clothes Campaign and Indian Trade unions and NGOs, 2001)

The Trade Unions Act, 1926 protects trade unions. The law and police should protect trade unions. However, intimidation of the trade union takes place in some cases.

Tirupur and Tamil Nadu have long been a stronghold of the workers movement, with strong unions and a communist government.

The strength of the workers movement declined in the 1980's. 'Unionisation levels have declined and at present membership would not exceed 10,000 among a workforce of 200,000' (Joshi 67)

"The prolonged strike of 1984 in Tirupur and the resultant reluctance of entrepreneurs to handle a large workforce was the factor that made them opt for a system of in-contracting". In-contracting is a system whereby a parent firm uses a labour contractor to produce a certain order. The labour contractor hires the workers and takes care of their supervision, whereas they may work inside the factory of the parent firm. (Krisnamoorthy)

In-contracting, also known as jobworking, is an important characteristic not only of the labour process but also of the labour relations. "One of the most prominent characteristics of the knitting industry is a split production process and jobworking as a facilitating form of organization. Tiruppur entrepreneurs use the term jobworking to describe interactive networks *between* and also *within* firms. These networks connect specialist firms; those in fabrication, finishing and making up. But jobwork is also used in some cases to describe the divisions of



labour which exist *within* firms. In the latter case, an owner often employs a work contractor for each unit. This person is a kind of production manager who is also responsible for employing labour for a particular job. This organizational system within the firm then parallels the process divisions found in the industry as a whole and seems almost identical to older forms of inside contracting. “ (Cawthorne, page 10).

This speeded up the process that existed already since the 1960's, whereby the factory system was being replaced by a system of in-contracting relations between smaller units, where the owners worked alongside the workers. Long term workers were often turned into labour contractors or semi-independent subcontractors. This forces the process of informalization of production and subsequently it forces the emergence of casual labour system in large scale. This is one of the main reasons behind the volatile labour market conditions and lack of unionization.

The export boom of the 1980's was mainly based on this system, whereas the larger factories of the earlier period were producing for the home market.

The fluctuating labour market conditions create frequent mobility of the workers and affects the permanent status of employment for workers. This factor is also an impediment for the trade union's attempt to unionize the workers.

Most of the workers avoid trade unions and they do not wish to enroll as members of the trade unions. They feel that their membership in trade unions may hamper their employment and livelihood.

Central Indian Trade Union (CITU) is the main trade union in the garment sector. It is affiliated to the CPI (M). It claims to have about 10.000 members in the Tirupur Garments industry. Besides them there are the following unions: All India Trade Union Congress (AITUC), affiliated to the CPI (7000 members); The Labour Progressive Front (LPF) affiliated to the DMK regional party (4500 members); Marumarchi Labour Progressive Front (Marumarchi means rejuvenation in Tamil), affiliated to the (M) DMK regional party (3100 members); Anna Labour Federation, (ATP) affiliated to the AIADMK regional party (2000 members); Indian National Trade Union Congress (INTUC), affiliated to the national Congress Party (6000 members), National Labour Organization, Hind Mazdoor Sabha and some small trade unions are operating in Tamil Nadu.

(additional information added from a CCC-Switzerland 2001 research report)

There are moderate labour relations between employers and workers, since the workers are not assertive about their rights and they are under frequent threat not to get regular working hours in non-peak season. In extreme cases of fines, non-payment or deduction of wages or physical assault, workers approach unions and demand their intervention. Through negotiations process most of the cases are solved. Then through Labour Court, some of the cases are resolved.

The tremendous growth of the local industry and the positive outlooks for further growth have somewhat strengthened the position of labour: "The perceptible shift in outsourcing of ready-made garments by the European retailers from Far-Eastern production centres towards India of late and the louder perception that the cotton knitwear capital of India, Tirupur, will be the major beneficiary of such a shift, in view of the increasing share of knitwear in the overall garment export basket, have proved too strong pointers for the workmen's unions to miss. The leaders of the workmen unions say that while the survival of the Tirupur industry is as important as the welfare of the workers.

Contrary to the exporting units, the knitwear producers, manufacturing the basic knitted goods catering to the local market, who are not bound by strict delivery schedule as exporters, feel confident that some solution could be found for the labour wrangle sooner." (Hindu Business Line June 03 2003)



In April 2003 six central trade unions, affiliated to CITU, AITUC, INUC, LPF, ATP and MLF threatened a strike after talks on the renewal of the 3 year agreement with the 6 knitwear industry associations (of which the 4 major SIHMA, TEA, TEKMA and KnitMA had formed a joint management committee) reached a stalemate.

One of the 2 Deputy Commissioners of Labour of Tamil Nadu Labour department invited both sides to conciliatory talks (The state also has 2 Labour Officers that can intervene in strikes and lock outs). Also the ruling party MLA intervened. In May a two-day strike took place. In June further talks were held and unions threatened an indefinite strike (Hindu Business Line 15-4; 16-4; 21-4; 21-5; 29-5; 3-6)

### 3.4. Employers

One remarkable aspect of the Tirupur industry is its level of organisation. Even typical sub-contractors like bleachers and power table owners have their own associations.

There are as many as 17 sub-sectoral industry associations in Tirupur. For example, the dyeing and bleaching units have their separate association. The importance of these associations can be gauged from the fact that all these bodies act as quasi-judicial institutions which help to resolve the inter-firm and within firms commercial disputes. Some of the associations such as Tirupur Exporters and Knitwear Manufacturers Association (TEKMA) also get the long standing inter-firm payments cleared among the members.

The South India Hosiery Manufacturers Association also assists its members to get financial assistance from the banks and financial institutions. On the procedural front, assistance is also provided in getting the registration certificate of small scale industry, Reserve bank of India code and export import licence issued. It also files legal suits in courts and represents on behalf of their members.

Among the associations, the most dynamic is the Tirupur Exporters Association or TEA, a frontline Association. The voice of this Association is heard in the corridors of power. Unlike other Associations, TEA has been spearheading investment in infrastructure projects, which directly act as a catalyst to aid and promote exports. Other key agencies are the South India Textiles Research Association (SITRA), Apparel Export Promotion Council (AEPC), Textile Committee, National Small Industries Corporation.

The Tirupur Exporters' Association (TEA) is qualified in a German study on 'Problems in the development of local associations' as 'outstanding' in its performance. 'TEA provides a lot of services, developed even industrial sites and is running a training institute just a few years after its establishment. However, TEA is the only association which is not aiming at small scale industry enterprises.'

In Tirupur companies normally have no HR or social dept. The account dept. takes cares of all this.

### 3.5. Labour inspection

India has a well developed labour legislation, with strong roles for the Commissioner of Labour and the Inspectorate of factories.

The Commissioner of Labour has a role to play in:

- Registering Standing orders
- Consolation in disputes (However most disputes are set between management and workers without the involvement of the labour officers.
- Checking compliance with regards to child labour, getting women service cards, minimum wages, maternity, Provident Fund, ESI.

The Factory Inspection is responsible for technical issues in factories like safety and health. However implementation of the legislating is often weak because of under staffing and al-



leged corruption.

In Tirupur, there is one Assistant Inspector of Factories, Inspector of Factories and one Deputy Chief Inspector of Factories. All the offices are located in Tiruppur. These Inspectors inspect the factories, verify whether labour standards are maintained, health and safety measures are followed and monetary benefits are given to the workers.

“Even in those firms in Tiruppur which *are* in theory regulated (for example where they are registered with the Factories Inspectorate) the labour force is substantially unaffected, certainly as regards wage rates, and often as regards overall conditions of work. (...) The degree of co-ordination necessary to achieve any measure of success in attempting to pressure enterprises to conform totally undermines the task in hand. There was not only the Factories Inspectorate, but different Inspectorates for Employees State Insurance and for Provident Fund ; in addition, the Tiruppur Municipality had to grant a health and safety licence to which the Electricity Board had to agree. “ (Cawthorne). This description of the situation in the 1980s does still seem to be valid.

Deputy chief factory inspectors will only inspect licensed companies above a certain number employees. This inspection includes more safety aspects. Otherwise only assistants inspectors will make visits.

Labour legislation is quite complicated. There are 200 odd central and state labour laws. Still almost 97 per cent of the country’s workforce remained in the unorganised sector. (Tribune news service sept. 8 2003).

A major overhaul of labor legislation is on its way. “The long-awaited report of the Second Labour Commission had recommended, among other things, steps to check the multiplicity of trade unions, reduction in the number of holidays and empowering employers to lay off and retrench without prior permission.

The commission, headed by Mr Virendra Verma, also sought a comprehensive legislation relating to working conditions at workplaces and another for the unorganised sector, besides asking the Centre to notify a national floor level minimum wage, giving the state powers to fix the minimum wage which should not be below the national level.” (Tribune news service sept. 8 2003).

Uttar Pradesh and TN are introducing new laws that may allow contract labour in the garments export sector.

### **3.6. Labour Laws And Acts**

The following overview is based on a report form UNIDO (<http://www.unido.org/en/doc/4825>). Most of the acts passed by the Government for the welfare of workers relate to the workers in the 'organized sector' of India's economy. A number of social security schemes have been established for them as well. Some acts and rules have also been framed for the non-organized sector.

#### **Factories Act**

The Act aims to regulate working conditions in factories and ensures minimum standards of safety, health and welfare conditions of factory workers. The act also regulates the working hours, leave, holiday, overtime and employment of children, women and young persons. The Act was amended in 1987 to set out safeguards in respect to the handling of hazardous substances. The Act is worked out in Factories Rules, made on the level of the states.

#### **Working Hours**

The Factories Act Prescribes a 48 hour week for adult workers. In Offices a work week is generally considered to be 35 to 40 hours. Non-executive staff usually receive a shift allowance if they work in shifts that differ from the usual working hours.

