

# AT RISK OF FORCED LABOUR?

An exploratory study into working conditions in the textile & apparel sector in the National Capital Region, India



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# ABSTRACT

This small-scale exploratory study aims to understand whether certain categories of workers in the textile and apparel sector in the National Capital Region in India are at any risk of forced labour, and, if so, the nature and incidence of these risks.

Drawing on interviews with export factory workers, informal factory and production unit workers, and homeworkers, it finds forced labour risks in evidence among all these groups.

The broadest spread of distinct risks is found among both men and women factory workers in export-oriented factories. These risks appear at least in part to be associated with production targets that drive demanding labour regimes which, through the deployment of implicit or explicit threats, provide little or no room for anything but compliant worker behaviour. At the same time, significant but different risks, including overtime, are also discerned in informal factories and production units, though here another key concern was lack of regularity of work. Whether serving export or domestic markets, these informal workspaces were found to offer limited or no room for resolution of any complaints. Low wages, including below minimum wage payments, were in evidence in these informal factories and production units. Homeworkers, all female, who - by and large - expressed a lack of alternative employment options, are paid chronically low wages: in all cases below the minimum wage, and in approximately 2/3 of cases less than half the minimum wage for unskilled work.

The closing sections of the report includes recommendations for different actors on how forced labour can be tackled and suggests some areas for further research.

# INTRODUCTION

Fieldwork was undertaken in 2019, a number of months before the onset of the Covid-19 pandemic and resultant restrictions across the world. Almost all - 97% - of workers at the centre of this study migrated to Delhi in their lifetime, primarily from Uttar Pradesh and Bihar.

Following the announcement of the nationwide lockdown on March 24th 2020, migrants quickly emerged as among the most at risk in the bleak economic landscape. Whilst many workers made difficult journeys home, others, including – we understand – many featured in this study, either chose to stay back or were unable to leave due to the restrictions. Their communities in southwest and northeast Delhi have been among those left without adequate savings and dependent for survival on food relief from the State, and often from civil society and voluntary efforts. The report that follows provides some insights on why people have been left on the edge of destitution. Wages below or just barely at the minimum wage are a common thread across workers featured here, making it harder to save. Those working outside formal factories and at the hidden peripheries of supply chains have access neither to employer-arranged social protection nor to any proof of employer obligation. A widespread lack of unionisation and organisation has left many workers isolated, with little in the way of collective voice and negotiating power. As we look ahead, it is clear that working people in India need to be provided with the tools they need to become more resilient in the face of economic shocks. It is hoped that this study will speak to some of the challenges we all need to overcome to co-construct the kinds of communities and economies that people will want, and be able, to call home.

## Abbreviations

ETI	Ethical Trading Initiative
FWF	Fair Wear Foundation
ICC	International Complaints Committee under PoSH act
LCC	Local Complaints Committee under PoSH act
ILO	International Labour Organization
MSA	UK Modern Slavery Act 2015
NCR	National Capital Region
NGRBC	National Guidelines on Responsible Business Conduct, 2019
OECD	Organisation for Economic Cooperation and Development
PoSH	Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
SDGs	Sustainable Development Goals
UNGPs	United Nations Guiding Principles on Business and Human Rights

# METHODOLOGY

## STUDY LENS

### International law

The ILO defines forced labour or compulsory labour<sup>i</sup> as “all work or service which is exacted under the menace of any penalty and for which the said person has not offered himself voluntarily.” (ILO Forced Labour Convention No. 29 (1930). Commenting on the Protocol of 2014 to the Forced Labour Convention, 1930, it defines these components as involving all types of work, service, or employment, in any space, formal or informal, in which there is both (i) some form of penalty “used to compel someone to perform work or service”, including “physical violence, psychological threats or the non-payment of wages” and (ii) the absence of the “free and informed consent of a worker to enter into an employment relationship and his or her freedom to leave the employment at any time.”<sup>ii</sup> To support identification of instances of forced labour, the ILO has provided indicators that represent “the most common signs or ‘clues’ pointing to the existence of a possible forced labour case.”<sup>iii</sup> (Table 1 - next page).

Forced labour is also addressed in various Indian instruments including Article 23 of the Constitution of India, and the 2019 National Guidelines on Responsible Business Conduct. It is present in global instruments such as the 1998 ILO Declaration on Fundamental Principles and Rights at Work, and the 2011 United Nations Guiding Principles on Business and Human Rights. It is also referenced in other national laws with international application including the 2015 UK Modern Slavery Act, the 2018 Australian Modern Slavery Act and the 2017 French Corporate Duty of Vigilance Law.