#### **Paid Holidays**

These are generally between 10 to 20 paid public holidays in a year, for factories and offices



respectively; with their number varying from state to state. Provision is also made for annual earned leave and casual leave and/or such leave with full or half pay to the employee.

#### **Equal Opportunity**

The Equal Remuneration Act 1976, prohibits discrimination between men and women in either requirements or payment of wages wherever their jobs are identical, except where employment of women in certain types of work is prohibited or restricted by law.

#### **Health and Safety**

The Factories Act ensures that protection of health and safety of the workers in all industries is maintained. This is a statutory obligation. Both employers and employees are required to observe the safety and protection requirements. Non-compliance with these requirements is liable for punitive action by the concerned Government authority.

#### **Shops & Establishment Act**

The Act in essence a state legislation. It seeks to regulate the working conditions of workers in the unorganized sector, including shops and establishments which do not come under the Factories Act Regulations for working hours, rest intervals, overtime, holidays, termination of service, maintenance of shops and establishments and other rights and obligations of the employer and employees are laid down.

#### **Minimum Wages Act**

A minimum statutory wage has been established for all types of daily employment. It lays down the maximum number of working hours per employee mentioned in the schedule to the Act. The maximum daily hours, weekly rest days and overtime have been set out. Minimum wages can differ between states.

#### **Wages & Salaries**

Wages vary from industry to industry and are determined on the basis of collective bargaining in each industry or in each enterprise. The monthly starting salary of local unskilled labour, inclusive of basic salary or a wage and a 'dearness' allowance (cost of living allowance), but without medical leave or other benefits, ranges from Rs.1000 to Rs.2500. Monthly salaries for skilled labour/technicians may range from Rs.2500 to 6000 depending upon the skill-level and experience. The office staff or clerical salary ranges approximately from Rs.2000 to Rs.5000 per month. Basic wages are fixed in accordance with the category of employee. This category depends on the nature of the work or skill required, besides the location. The wages are higher in cities.

#### **Payment of Bonus Act**

All payments of bonuses are linked to profits or productivity. According to this Act the employer has a statutory liability to pay a bonus to employees in accordance to a prescribed formula. The Act also provides the machinery for the enforcement of the liability of payment of the bonus. The Act extends to any unit where more than 20 people are employed.

#### **Maternity Benefits Act**

This provides maternity benefits to women employees. It sets out that a woman may avail 3 months leave with full salary before or after the birth of her child.

#### **Trade Unions Act**

Registration of a Trade Union is permissible according to this Act and these are awarded certain protections and privileges which safe-guard the interest of the employee. This Act extends to the whole of India and is applicable to all the unions of workers and associations of employees.

#### **Industrial Disputes Act**

This was established in 1947 and provides the machinery for the settlement of industrial disputes through negotiations. It applies to all industrial establishment all over India whatever the strength of its workers may be. Under the Industrial Disputes Act no employee in any industrial establishment who has worked more than one year may be retrenched without being given one months notice in writing indicating the reason for retrenchment. The employee is also entitled to compensation of 25 days salary for each year of service completed. The dismissal of workers may be contested through a petition to the Government. The Government has activated the National Renewal Fund (for rehabilitation and retaining of workers



displaced from sick units) on a non statutory basis.

**Social Security Act**

Several legislative Acts provide social security to workers in India. The most important ones being:

**Employees Provident Fund**

According to this Act a compulsory contributory fund is set up by the employer for the future of the employee following his retirement, or for his dependents in the case of premature death. Monthly contribution to provident fund is at 8-10 per cent of basic salary and dearness(cost of living) allowance. This Act is extendible to all establishments in India employing 20 persons or more.

A company newly set up is exempt from the Employee's Provident Fund and Miscellaneous Provisions Act for the first three years of operation. Certain other amenities, such as canteens, rest shelters, first-aid centres, crèches (day-care centres for female employees' children), and educational and recreation centres, are to be provided by the employer in factories, mines and plantations. Large industrial Units located away from the main cities sometimes provide subsidised housing for their workers. Some states require the setting up of a welfare fund with contributions payable by the employer, employees and the concerned government for promoting activities connected with the welfare of labour.

**Payment of Gratuities Act**

This Act provides retirement benefits for employees who have worked for a minimum stipulated period with an employer (generally 5 years and more). It is considered as a reward for long and faithful service. Terminal gratuity works out to 15 days salary for each year of service. This Act applies to the whole of India where over 10 employees are working for an establishment.

**Workman's Compensation Act**

According to this Act workers and/or their dependents are provided with relief in the event of accidents arising out of or in the course of employment, causing death or disability. This Act extends to the whole of India.

(For the record: The worker's Permanency Act)



## 4. The labour standards

This section gives an overview of the situation regarding each of the eight labour standards in the FWF Code of Labour Practices. There is general description of the reality in garment production regarding each labour standard, and there is an inventory of applicable laws, regulations and court decisions.

ILO conventions related the code of labour practices ratified by India:

India has ratified only conventions related to Forced labour related Convention 29 on 30/11/1954 and Convention 105 on 18/05/2000, The Bonded labour System (Abolition) Act, 1976 was enacted. The Act by way of abolition of bonded labour seeks to prevent the economic and physical exploitation of the weaker section and needy workmen who may accept any terms for pledging their labour in order to escape hunger and/or destitution. This Act extends to whole of India. (Mumbai BS)

Further it has ratified Discrimination related Convention C 100 on 25/09/1958 and C 111 on 03/06/1960.

The Equal remuneration Act, 1976, the objective of the Act as defined in the Act is: to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto.

Hence according to this Act is it the duty of the employer to pay equal remuneration to men and women workers for same work or work of similar nature and requires that no discrimination be made while recruiting women workers, except where the employment of women in such work is prohibited or restricted under any law for the time being in force. The Act is in conformity with the ILO convention 100 and extends to whole of India and applies to the establishments notified by the Central Government. The Act is now applicable to almost every kind of establishment including Garment oriented unit.

There is no specific act against Discrimination in employment, which could be said to be in accordance with ILO conventions 111. (ASK 2001)

India has not ratified conventions related to Elimination of worst forms of child labour (ILO convention 182).

The Child Labour (Prohibition and Regulation) Act, 1986 prohibits engagement of children in certain employment, which are considered unsafe and hazardous to child workers who are below the age of 14 years. It also aims at regulating the conditions of work of children in certain other employment and prescribes hours, health and safety measures, weekly holidays, inspections, etc.

The Factories Act, 1948 prohibits employment of Children under the 14 years of age. After attainment of 14 years of age a certifying surgeon has to certify the child to be fit to work as a child and hence working conditions for the child are regulated as per provisions given in the Act for child workers. After attaining the age of 15 years the certifying surgeon has to certify the child as fit to work as an adult and hence the provisions given for adult are applied to that child. While Minimum wages Act, 1948, also prescribes regulation for child labour in terms of hours and wages.

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Besides these Acts, with a view to eliminating child labour, the government is implementing National Child Labour Projects (NLCs). During 2000-2001, 96 NLCs have been sanctioned for rehabilitation of about 2 lakh children removed from work.

These Acts and efforts collectively contribute to the ILO convention 138. (ASK 2001)

India has not ratified conventions related to freedom of association etc. (ILO conventions 87, 98, 135).



India has ratified convention 26 related to minimum wage-fixing machinery but not 131.

India has ratified convention 1 related to working time.

India has not ratified convention 155 related to H&S.

However, India is bound to implement 1998 ILO declaration on fundamental directives and principles at workplace like all other member countries of ILO. This declaration covers Freedom of association, No discrimination, and No child labour and forced labour.

#### *New Unorganised Workers Bill*

As for the unorganised sector workers bill, five major central trade unions in a joint letter dated January 21, 2003, communicated the following major shortcomings to the ministry of labour:

- (1) The draft bill reflects none of the basic features of the recommendations of the Second National Commission on Labour or the conclusions of the National Seminar on Unorganised Workers held in November 2002.
- (2) There is no provision for regulation of employment and minimum employment earnings.
- (3) The bill enables the government to assume absolute authority to decide about the application, modification and alteration of the existing structures in force, which is most objectionable.
- (4) The emphasis is on contributory social security and welfare.
- (5) There is no provision that the state has to bear the burden of contribution for the workers, and also for the employers if the employers are not identifiable.
- (6) Even to cover the welfare part, a lot more modifications are required, in which trade unions have to be an indispensable partner.

Said Centre of Indian Trade Union secretary M.K. Pandhe: "The Bill is merely an enabling provision, laying down guidelines for the states to implement. The legislation suggests the government can do this or that. The rest is left to state governments. The Bill, therefore, is nothing but symbolic," ([www.cpiiml.org](http://www.cpiiml.org))

## **4.1. Employment is freely chosen**

### **4.1.1. Laws and Regulations**

Article 23 of Indian Constitution prohibits any form of forced labour and is in content similar to ILO convention on forced labour.

Bonded labour system (Abolition) Act 1976:

This Act not only prohibits bonded labour system but it prohibits forced labour system and it can be used against forced overtime by defining it as a form of bonded labour system and as a forced labour system.

The Asiad workers case Supreme Court order (AIR 1982, SC 1473).

The Supreme Court held that the word forced must be construed to include not only physical or legal force but also force arising from the compulsions of social and economic circumstances, which leave no choice or alternatives to a person in want and compels him to provide labour or service even though the remuneration received for it is less than the minimum wage, which clearly falls within the concept of forced labour under Article 23 of the Constitution.

Forced labour (prisoners wages) Prison reform case (AIR 1983 Ker. 261) and High court of



Gujarat (AIR 1998 Sc 3164):

In both the cases the Court referred Article 23 Section (1) of the Constitution of India and gave verdict in favour of workers.

Neeraj Choudary v. State of Madhya Pradesh (AIR 1984 SC 1099)

It referred Bonded labour system (Abolition) Act 1976 and a series of Articles in Constitution like Article 17, 23 and 24 to stress that it is the State's responsibility to protect workers from forced or bonded labour system, abolish such system and provide adequate rehabilitation to workers.

#### 4.1.2. Compliance situation

Some skilled workers are provided with loans and it is not deducted from their salary and thereby creating an informal binding with the company. These skilled workers feel that this situation restricts their freedom to find employment in other firms where they will have better wages.

The most of migrant women workers are accommodated in hostels where they are subjected to psychological depression since they are not allowed to go outside their hostel. They are demanded to work in night shifts. Their restricted mobility is a kind of forced labour.

## 4.2. Discrimination in employment

### 4.2.1. Laws and Regulations

Article 14 of the Indian constitution: Principle of equality before the law is enshrined in this Article. The Equal Remuneration Act, 1976 is enacted to give effect to this Constitutional obligation.

The Equal Remuneration Act, 1976 says as follows in its section 4:

"An employer must not discriminate on the basis of sex, while paying the workers for work of a similar nature that is done."

Section 5 of the Act prohibits the employer to discriminate against women, while recruiting labourers for the same work of a similar nature.

This Act does not affect those laws, which prohibit or restrict the employment of women in certain occupations or establishments of a hazardous nature.

Provisions of this section do not affect the reservations for Scheduled Castes or Scheduled Tribes, ex-servicemen, retired employees (retirement age is 58 years but mostly there are no workers found in garment industry above the of 40 years and women workers above 35 years) in the matter of recruitment.

Article 39 of the Indian constitution envisages giving an equal pay for equal work for both men and women.

#### The Maternity Benefit Act, 1961

The Maternity Benefit Act, 1961 aims to provide the women employees certain maternity and other benefits like medical aid, maternity bonus, provisions of crèches, additional rest intervals, etc, before and after child birth. It is applicable to every factory in whole of India, irrespective of the number of employees but does not extends to those factories where provisions of Employees State Insurance Act are applicable.

- The maximum period for which any women shall be entitled to maternity benefit shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery (miscarriage or medical termination of pregnancy).
- No pregnant women shall, on a request being made by her in this behalf, be required by

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her employer to do any arduous nature or which involves long hours of ing, or in which in any way is likely to interfere with her pregnancy or the normal development of foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health. This is applicable during the period of one month before the period of six weeks before the expected delivery and one month after the six weeks after the date of delivery.

- No women shall be entitled to maternity benefits unless she has actually worked in an establishment from which she claims maternity benefits for a period not less than eighty days in the twelve months immediately preceding the date of her expected delivery.
- Every women entitled to the payment of maternity benefit under this Act, not with standing the application of Employees State Insurance Act, 1948, to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim under section 50 of that Act.
- A women dies during the period the maternity benefit shall be payable only for the days up to and including the day of her death.
- Maternity benefits payments should be at the rate of the average daily wage.

#### **4.2.2. Compliance situation**

Discrimination in Tirupur as elsewhere in Tamil Nadu is based on class, religion, caste and gender, but as far as workplaces are concerned, such discrimination do not manifest. Wages are fixed by categories and not by sex or other ascriptive features of Indian society.

In line with the general pattern in the region, age and sex differences are found within the production units, and even among staff. Women workers are mostly working as unskilled workers and approximately only small numbers of women workers are skilled workers.

In Tirupur checkers, bundlers are mostly female. The most powerful workers are the tailors, predominantly man that work on piece rate. However you can demand from companies that they do not keep women for helpers for many years without any promotion. This is to be checked. Auditors may ask management if they are not able to do higher grade work.

Only a few women are found in power table machines and single needle machines as tailors. On the contrary, checking is completely a woman's job. In Bangalore for instance much more women do machine work and have also higher paid functions in the garment industry. While women are lesser among skilled, administrative, supervisory and specialist jobs, this seems to be a customary rather than a discriminatory feature.

Unskilled women workers are denied training to become skilled workers and thereby denied equal opportunity to promotion.

Women in the age group of above 30 years and married women workers are not preferred by the employers. This is the general trend in all these companies. Most of the women workers are not paid their Maternity benefits during their pregnancy leave and employers are not comfortable with married women with child as they are more likely to take leave on account of their child's health etc.

Most of the workers in garment industry are less than 40 years of age irrespective of their gender.

### **4.3. No Exploitation of Child Labour**

#### **4.3.1. Ratified conventions and laws**

The Constitution of India:

- Article 24 prohibits employment of children must be given the maximum effect so as to



wipe out child labour as a fundamental duty.

The Child labour (Prohibition and Regulation) Act, 1986:

- **"Ban the employment of children below the age of 14 years** in specified occupations and processes." It lays down procedure to decide modifications to the Schedule of banned occupations or processes. It lays down enhanced penalties for employment of children in violation of the provisions of this Act, and other Acts, which forbid the employment of children. It also intends to obtain uniformity in the definition of "Child" in the related laws.
- In part B of the schedule (Section 3) it explains such process where it mentions "**Cloth printing, dyeing and weaving**".
- Section 7 says that : "The period of work of a child workers shall **not spread over 6 hours which is inclusive of the interval period for rest at least an hour and the time spent by child in waiting for work on any day. The period of work on each day shall not exceed 3 hours. After 3 hours of work the child worker should be provided rest for at least 1 hour. The child worker is not permitted to work between 7 p.m. and 8 a.m. The child is not permitted to work overtime nor he/she is allowed to work overtime.**"
- Section 8 says that **"every child employed in any establishment is allowed weekly holiday of one whole day."**
- Section 11 says that: **"Employer should maintain a register showing name, and date of birth...hours and periods of work. interval of rest, nature of work of any such child. And such a register should be available for inspection at all times during working hours or when work is carried on in any such establishment."**

The Factories Act, 1948

- **Protects child workers from health and safety hazards at workplace.** Provide cleanliness in the place of work and its freedom from nuisance, ventilation, air, drinking water, lighting, latrine and urinals. Spittoons, fencing of machinery, prevent employment of children on dangerous machines and work at or near machinery in motion, device for cutting off power, self-acting machines, protection of eyes and from dust, explosive or inflammable dust, gas and fume etc.
- **"Child or adolescent worker may be allowed to work in a factory, if a certificate of fitness is issued to him by the certifying surgeon and is kept in the custody of manager or the factory and he wears a token while at work giving reference to the certificate.** The Certifying surgeon issues the certificate of fitness after thorough check up ascertaining the fitness of the child or adolescent, to work in a factory. Application for such an examination is made either by the worker himself or his guardian. The application should be attached with a document signed by the factory manager stating that only a person certified fit by him would be employed. In addition, the manager can apply for such an examination. The certificate proves that the certifying surgeon is satisfied that the young person has completed his/her 14<sup>th</sup> or 15<sup>th</sup> years, has attained the prescribed physical standard and is thus fit for such work A certificate is valid for 12 months and can thereafter be renewed. If the holder is no longer fit to work then, it can be revoked at any time by the certifying surgeon. When a certifying Surgeon refuses to grant or renew a certificate, he should if requested, state his reasons in writing. The employers should pay the fees for the certificate. The employer should pay the fees for the certificate."
- **Here in this law it is specified that Child worker is a worker who has completed 14 years of age and adolescent is a worker who is below 18 years of age and above 15 years of age)**

The Apprentices Act 1961 prohibits the apprenticeship/ training of a person less than 14 years.



The Factories (Amendment) Act 1954 included a prohibition of employment of person's under 17 years at night. Night is defined as a period of 12 consecutive hours and which included hours between 10 p.m and 7 a.m.

Court Case: M.C.Mehta Vs State of Tamil Nadu (AIR 1977 SC699)

The Supreme Court (SC) issued "directions to the State Governments regarding fulfilment of legislative intent behind the enactment. The Court **directed every employer who engaged children below 14 years to pay Rs 20,000 per child**". And SC held that "State Governments will be responsible for providing employment to every adult member of the family where children are working". This verdict is an ample legal tool to provide relief to child workers.

#### **4.3.2. Compliance situation**

In general there is no child labour in the registered export units in Tirupur. But child labour is prevalent in the unregistered garment units according to the Factory Officials. The Inspector of Factories has launched more than 100 cases under the Factories Act, penal provisions under Child Labour (Prohibition and Regulation) Act, 1986. District Administration has taken much effort to eradicate child labour in the garments Industry. Since the garments industry is not termed as hazardous industry in the Child Labour (Prohibition and Regulation) Act, 1986, it is hard to prosecute the managements that employ less than 20 workers, since that unit will not come under the purview of Factory.

12 to 14 years old children are sometimes found working. Now most of the major companies engage them only in peak season unlike few years ago but small and medium size companies employ them more frequently and in some cases as full time workers.

Most of the child labour in the Indian garment industry is found in subcontracting shops or in homework situations. At least 5% of the Tirupur apparel production takes place in people's homes, with families carrying out operations such as attaching buttons and other accessories or operating a knitting machine.

Birth registers – as known in Western countries – do not exist, making it extremely difficult to determine the exact age of a young worker. A medical doctor's certificate or school records may be the only ways to determine a person's age. (IIED:85-86)

Joshi quotes a figure of 20% of the 200,000 strong garments workforce in Tirupur to be children (page 63).

## **4.4. Freedom of Association and the Right to Collective Bargaining**

### **4.4.1. Laws and Regulations**

The Trade Unions Act, 1926

- Each employee has to inform the management about his choice of a union. If this union does not get registration he has to join another union recognized union within three months.
- Any person above 15 years can become a member of a trade union. Only, he cannot be an office-bearer till he/she becomes 18 years old.
- A person convicted for an offence will not be eligible to the executive of the union. However if he/she has completed 5 years after the release from jail can be eligible.
- At least 50% of the office bearers of the registered trade union must be from the actually employed workers of a particular industry, which the union is connected.
- Any office bearer of the union can inspect account books and list of members at suitable times fixed by the union.
- And this acts describes more on membership fees and affairs related registration of the



trade union etc.