**Table 1. ILO Forced Labour Indicators**

Indicator	Description (based on ILO Forced Labour Indicators description)
Abuse of vulnerability	When an employer takes advantage of a worker's vulnerable position (for example to impose excessive working hours or withhold wages)
Deception	When the work is not as was promised to the worker
Restriction of movement	Where the worker is not able to freely exit and enter the work premises, subject to reasonable restrictions
Isolation	Where the worker is denied contact with the outside world
Physical and sexual violence	When the worker is subjected to actual physical or sexual violence
Intimidation and threats	When the worker experiences intimidation and threats (for example when they complain about their conditions)
Retention of identity documents	When the worker is not able to access identity documents or other valuable personal items and feels that s/he is not able to leave the job without risking this loss
Withholding of wages	When wages are purposefully withheld in order to force the worker to remain <sup>iv</sup> and prevent him or her from changing employer
Debt bondage	When a worker is working in order to pay off a debt
Abusive working and living conditions	Work performed under conditions that are degrading or hazardous and in serious breach of labour law
Excessive overtime	When an employee has to work more overtime than is allowed under national law, under some form of threat (eg dismissal, or in order to earn the minimum wage)

*Source: ILO Indicators of Forced Labour*

The ILO advises that the presence of a single indicator in a particular situation might in some cases be sufficient to identify a worker as a victim of forced labour. Excessive overtime, physical and sexual violence and restriction of movement are considered to be strong indicators. Other indicators can all be seen as pointing towards forced labour; though in the case of abusive working and living conditions, it is best understood as an “alert” to coercive factors that may be stopping exploited workers from leaving their jobs.

## Indian law

Article 23 of the Constitution of India 1949 prohibits the traffic in human beings and forced labour.<sup>v</sup> In 1976 the Bonded Labour System (Abolition) Act defined bonded labour as a system of “forced or partly forced labour... under which a debtor accepts an advance” of some kind for a pledge of labour. This arrangement compels an individual to work until the debt has been paid off<sup>vi</sup>. In 1982, in the case of People's Union for Democratic Rights vs Union of India and Others<sup>vii</sup>, a Public Interest Litigation, the Supreme Court of India identified forced labour with payment below the government-stipulated minimum wage. The judgement explains that nobody would voluntarily offer labour for less than the minimum wage if aware of their legal entitlement.

### Box 1. Extract from Supreme Court of India Judgement on Forced Labour, 18 September 1982

5:9 Ordinarily no one would willingly supply labour or service to another for less than the minimum wage, when he knows that under the law he is entitled to get minimum wage for the labour or service provided by him. Therefore when a person provides labour or service to another against receipt of remuneration which is less than the minimum wage, he is acting under the force of some compulsion which drives him to work though he is paid less than what he is entitled under law to receive. What Article 23 prohibits is ‘forced labour’ that is labour or service which a person is forced to provide.

5:10 ‘Force’ which would make such labour or service ‘forced labour’ may arise in several ways... Any factor which deprives a person of a choice of alternative and compels him to adopt one course of action may properly be regarded as ‘force’ and if labour or service is compelled as a result of such ‘force’, it would be ‘forced labour.’ Where a person is suffering from hunger or starvation, when he has no resources at all to fight disease or to feed his wife and children or even to hide their nakedness, where utter grinding poverty has broken his back and reduced him to a state of helplessness and despair and where no other employment is available to alleviate the rigour of his poverty, he would have no choice but to accept any work that comes his way, even if the remuneration offered to him is less than the minimum wage. He would be in no position to bargain with the employer; he would have to accept what is offered to him. And in doing so he would be acting not as a free agent with a choice between alternatives but under the compulsion of economic circumstances and the labour or service provided by him would be clearly ‘forced labour’... The word ‘force’ must therefore be construed to include not only physical or legal force but force arising from 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 for it is less than the minimum wage.

Source: <https://indiankanoon.org/doc/496663/>

This judgement is important in recognising the role that economic factors can play in compelling labour, as well as the significance of below minimum wage payment as indicative that s/he is working under some kind of duress.



## STUDY APPROACH

The study attempts to address two central questions:

- 1) Are textiles and apparel sector workers in the National Capital Region at risk of forced labour?
- 2) If so, what is the nature and incidence of these risks among different worker groups?

### Scoping Phase

The study began with a review of existing literature around forced labour risks in NCR and the development of preliminary data collection tools for individual interviews and focus group discussions, differentiated for use with different stakeholders. This was followed by visits to a range of sites and interactions with a limited number of key stakeholders and informants within supply chains and industry (including representatives among textile workers: homeworkers, informal production unit workers, informal factory workers, and export-oriented factory workers; factory management; and an export association head), worker associations, academia and civil society. During this scoping phase, visits were made to Tughlaqabad Extension, Tughlaqabad Village and Okhla (in south Delhi); Kapas Hera (in southwest Delhi); Welcome Colony and Old Seelampur (in Shahdara district); Goutampuri (in southeast Delhi) and Udyog Vihar (Gurugram). This work provided a preliminary indication of some of the labour rights issues and forced labour risks to which different worker groups were exposed.

### Framework Development

Using the ILO forced labour indicators as a basis, this study added a range of sub-indicators to develop a simple, bespoke forced labour risk measurement framework among different categories of textile and apparel workers (see Table 2, following page). For this, three principles were applied for indicator selection:

- Consistency with the meaning and description of the indicator itself as given in the ILO Indicators of Forced Labour
- Socio-cultural factors within the National Capital Region
- Judicial precedent within the Indian context

The framework allows consideration of economic imperatives behind labour decisions (recognized within the 1982 Supreme Court Judgement) as well as potential social drivers such as entrenched gender inequity. Consistent with the ILO forced labour indicators, the focus is on detection of risk, rather than demonstration of actual forced labour cases.