#### The Trade Unions Act (Amendment) Act 2001

- The union commanding the allegiance of at least 35% of the workers will be the Chief Bargaining Agent. Others will be assisting agents. All the unions will represent the Bargaining Council.
- A minimum subscription of Rs 1 will be deducted from the workers pay and passed on to the union of his choice.
- A registered union has to have at least 100 or 1/10 of the workers as members. (4.1)

#### The Industrial Disputes Act, 1947

- A workman whose money is due from the employer can himself or through any authorized representative (in writing) recover the due money from the employer. If the employer fails to pay the money, the State Government should issue a certificate on whose basis the collector will recover the money as arrears of land revenue. Application for the recovery should be made within one year from the date of its becoming due. The Government can relax this period. His/her legal heir can recover money due to a deceased worker.

#### Britannia Biscuits company Ltd Employees Union v. Assistant Labour Commissioner 1984 (I) LLJ 339

- A settlement with the majority union become binding on all workers.
- Only the largest trade union should be the bargaining agency for strike. A strike ballot should be made mandatory under law.

#### **4.4.2. Compliance situation**

There are three categories of trade unions existing. There are politically affiliated unions, which have established muscle strength due to which the workers mostly get or have to get affiliated to these unions even if they may not be in actual terms be addressing the problems and grievances of workers and also are not transparent and autonomous. Then there are, non-political unions, which wants to objectively work on solving workers' issues, and the third, which are employer supported. Some employers who have established workers' trade unions listen to the workers' problems only when they take the help of these unions. (ASK 2001)

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In Tirupur there is no trade union or employee's association in more than 70 % of the factories in garment industry. However some independent observers feel that this percentage is even higher. Trade unions together claims that nearly 30% of the workers are enrolled. Again this figure is disputable. Joshi gives a number of 10,000 members among a workforce of 200,000, adding to it that unionisation levels have been higher in the past. (Joshi: 67) Workers do not go to the unions. Workers fear to make themselves known as union members.

Workers do not go to the unions. Workers fear to make themselves known as union members. Mostly workers are not allowed to form or organize workers union or associations inside the factory. In the past 20 years many of the workers are victimized for taking part in trade union activities. Employers' invariably often treat badly those workers who have inclination or affiliation to trade unions in training or providing regular employment. Some employers recognize trade unions due to the compulsion of social accountability standards or code of conduct imposed by their buyers.

The Trade Union leader Mr.Subburayan (AITUC) said that the Trade union movement has come to a stand still. Even though, Tirupur is quite known for the communist movement, the managements do not implement the recent 12(3) settlement. But, the workers are not ready to fight the case since they accept the present state of affairs. When there is a general strike all the workers join the strike for a day or two. But they are not prepared to join strike indefi-



nately. In the export unit and the merchandise units there may be workers mittees wherein they discuss their issues and try to settle the issues with the management amicably.

The Tirupur wage settlement is the only accord available for the workers in Tamil Nadu. This covers only some parts of Tirupur region and the region itself is widened till the outskirts of Coimbatore City where it is not applicable. There is no such agreement in other parts or regions of India like this accord. This settlement is not covering the workers in dyeing and bleaching units, fabric-printing units, calending units and spinning mills.

[Many workers do not realise what their rights are. This concerns the right to join unions but also for instance rights in regard to PF and ESI. Many workers do not realise why these funds are important for them.](#)

## 4.5. Payment of a Living Wage

### 4.5.1. Laws and Regulations

#### The Constitution of India

- The Article 32 of the Constitution: Any affected workmen can themselves directly move a representative petition seeking immediate remedy on minimum wages.
- The Article 23 of the Constitution: The compulsion of economic circumstances which leaves no choice of alternatives to a person in want and compels him to provide labour or service even though the remuneration received is less than the minimum wages is a violation of this Article.

#### The Minimum Wages Act, 1948

- **The appropriate Government viz., the Central Government or the State Government as the case may be fixes the minimum wages in certain employments.** A schedule defines what type of employment falls under this law. This schedule does not include garment industries. But state government can add industries to it and in Tamil Nadu 'Hosiery' (1953) 'Knitting Industry' (2000) and 'Folding textile goods (1999) have been added to the schedule. (according to the 2003 publication of the Laws and Rules by Madras Book Agency).
- **It is open to revision after every five years.** In fixing the minimum wages, the appropriate Government would take into consideration the cost of living index of the particular state.
- **The minimum wage can be fixed either per hour or per day, or per week, or per month or it could be fixed piece rate.**
- Any worker, who works beyond the normal working hours, should be paid for every hour of extra work at a special rate known as the overtime rate, which shall be fixed by the appropriate Government. This is in Tamil Nadu for the Scheduled employment (apart from agriculture) double the ordinary rate of wages (art. 26 Tamil Nadu Minimum Wages Rules 1953)
- Minimum Wages Act, 1948 also provides for the maximum daily hours, weekly rests day and overtime. It extends to whole of India and applies to all establishments employing one or more persons and engaged in any scheduled employment as defined by the government of India which includes the Garment Industry. (ASK 2001)

#### Payment of Bonus Act, 1965 and Rules

The Payment of Bonus Act, 1965 aims at providing for the payment of bonus (which is associated with profits or productivity) to the employees of certain establishments. It is payable to Regular, Contract and casual labour.

- Every employee shall be eligible to receive bonus provided he has worked in that estab-

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- ishment for not less than thirty working days in that accounting year.
- It is applicable for every factory in which twenty or more persons are employed on any day during an accounting year.
  - Every employer shall be bound to pay to every employee the minimum bonus at the rate of 8.33 percent of the wages of salary earned by the employee during that accounting year or one hundred rupees, whichever ever is higher, whether or not the employer has any allocable surpluses/profits for such payment. (art. 10)
  - The Salary and Wages mean all remuneration (other than in respect of overtime) capable or being expressed in terms of money, which would, if the term of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of work done in such employment and includes dearness allowance, but does not include;-
    - Any other allowance, which the employee is entitled to
    - The value of house accommodation or the supply of light, water, medical attendance, any concession supply of food grains or other articles.
    - Any travelling concessions.
    - Any bonus (including incentive, production and attendance bonus)
    - Any contribution paid by the employer to the pension scheme, gratuity or any other retrenchment benefits.
    - Any ex-gratia.
    - Any commission paid or payable to the employer.

#### The Employees Provident Funds and Miscellaneous provisions Act, 1952

- This Act is applicable to any establishment or factory in which twenty or more persons are working in that factory.
- The employer should pay an amount to the central Government established body in a ratio specified by the Act corresponding to the employee's salary or wages.
- The Employer should not deduct that amount from the salary of the worker.

#### Payment of Wages Act, 1936, was enacted for regulating

- Payment of wages,
- Imposition of fines and deductions, and
- Eliminating all malpractice by laying down wage periods, time and mode of payment of wages.

So it ensures payment of wages in a particular structure at regular intervals and prevention of any unauthorized deductions. Under its scope it covers establishments producing, adapting or manufacturing any article.

The Payment of Gratuity Act 1972 is applicable. According to the Payment of Gratuity Act the worker is eligible for Gratuity if he has put in 5 years of service.

Workers have a right to 15 days' wages for every completed year of service or part thereof in excess of six months, subject to a maximum of Rs. 100,000/-. The seasonal employees are entitled to gratuity at a rate of seven days' wages for each season.

Nomination form is received from the worker at the time of employment.

The Inspector of Factories have to verify whether Minimum wages are provided for the workers. Salary registers are maintained under Minimum Wages Act. The workers are paid mostly weekly wages and they are provided wage slips.

In case of disputes with the Management, workers file a complaint against the Management under Industrial Tribunal Act. The Labour Officer said that most the cases are settled within the management and very few cases are registered before him. In such cases, the conciliation mostly fails and a failure report is sent to the Government.



In case of other disputes under Minimum wages, Deputy Commissioner of Labour enquires and settles the matter with the management. The workers can file claim petitions before Deputy Commissioner of Labour, if minimum wages are denied to them.

The 1948 Minimum Wage Act schedule does not include garment industries as such. But Tailoring Industry is. Export Garment Manufactory finds a place as category "B" in G.O.(2D) No.40, Labour and Employment, dated.18.1.94 under this main heading the minimum wages have been revised for 15 categories too. As such, the Tailoring G.O. will be applicable to the Garment Industry and there is no need to add the "employment in Garments" under the schedule to the Minimum Wages Act, as a separate employment.

A state government can add industries to the scheduled industries and in Tamil Nadu 'Hosiery' (1953) 'Knitting Industry' (2000) and 'Folding textile goods (1999) have been added to the schedule. (according to the 2003 publication of the Laws and Rules by Madras Book Agency).

According to the Tamil Nadu Labour And Employment Department Policy Note 2003 -2004 (<http://www.tn.gov.in/policynotes/labemp.pdf>), during the year 2002, no rates of Minimum Wages were refixed for the garment, knitting, hosiery or tailoring industry, nor did the Government have issued Preliminary Notifications for these employments. The Government did constitute an Advisory Committee for the Employment in Knitting Industry during that year.

For the Tailoring Industry the Government have issued a Preliminary Notification in G.O.(2D) No.62 Labour and Employment Department, dated.22.12.03 regarding revision of minimum rates of wages.

Regarding the employment in Hosiery Manufactory, the revision is proposed to be done by Committee method. Action has already been taken to call for the nominations from the Chief inspector of Factories, Chennai and the General Secretaries of Central Trade Unions.

So there is a legal min. wage, but is has not been revised since 1994. (GO 2d no. 40,10-1-94, cat 49 tailoring). However, every year there is an official government order to establish the increase of the min. wage with a dearness allowance (2004: rupee 1130,40 for all grades of jobs). There is a committee established to revise the min. Wage, so next year there might be a new structural basis.

The TN Government, by way of the Labour Commissioner publishes Minimum Rates of Wages for the Tailoring industry (incl. cutters, trimmers, etc.), based on the 1948 Act, and differentiating for Tailoring Shops and export Garment Manufactory, for three different zones (latest copy at our disposal is of 18.1.1994).

Including the dearness allowance, the minimum wages were as follows for 2003:

	Zone A	Zone B	Zone C
Stitching industry, semi skilled A	1610	1550	1620
Stichting industry, semi skilled B	1740	1680	1680
Stichting industry, skilled	1810	1740	1680
Stitching industry, unskilled A	1560	1500	1440
Tailoring export garments: Cutter, machine operator grade	1819.80	1759.80	1699.80



1, Checker grade 2			
Tailoring export garments: presser grade 1	1689.80	1629.80	1569.80
Tailoring export garments: Supervisor, Cutter cum marker grade 1	1889.80	1819.80	1759.80
Tailoring export garments: Tailor/ machine operator grade 2	1739.80	1679.0	1619.80
Tailoring export garments: Trimmer, Packer, Helper	1639.80	1579.80	1519.80

A monthly wage consist of 26 days (factory act), a weekly wage of 6 days. Sundays are no working days.  
Tirupur is included in Zone B.

Minimum wages in India are calculated on the consumer price index (CPI) of a region, which for example for Mumbai is quite high. Hence in the Mumbai garment industry the wages are higher as compared to other cities where CPI are lower. According to BTRA's study (1996-99) on garment Industry in India, the workers in the industry are classified into 4 categories, as Tailors (skilled), Tailors (unskilled), pressmen, and helpers (unskilled). The wage comparison in the report between Mumbai workers with the workers of Delhi, Noida, Chennai, Bangalore and Calcutta suggests that in all the categories of the workers, Mumbai workers are highest paid. The comparison is given below in the table:

Region	Tailors, Skilled	Tailors, unskilled	Pressmen	Helpers, unskilled
Mumbai	2500-6000	2000-2500	2500-4000	1000-2000
Delhi	2010-2200	1780-1900	1780-1900	1555-1650
Noida	2400-2600	2100	2100	1950
Chennai	1500	1200	1200	650-950
Bangalore	1600-2000	1250-1350	1300-1400	650-1400
Calcutta	2000-3100	1200-1500	1200-1500	1000-1200

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It is worthwhile to compare the above table with the TEA-CBA: The principal features of the agreement reached are outlined below. The percentage increased in basic wages as stated at I, II & III hereunder shall be on the current basic wages that are payable. The agreement is effective from 02.06.2003.

Wages according to the TEA agreement:

Category	Exisitng Basic Wages (8 hrs)	Wages increased in % as per agreement		
		Per 2.6.2003	Per 2.6.2004	Per 2.6.2004
<b>Export Division</b>				
Cutting, tailoring, Ironing, Paking Knitting machine	79.93	10%	5%	5%



Checking	45.50	10%	5%	5%
Label putting	41.01	10%	5%	5%
Hand folding	39.85	10%	5%	5%
Damage spotting	31.87	10%	5%	5%
Assistants to labourers	22.81	10%	5%	5%
<b>Fabrication Division</b>				
Knitting machine labourers	74.28	10%	5%	5%

#### DOMESTIC DIVISION

In respect of units catering to domestic market the above increase is on the existing basic rates to the various categories of workers.

#### DEARNESS ALLOWANCE :

Based on 1936 Chennai Consumer Price Index, the Dearness Allowance is fixed at Rs. 790 per month in case of export division and Rs. 785/- in case of domestic division. In addition 11 paise for every increase in point beyond 10867 (which is the CPI figure for Chennai in December 1999) is payable during the period 2.6.2003 to 1.6.2006.

Travelling Allowance of Rs. 4/- per day shall be given to all the employees. Tea DATA 20% increase over existing rate is payable. Minimum Rs. 5/- for half night shift.

Marriage allowance of/ assistance to dependents of works who die in harness will be as per earlier agreement.

On the basis of this table we can calculate as a regular monthly wage for assistants 1387.06 rupees and for checkers 1977 rupees.

Legal Minimum wages would be 1689.80 and 1819.80 respectively, so without the Tea BATA the agreed wages seem to be lower than the local minimum wage.

But the Deputy Commissioner of Labour said that there is no claim petition in Hosiery Industry seeking minimum wages because they already receive more than minimum wages.

#### 4.5.2. Compliance situation

Wages are far below living wages, but then most families have 2 or more wage earners. The wage is often complementary; there may be more wage earners in a family.

LINK calculates for a family of 2+2 a living wage would be 4.286 in Tirupur, housing is expensive, they have to buy water, etc. (In Bangalore it is 3.826. according to their calculation). The study group of the Second National Labour Commission recommends Rs 4.500/- as minimum wages.

The TEA agreement is not implemented generally. It is not even implemented by all members of TEA although it should be binding for all members of the employers association.

Most of the workers who work for daily wages complain that they are paid less than the wages according to the TEA-CBA.

Some factories are paying wages as monthly wages and other factories are paying wages as daily wages. Workers engaged in printing receive their payment mostly in monthly basis. A daily rate you find to monthly wage consist of 26 day (factory act), weekly rate by 6. Sundays are no working days.

A large share of the workers, and certainly of the unregistered workers, work under piece rate systems. The unions have opposed piece work without success. (Cawthorn 27).

Piece rate system for workers are as follows based on the nature of stitching and related



works for example: -Piece rate ironing and cutting jobs per garment piece -Rs 1/=, Stitching Sleeveless and Backside stitching Rs 4 per dozen for just sleeveless stitching Rs2/= per piece, Sleeveless Ordinary T-shirts Rs 3/= per dozen number of T-shirts, Stitching ribs Rs 2.25/= per dozen number of T-shirts, Side stitching Rs 3/= per dozen number of T-shirts and T-shirt shoulder stitching Rs 2/= per dozen number of T-shirts. The piece rate systems of wages are below bare minimum.

Workers are not paid in a premium rate for every working hour that they work as overtime except in some factories which provides Rs 20/- as refreshment allowance for workers who work in the night beyond 10 p.m.

Provident Fund and Employees State insurance are available only for a limited number of workers who have an experience of 5 years with the same factory. Many of the workers do not get these basic benefits according to the law of the land.

Bonus has to be paid to all workers Regular, Contract and casual labour. Every year, the bonus amount is calculated before Deepavali festival i.e in November. 8.33% is the minimum bonus, which has to be paid. The bonus may be as high as 20% Workers may get if they don't leave after a certain number years a higher bonus. For staff if you stay ex gratia deduction is given as bonus.

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The Bonus is based on number of days worked. If a worker has not worked for all the working days in a year, the bonus will be proportionately reduced. (Art. 13 Payment Of Bonus Act). Bonus rate for piecework is different than for weekly waged workers.

To improve incomes of the workers an intermediate solution can be providing fringe benefits like food en medical

This improves worker conditions, loyalty, lowers absenteeism etc. and hence has a positive impact on quality and productivity. Next step can then be that employers are convinced that higher wages also have an 'earn back' potential.

## 4.6. No Excessive Working Hours

### 4.6.1. Laws and Regulations

#### The Factories Act 1948

- "Every worker shall be allowed a day off every week. The first day of the week i.e., Sunday will be given as a holiday. However with the permission of the inspector the day off can be given on any other day of work. He/she shall be allowed a substitute holiday on any other day within that month or not later than two months that follow."
- "No women shall be required to work or allowed to work in a factory after 7 p.m. and before 6 p.m. With special permission of the government, however, women workers can be permitted to work in a factory until 10 p.m. and after 5 a.m. The main reason for fixing the prescribed hours of work for women is that they also have to look after their domestic duties."
- No adult workers shall be required or allowed to work in a factory for more than 48 hours in a week, nor more than 9 hours a day. .
- Workers interval for rest- an interval for rest at least for half an hour per every 5 hours of his working day in the factory.
- Spread over of working hours- The period of work of an adult shall be so arranged, that, including his interval for rest, they should not be spread over more than 10 hours on any day.
- Shifts- For a worker engaged on night shift, weekly or compensatory holiday means consecutive 24 hours off. The shifts should not be arranged that more than one relay of



- workers engaged in work of the same kind at the same time.
- Overtime- If a worker works for more than 9 hours on any day or more than 48 hours in a week, the employer will pay him/her wages at double the rate of his/her normal wages.
  - Limits to Overtime: The total number of hours of work shall not exceed 12 in any day, 60 in a week. OT shall not exceed 75 hours per quarter. (art. 65.3)
  - Women are only allowed to work between 6 a.m. and 7 p.m. and not more than 9 hours a day.

#### Negotiable Instruments Act

This Act defines national holidays and any establishment's responsibility to provide holidays to their employee.

Five National holidays and three Tamil Nadu State holidays are compulsory for workers and they should be paid for these holidays. There are some gazette holidays too.

The company must have register on Leave wages. Workers have a right to 15 days of paid leave a year.

Legal overtime provisions apply for piece rate workers also. The spread over of working hours should not exceed ten and a half hours.

A register of overtime wages should be maintained by the Management. Mostly there is no entries in it. Only you could find 'Nil'.

The Inspector of Factories has to verify whether overtime wages are provided to the workers.

HRA (housing rent allowance) can be paid as a % of salary but then the company can deduct for the numbers of days not worked. If they are paying fixed amounts 500, 300 they can no do that.

#### **4.6.2. Compliance situation**

A typical working week (across all jobs in the industry) would be six days a week

The statutory maximum of 9 working hours a day, 48 hours a week, one-day holiday per week (Factories Act, Art. 51, 52, 54) is not always respected. Official exemptions are never asked for. Women are not allowed anyway to work more than 9 hours a day and work after 7 p.m. (or 10 p.m. if State Government has made an exemption, Art. 66). This rule is generally not kept in the Tirupur garment industry.

So, OT is a major issue. The Factories Act says you cannot work for more than 10.5 hours. Although management will never admit it, it is normal in Tirupur that workers work 1.5 shifts a day, making 12 hours (including breaks). Moreover, workers are not paid overtime at OT bonus wage of 100% extra as obliged by the Factories Act (art 59). The TEA Agreement allows 1.5 shift (12 hours, including breaks without the 100% bonus). Weekly wages are booked for 12 hours.

The TEA agreement implies if you give overtime you have to give tea BATA, they do not mention OT payments.

There is no over-time pay recognizable as such - 'tea money' for the last half shift is the only additional payment. The TEA Agreement provides for a 20% 'Tea BATA' (allowance) and minimum Rs 5/- for half night shift (for those workers who work after 6.00 p.m). and food allowance of Rs 20 is paid for those workers who work after 9.00 p.m.

At the best, the statutory required OT bonus of 100% extra is only paid for hours beyond this 1.5 shift.



Many auditors seem to accept the 1.5 shift system and concentrate for example on checks to see if workers get their breaks and bonus; 'otherwise you cannot get any company certified.'

Majority of the workers in garment industry, who are contracted to work on a piece rate system are forced to finish their targets on time so they engage their family members including children to accomplish their targets. Otherwise they will lose their job order.

Workers who work for daily wages as a "regularly" hired worker complain that they are forced to work in extra overtime period and even during weekly day off in peak season. October, November, December, May, June and July are peak season months.

In Tirupur, regular and optimal working hours in line with the Act of 1948 are only to be found in firms catering to the domestic market. (Joshi 65)

According to some sources most of the workers are working more than 90 hours per week in peak production season and some times peak production session may last even after December. Some times even weekly day off is not denied to them. Moreover, when producing foreign buyers who impose strict constraint on production schedules, working days of 20 hours are not infrequent towards the end of a contract period. (Cawthorne)

Joshi states that workers are approximately working more than 72 hours in Semi peak season. On the other hand there is no permanent work; periods with excessive overtime are followed with periods of no work and lay offs. 'Such intense work hours alternate with bouts of unemployment during which workers are engaged in search for employment. (Joshi 65)

Workers seem to prefer the 1.5 shift system to one shift since they could earn for another half shift.

The number of hours worked a week does not show the real shifts and OT, also not in interviews.

OT is not recorded. Even where there are computer systems with swipe cards, they sometimes are programmed to stop recording after 16 hours OT, the rest is recorded by hand. The weekly wages that you find in the books will be the wage for 12 hours, without mentioning this as OT.

Attendance registers do exist but are often not signed. The company fills it in. Time records keeping are maintained separately.

## **4.7. Health and Safety**

### **4.7.1. Laws and Regulations**

#### The Constitution of India

- Article 38. This article protects workers from health and safety hazards at workplace.

#### The Factories Act 1948

Below, the H&S items which are checked during FWF audits are mentioned (see Audit Manual, section 4.1.7), followed by the provisions of the Factories Act and possible other laws and regulations.

1. The factory places at least one well-stocked first aid kit on every factory floor and trains specific staff in basic first aid. The factory has procedures for dealing with serious injuries that require medical treatment outside the factory. A register of accidents is kept and



available.

- The employer must provide and maintain first aid boxes or cupboards, filled with the prescribed contents. There should be at least one such box for every 150 workers, accessible to workers during all working hours. In factory with 500 or more workers, the employer must provide and maintain an ambulance room in the charge of prescribed medical and nursing staff. It will contain the prescribed equipment and its facilities must always be readily available to the workers during the working hours of the factory.
  - If an accident occurs in any factory causing death or bodily injury or prevents a worker from working for more than 48 hours, the manager must immediately send notice to the prescribed authorities (Labour Commission). Employer must pay sufficient compensation.
  - Factory act (section 42-50) an ambulance room with medical and nursing staff is required for every factory where 500 or more workers are ordinarily employed
2. There is sufficient light, fresh air and dust removal.
- The employer should make effective arrangements for the disposal of all-industrial wastes and effluent. To provide fresh air and reasonable conditions of comfort to prevent any injury to the workers, the employer must maintain effective and adequate measures. Walls and roofs should be made of such material and so designed as to prevent high- rise of temperature at the specified level.
  - To prevent inhalation or accumulation of dust and fumes injurious or offensive to the workers, the employer must take effective measures for their exhaust from the workrooms.
  - If humidity in a factory is lessened due to its manufacturing process the employer must make arrangements for artificial cooling of air in the workrooms, using clean and wholesome water from public supply.
  - The employer must provide and maintain sufficient and suitable artificial lighting inside the factory rooms. Reflection or shadow that can cause eyestrain or risk of accident to any worker, so employer must avoid such incidence.
  - The employer must avoid overcrowding lest it endangers the health of the workers in any room of the factory. There should be at least 500 cubic feet of space for every worker. In calculating this, no account is necessary for space more than 14 feet above ground level.
3. Clean, sufficient and hygienic toilets are available.
- The employer will keep the factory clean and free from effluvia arising from any drain or other nuisance. Dirt and refuse should be removed daily. Floors will be cleaned every week by washing with disinfectant. Wet floor will be dried up. Walls and ceilings shall be painted, then at least once in 5 years. At least once in 3 years, washable water-paint shall repaint with at least once in 3 years and washed at least once in every 14 months. Whitewash and colour wash will be done once in every 14 months.
  - The employer must construct separate enclosed accommodation for latrines and urinals for male and female workers, conveniently situated and accessible. Employer should adequately provide light, ventilation and maintain a clean and sanitary condition by employing sweepers. In a factory with 250 or more workers, all latrines and urinals will be of prescribed sanitary type.
  - In every factory, Employer should maintain sufficient number of spittoons at convenient places. No person shall spit within the premises of the factory except in the spittoons. Offenders are liable for punishment with a fine not exceeding Rs 5.
  - Every employer is required to provide adequate, suitable, separate and properly screened facilities for washing the use of male and female workers. They should be conveniently accessible and kept clean.
4. Fresh drinking water is available.
- The employer at suitable and convenient points must maintain sufficient supply of wholesome water. The container must be largely marked "Drinking Water" and kept at



- a distance not less than 20 feet from any washing place, urinal or latrine. If a factory employs more than 250 workers, its employer must arrange cool drinking water during the hot season.
5. Provisions of means of escape in case of fire and a warning system in case of fire explosives, inflammable dust or gas.
    - Sundry necessary precautions against fire, dangerous fumes, risks of injury to eyes, lifting of excessive speed of revolving machinery
  6. Fencing of all dangerous and moving parts of the machinery while these are in motion or in the use
  7. Casing of new machinery
  8. Encasing and guarding of every set of screw, bolt, spindle, wheel or pinion:
    - Women and young persons should not clean lubricate or adjust any part of the electric motor or any transmission machinery when these are in motion.
    - Young persons should not work on any dangerous machines without adequate training and supervision.
  9. Supply of safety applications like goggles, safety boots, gloves and others.
    - The employer will provide a place suitable for keeping the clothes not worn during working hours and for the drying of wet clothes by the workers.
  10. The employer should provide and maintain suitable sitting facilities for all workers who are required to work in a standing position.
  11. During breaks a canteen is available with sufficient tables and chairs.
    - If a factory employs 250 or more workers, the employers shall provide and maintain canteen facilities for workers. It should run in accordance with government rules on its construction, furniture, other equipment, food served and constitution of managing committee.
    - Every factory employing more than 150 workers should have the provision for rest rooms. A room with drinking water facilities should be available for their lunch and rest. However, if the employer already maintains a canteen, then no such provision is necessary.

#### Crèches (Factories Act).

In a factory where more than 30 women are working, the employer shall provide and maintain a crèche for the use of their children below the age of 6 years. The rooms must be well maintained in a sanitary condition, adequately lighted and ventilated, and should be under the charge of a women trained in the care of children and infants. The Government can also make rules to get employers to provide for the washing and changing of clothes, supply of milk or refreshments or both. The employer should allow the mothers to visit the children and feed them at necessary intervals.

#### **4.7.2. Compliance situation**

“Compared to the powerloom industry (also a sector of the textile industry which has rapidly expanded in recent years and is also almost entirely unregulated) both from the point of view of noise ‘pollution’ in powerloom workshops (which reaches unbearable levels in small spaces crammed full of 100 or more looms) and the very considerable danger of industrial accident, the knitwear industry is pleasant indeed.

Knitting machinery is quiet and revolves, so does not slam back and forwards like the looms; likewise, sewing machines are not particularly dangerous pieces of equipment.” (Cawthorne 25).

Health and safety of the workers who are working inside the main factory are working in a comparatively better working environment than the workers in the small export units. Most of the workers who work are working outside the factories’ as piece rate workers have no provision for health and safety standards. It is a complex situation in terms of addressing health and safety issues of those home-based workers. Workers work on a piece rate basis in small



units of for example 5 members. These contribute significantly to the export of garments.

Main issues are dust, fire safety, hot pipes and fumes (ironing), electrical appliances and wires, eye protection (buttoning), and jobs that require people to stand all day. Other issues are may be air ventilation, sufficient space for each workers, potable drinking water, sufficient toilets, emergency exits, medical expenses in case of accident, first aid box and health check up. Medical doctors are present in some factories.

According to the workers, during peak production season, there exists a total congestion when many workers used to work at that particular point of time.

Very few companies provide crèches in Tirupur. Most children are in villages far away. There is a social system that the family takes care for the children. But if crèches are made available workers will start to use it!

Accidents registers have to be maintained but always show nil entries. Companies are afraid to run into problems with the factory inspector. Some auditors ask management to maintain an informal register to at least see what is happening or what prevention measures should be taken.

Interview with Peace Trust (Mr. Paul Baskar): 'About half of the workforce in garment units is migrant workers. These workers stay or are housed in unhygienic conditions and cramped accommodation. This should change. TEA could build common houses, bachelor quarters, quarters for women workers. Even NGOs could do this. Migrant workers is an important aspect of labour conditions that should be looked into in the Audit.

Proper lighting and ventilation in the workplace is important. Canteen or if not a canteen, at least a spacious room where workers can take food away from the cluttered up or dusty workplace is necessary. Protective gears like earplugs and gloves are important. Posture problems lead to back ache and pain in the joints. Chairs with hard seats need to be replaced by wire mesh seats as otherwise health problems like piles (hemorrhoids) result. Steps to clear dust and fine particles of cotton, thread or foam to prevent workers being afflicted by asthma and other respiratory ailments. Most of all, information boards on health, occupational hazards should be kept at appropriate places in the work area and the rest rooms. These information boards should also promote awareness about HIV. This is especially important because of the large proportion of migrant labour in the garment sector workforce, and migrant labour is a vulnerable group in this regard. '

Dormitories may not be company owned but shared by a number of companies..

## **4.8. Legally Binding Employment Relationship**

### **4.8.1. Laws and Regulations**

#### The Contract labour (regulation and Abolition) Act, 1970

- The contractor must pay wages to the workers every month on a fixed date. When a contractor terminates the employment of any worker, his/her wages must be paid before the expiry of the second working day from the day on which his employment is terminated.
- Wages must be paid to the workers on working days at the work site on a fixed time. If the work is completed before the expiry of the wage period, final payment shall be made within 48 hours of the last working day.
- Wages must be given directly to the worker or to a person authorized by him.
- No deduction in the wages of a worker is permissible except that which is specified by the order of the government.



#### The Minimum Wages Act, 1948.

- Every employer of any scheduled employment should maintain proper records and registers of the particular of the employees, the work performed by them, and the receipt given by them.
- The employer should display in the factory abstracts of the Act containing the main points relating to workers' welfare in the factory.

#### The Industrial Employment Standing order Act 1948

- The Management prepares a Standing Order and gets it certified before the Joint Commissioner of Labour who is authorized under the Industrial Employment (Standing Order) Act, 1946. The standing order lays out the rules and regulations of the worker.
- The employer must exhibit notice explaining wage structure, working hours, Overtime compensation and other benefits like Employees Provident Fund, Employees State Insurance etc.
- The employer can terminate the services of the employee only on account of the reasons stated in the standing order. He cannot terminate his employment without issuing proper show cause notice and enquiry.

#### The Payment of Gratuity Act, 1972

- This act envisages to provide retirement benefit to an employee who has given his/her unblemished services for long period. In this case every employee other than the apprentice who has rendered continuous service for 5 years or more is entitled for the payment of gratuity. Nomination form is received from the worker at the time of employment.

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#### The Employees Provident Funds and Miscellaneous provisions Act, 1952

- This act lays down for the factories having 20 or more persons employed, a compulsory fund for the future of employee after retirement or for the employees' dependents in case of his/her early death. It applies to Regular and Contract worker.
- By applying this Act indirect proof for any worker working in a factory can be established.

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#### The Employees' State Insurance Act, 1948

- This act provides to the workers medical relief, sickness cash benefits, maternity benefits to women workers, pension to the dependents of deceased workers and compensation for fatal and other employment injuries including occupational diseases, through a contributory fund. Regular, Contract and casual workers are covered under this Act.
- Where the workers are not covered under the Employees' State Insurance Act, 1948 they can claim under The Workmen's Compensation Act from the employers for relief in case of accidents arising out of and in the course of employment and causing either death or disablement.

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#### Supreme Court direction: Air India Corporation v. Contract labourers case (AIR 1997 SC 645).

If workers are not in the rolls or payment slips or identity card will not receive compensation.

Some other legal requirements:

- **The Management gives an appointment order at the time of recruitment and if the worker satisfactorily completes a period of six months, then he is given an order of confirmation. The worker is given an Identity card and service card under the provisions of the Factories Act. He is also provided wage slip.**
- If the worker has worked for than 240 days then his name should have been entered in the he register under workers permanency act.
- Social security: For the factories employing 10 or more employees in case of work being carried out with the aid of power or with 20 or more employees in case of work being carried out without the aid of power, the factories will have to be registered un-

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der the Factories Registration Act, 1948. This is how the employment relationship is to be registered.

#### 4.8.2. Compliance situation

Most of the employers do not comply with the extensive laws protecting the workers' rights.

In most companies workers are sent home if the company has no work for them that day, without any payment, although they should be entitled to have 50% of their wages paid. They are most of the time not notified the day before.

Companies most of the time lack appointment letters. If they are available they hardly ever mention the salary. Still many larger companies have a core of workers that work for the company for over 3-4 years.

Workers seem to accept the absence of any job security as the way things are. Officially workers cannot be laid off because of lack of work without permission of the government.

Workers that have been working for more than 1 year for the same company have a right to one-month period of notice and 15 days average pay for every completed year of service or any part thereof in excess of 6 months.

'The 1976 amendment to India's ID Act (1947) makes layoff (Section 25 M), retrenchment (Section 25N), and closure (Section 25O) illegal except with prior permission of the government. The permission requirements cover all industrial establishments employing 100 or more workers. The penalty for layoff, retrenchment, or closure without government permission includes both a prison sentence and a fine for the employer. If an employer closes down a unit even after refusal by the government, he or she can be imprisoned for up to one year or fined up to Rs. 5,000 or both. The legislation does make an exception for retrenchment resulting from a power shortage or natural disaster.

However (..), the industry has always tackled the problem in its own way, by engineering an exit. If a company becomes sick, there is not even money to pay the electricity bills, so the power is shut off. Thus, Section 25 O of the ID Act 1947 is circumvented, and the fine imposed for this violation is a paltry sum of Rs. 500 (as determined by the Gujarat High Court in 1995). When a unit is closed in this manner, workers do not get their statutory dues, such as provident fund, gratuity, current salary, leave salary, and so on. This is precisely what happened to the 50,000 workers of Ahmedabad's textile industry, which was closed down because electricity was cut off for nonpayment, even though the government had not given permission to close the mills.' (Agarwala & Khan)

The Factories act and the TN Factories rules give clear indications for the kind of records that has to be kept. But many companies lack a lot of these required records. During audits it is often found that they had only very recently started keeping them. Thus for instance the period of service is not adequately recorded.

Even registered companies lack time cards and pay slips, officially registered Standing Orders, a full register of adult workers (as required by the FA art. 62). One company had the general policy only to start keeping records after a worker had finished 1 year of employment other companies may lack any records of temporary workers, workers on probation, apprentices, etc.

Attendance registers do exist but are often not signed. The company fills it in.

Time records keeping are maintained separately.

Accidents registers are maintained but always show nil. Companies are afraid to run into problems with the factory inspector. Some auditors ask management to maintain an informal register to at least see what is happening or what prevention measures should be taken.

PF slips must be given every year. But their registration number may be different for every year. The account breaks and the worker does not have a consistent account. This also hap-



pens when a worker moves from one factory to another. The worker should however ask the PF office to merge the account.

Workers seldom have a pension. It is a right if a worker worked and contributed to PF for more than 10 years. They must be educated to realise their rights. But on the other hand workers often ask for their PF contribution to be paid to them after leaving a factory because they need cash in hand.

Sometimes also management pays both the (12%) workers and the employers part of the PF/ESI contribution. In these cases management is often not ready to pay the PF/ESI settlement in cases workers could have a right to that and workers do not claim it, as they do not know about it. The official wage is then often registered lower than the actual wage, to lower the contribution for management.

The vast majority of workers in all sections of the industry (with workers in the dyeing units the only exception) are paid on a piece-rate basis, have little or no access to either ESI (Employees' State Insurance) or pension funds (Provident Fund), are not remunerated in case of sickness or industrial accident and in general take little or no holiday time (since it is unpaid). (Cawthorne)

ESI/PF is paid for registered workers, who may only form a (small) part of the total workforce in registered companies. And registered companies only form a small part of the total number of companies.

The workers are not aware of the benefits under the ESI Scheme, GPF Scheme. Workers prefer their management not to deduct any subscription towards ESI and GPF. The workers tend to move from one factory to the other. But they tend to wind up their account and receive the amount. But if they could continue to pay their subscription in their earlier account or if they could merge the earlier account with the new account then they will not lose their service benefits. A worker is eligible for pension if his service is not less than ten years. At present, of the 5000 odd firms in Tirupur, there are only roughly 20 to 25 firms that provide social security benefits to employees, like Employees' State Insurance, Providence fund, etc. (Joshi 65)

Interview with Mr. Perumal (INTUC): 'Unions have been struggling all along in this direction and demanding maintenance of muster roll, employment register, ESI card and identity card and only now identity cards have been introduced in some units.'

While auditing the factory auditors have to ensure whether the labourer is casual/contract or permanent. His name should be entered in the muster roll.

He/she should be provided with a Time card.

In most of the units there are few regular workers depending on the size of the unit and mostly temporary or contract workers are employed. For the regular or permanent workers, registers are maintained, their names are on the muster rolls. The employers cover these workers under all the social security benefits. However, the employers generally as a practice do not cover casual, contract, piece-rated workers under the social security benefits that may be applicable to the respective workers. They are able to do so and also get away with this, because of the inefficient and corrupt system of enforcement.

The reasons often given by the employers for this practice are: (1) The workers themselves do not want to get covered under such security benefits as the procedures and processes for getting benefits from these measures are tedious and cumbersome. The workers are also not very sure whether they will ultimately get their dues from the government and hence would rather prefer to take total wages without any deductions, (2) the nature of business is not continuous and therefore covering all the workers under social security measures would entail more liabilities which they cannot afford to take.

According to the Indian Law all employees must be registered in the muster roll, even if they work for just one day. In the Tirupur context of workers moving from one employer to the other, this may give rise to problems because as soon as they are registered, the employer

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will have to pay PF/ESI. If the employee leaves after a few days, the employer has to go to great lengths to cancel subscription with PF/ESI. Many employees also show no interest in paying PF/ESI, they prefer all the money they can get in hand.

Workers have a very short term perspective. E.g. they would like to get the PF, ESI deductions cash in hand instead of building up their insurance. They also want the freedom to move.

Creating a welfare fund for the workers could improve the situation, like for match workers under Supreme Court Decisions providing for instance housing and education.

Five years ago Preme/Switcher, Robin Connolly proposed 1 rupee club (1 per t-shirt) in Tirupur to develop the workers and the town.

Many of the employers adopt and use contract arrangements for hiring or employing workers in violations of labour laws referred in the above part of this report.

After 5 years workers have a right to gratuity payment. So workers are often retrenched after 4.5 years and then after this they are hired again.

This also happens with secretaries.

Employers do not maintain the actual records related to child workers, young workers, wages payment details, working hour schedule and all the major records subjected to scrutiny for violations.

Personal files should contain age of proof and Nomination for PF en ESI. Appointment letters should show the salary.

Factories should have a licence to operate and the licence to employ. If the last one is too low, they will not have registered the 'excess number' of employees. So ESI and PF are not paid. And even if they are paid, workers may not have the right to claim it when they need it. Licences have to be renewed. Deputy chief factory inspectors will only inspect licensed companies above a certain number employees. This inspection includes more safety aspects.

Otherwise only assistants inspectors will make visits.

Misuse of Apprentices system:

Many employers use apprenticeship schemes particularly in fabric printing and supervisor's category of the different processing units of garment industry.

In some companies apprentices can work for 3 years as apprentices without receiving regular wages. This is not right for so long a time. Apprentices may not do OT. ESI and PF must be deducted.

Contract system

Respondents suggested that there has been a misuse of the contract system in the garment industry. The employers make or choose arbitrarily one of the workers as a contractor and run the unit in his name. Under the contractor less than 20 workers are employed so as to refrain from the tedious process of obtaining license as per the Contract labour (Regulation and Abolition) Act, 1970.

Since the contract is in the contractor's name he becomes liable for all the misconduct that is practiced. The worker who agrees to become the contractor may not even know that he is a contractor or even if he knows about it, then he may not be aware of the problems he could get into if there are any inspections. He is also not at all involved in any kind of decisions with respect to workers or any other matter of the unit.

(ASK 2001)

In Tirupur it has been reported that an illegal contract system exists. Supervisors recruits the workers mostly on a daily wage basis. Sometimes they employ the same person under a

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different name the next day. They are not licensed. There is no register of principal employer, a breach of the Abolishment of Contract Labour Act. Wages may be based on the profit margin the supervisor/labour contractor makes out with the owner.

So owners can keep the payroll in their establishment under 11 to avoid PF- and/or 20, to avoid ESI contribution.

In Tirupur, companies now use a scheme of hiring migrant girls from far way, giving them housing, food, and pocket money, but no real wage. They promise to pay for example 30.000 rupees after 3 years (for example for a dowry).

Another scheme pays the girls a small sum every month and the parents every year a lump sum, but sometimes the girls are fired just before the end of the end of for instance the second year and it is hard to get the money. This is against the payment of wages act that stipulates that wages should be paid monthly.

*A final note: You cannot keep secrets in Tirupur. Once you have arrived in town, many people will become aware that an audit will take place. This should be kept in mind especially when conducting workers interviews.*



## 5. Partner Network

There are as many as seven sub-sectoral industry associations in Tirupur. For example, the

dyeing and bleaching units have their separate association. The importance of these associations can be gauged from the fact that all these bodies act as quasi-judicial institutions which help to resolve the inter-firm and within firms commercial disputes. Some of the associations such as Tirupur Exporters and Knitwear Manufacturers Association (TEKMA) also get the long standing inter-firm payments cleared among the members.

The South India Hosiery Manufacturers Association also assists its members to get financial assistance from the banks and financial institutions. On the procedural front, assistance is also provided in getting the registration certificate of small scale industry, Reserve bank of India code and export import licence issued. It also files legal suits in courts and represents on behalf of their members.

Among the associations, the most dynamic is the Tirupur Exporters Association or TEA, a frontline Association. The voice of this Association is heard in the corridors of power. Unlike other Associations, TEA has been spearheading investment in infrastructure projects, which directly act as a catalyst to aid and promote exports. Other key agencies are the South India Textiles Research Association (SITRA), Apparel Export Promotion Council (AEPC), Textile Committee, National Small Industries Corporation.

### LIST OF BUSINESS ASSOCIATIONS IN TIRUPUR

Banian Cloth Mfrs. Assn. (BCMA)  
Coimbatore District Power Loom Cloth Dealer Assn.  
Tirupur Bleachers Assn.(TEKMA)  
Tirupur Cotton Merchant Assn.  
Tirupur Dyers Assn.  
Tirupur Export Knitwear Mfrs. Assn.  
Tirupur Exporters Association  
Indian Hosiery Yarn Mill Assn.  
Tirupur Hosiery Yarn Merchant Assn.  
Tirupur Merchant Assn.  
Tirupur Narrow Tape Mfrs. Assn.  
Tirupur Power Loom Assn.  
Tirupur Steam Calendring Assn.  
Tirupur Screen Printing Assn.  
South India Hosiery Mfrs. Assn. (SIHMA)

FWF Workshop in Tirupur with Stakeholder Organisations March 27 and 28, 2003

#### List of participants

##### Business associations

Mr. A.V. Ramanathan, Executive Secretary, TEA  
62, Appachinagar Main Road, Tirupur – 641 607  
phone: 0421-2223016, 98433-57575  
e-mail: avramani2002@hotmail.com

##### Trade unions

Mr. P.K. Ganguly, Secretary, CITU, all-India  
13-A, Rouse Avenue, New Delhi - 110 002  
phone: 23221288,23221306,26270431; fax: 23221284

Mr. N. Chandran, General Secretary, CITU, Tirupur  
280, Avinashi Road, Tirupur – 2  
phone: 2240620,2241944



Mr. Centwin Mani, ATP, Tirupur  
219, Palladam Road, Tirupur  
phone: 2214903,2214904,2428769,9842289430

**NGOs**

Mr. A. Aloysius, Director, SAVE  
5, Iswarya Nagar, Dharapuram Road, KNP Colony, Tirupur – 641 608  
phone: 0421-2428100; fax: 0421-2428200  
e-mail: [Save-ngo@eth.net](mailto:Save-ngo@eth.net), [Save@md4.vsnl.net.in](mailto:Save@md4.vsnl.net.in)

Mr. J. Paul Baskar, Chairman, Peace Trust  
Trichy Road, Dindigul – 624 005  
phone: 0421-2410021; fax: 0421-2410372  
e-mail: [peacetrust@vsnl.com](mailto:peacetrust@vsnl.com)

**Others**

Mr. Sigi Uetz and Ms. Padmaja Pai, LINK ETC  
2040 1<sup>st</sup> A Main Road, HIG, Yelahanka New Town, Bangalore – 560 064  
phone: 0808566259; fax: 0808461803  
e-mail: [linkftg@vsnl.net](mailto:linkftg@vsnl.net)

Mr. M.A. Britto  
24, Kirubaharan Street, Palayamkottai – 627 002  
phone: 0463-2577470, 98421-57470  
e-mail: [britto\\_ma@yahoo.co.in](mailto:britto_ma@yahoo.co.in)

Mr. M.L. Doss, Development Consultant  
203/20, Asiad Colony, Anna Nagar West, Chennai – 600 101  
phone: 26152940

**Annex: Euro - Indian Rupee Exchange Rate**

	2003	2002	2001	2000	1999	1998	1997	1996	1995
<b>January</b>	49.39	43.04	41.88	43.83	50.28	43.31	44.34	45.57	38.25
<b>February</b>	51.53	41.79	43.03	42.94	49.20	42.31	42.87	45.63	39.53
<b>March</b>	51.47	42.38	42.10	43.72	46.82	42.70	41.47	47.54	40.09
<b>April</b>	50.89	42.86	41.41	41.78	45.90	42.37	41.15	42.85	41.40
<b>May</b>	51.88	43.50	42.43	41.01	45.54	43.52	40.49	43.03	42.07
<b>June</b>	54.76	45.00	40.29	41.20	44.74	45.14	41.25	43.06	42.28
<b>July</b>	53.90	47.39	40.15	41.83	44.71	46.75	40.75	44.10	42.43
<b>August</b>	52.90	48.23	40.98	41.84	45.87	47.85	39.43	45.71	42.28
<b>September</b>	49.82	47.31	42.92	41.25	45.60	46.37	39.56	45.93	40.48
<b>October</b>	52.45	47.45	43.87	40.28	46.00	49.09	40.42	44.92	44.67
<b>November</b>		47.40	42.87	39.23	46.12	49.86	40.62	44.61	47.27
<b>December</b>		47.90	42.24	39.24	44.19	48.75	43.12	45.13	46.49