A list of the sub-indicators developed and integrated into the tools is provided overleaf (Table 2. Study framework). The tool was designed so that worker responses serve as signals of the presence or absence of forced labour risk: in some cases, an affirmative response signalled a risk, and in other cases, a negative response signalled a risk. It is important to clarify that the focus within this study is on risk identification, rather than demonstration of actual forced labour cases.

The scoping phase informed the development of structured interview schedules for homeworkers; informal production unit and informal factory workers; and factory workers. Each schedule contained a background section (including personal details, information on the nature of work and perceptions about the supply chain) followed by questions based on those forced labour indicators relevant to that category of workers.

Table 2: Forced labour risk measurement framework

ILO Forced Labour Indicator	Sub-indicators of forced labour	
	Factory workers, informal production unit and informal factory workers	Homeworkers
Abuse of vulnerability	Payment below the minimum wage	Payment below the minimum wage
	Ever made to undertake tasks that do not want to do	Worker is below 18 years old
	Worker is below 18 years old	Help is sought from children in the household to complete tasks
Inability to look for alternative work		
Deception	Job is not as expected	Deception about rate of pay
	Deception about rate of pay	
Isolation		Anyone to talk to about work (for example problems at work)
Physical and sexual violence	Personally experienced physical violence in the factory	Person who gives work has been violent at some point
	Witnessed physical violence towards another worker in the factory	
	Personally experienced sexual violence	
	Witnessed sexual violence in the factory	
Intimidation and threats	Personally experienced harassment	Person who gives work makes threats or intimidates
	Witnessed harassment of another worker in the factory	Been harassed while working
	Likely that there will be bad consequences if fail to finish work on time/if so, what	Any bad consequences or punishment if failure to complete work on time
	Ever threatened by factory/unit supervisors or management	
	Any other workers suffered bad consequences for something done or accused of doing/ if so, what	
	If grievances, no means to share them and have them addressed without fear of consequence	
Withholding of wages	Deduction of wages	Deduction of wages
	Non receipt of social security entitlements	
	Not paid due amount for overtime work	
Debt bondage	Any advance given for the work you do	Any advance given for the work you do
Abusive living and working conditions	Insanitary or unhygienic facilities in the factory/unit	Any problems with workspace (eg bad light, not enough space)
	Safety risks in the factory/unit	
	Any problems with workspace (bad light, not enough space etc)	
	Any potential collusion btn factory owner & landlord	
Excessive overtime	Excessive working hours (60 hours or more per week)	Ever work more than 10 hours per day/ if so, for how many hours and how many consecutive days
	Does not avail leave that is due	Ever have to work at night to finish a task (if so, when did this last happen)



## Sampling And Data Collection

This preparatory work also informed the decision to focus on two geographically contiguous sub-clusters in NCR: Kapas Hera and neighbouring parts of Gurugram; and Welcome Colony and Old Seelampur. Three broad, non-homogenous worker categories (strata) were identified in each area and, within these, workers were identified with the assistance of community mobilisers, with a conscious effort to engage with a high number of homeworkers. This sample of 71 textile and apparel workers forms the heart of the study. Supplementary interviews also took place with a small number of contractors and unit owners in Kapas Hera. Additional focus group discussions took place with certain export-oriented factory workers in Kapas Hera and with homeworkers in both Kapas Hera and Welcome Colony. Overall, including workers met during the scoping phase, the study team met and interacted with 100 textile and apparel workers between March and July 2019.

There were some key **limitations**, some of which are inherent to small-scale research. The sample of workers is small and also not reflective either of the actual numbers of workers in focus categories or of the broader stratification within these worker categories in terms of gender, caste, religion, or other variables such as specific types of occupation. The reader will note that the number of workers in the informal production unit and informal factory worker categories is small, and that, within these categories, the number of women interacted with is low. One reason for this was the limited worker availability. There was also limited engagement with contractors and sub-contractors, and a relatively low number of key informant interviews.

# STUDY CONTEXT

## Locating Forced Labour Risks Among Textile Workers In NCR

### Overview

India's national capital region (NCR), which includes Delhi as well as bordering areas in the states of Uttar Pradesh, Haryana and Rajasthan, is one of the country's key hubs of apparel production. Within NCR, production for global supply chains centres around Okhla in southern Delhi; NOIDA in Uttar Pradesh, to the east; Faridabad in Haryana, to the south east, and Gurugram, also in Haryana, to the south west. In addition, there are important centres of production for domestic markets, such as Gandhi Nagar and adjacent areas in east Delhi. Production contexts are hugely diverse, distributed across a diffuse network "of industrial, formal and informal, factory-based and non-factory based, workshop and home-based units" (Mezzadri 2014 in ILO 2017<sup>x</sup>), occurring at "multiple tiers" and involving "numerous subcontractors and several categories of workers" (ILO 2017:34). Around 70 per cent of workers are not technically employees, but instead work either as contract or piece rate labour (cf. Nari Shakti Manch (NSM) and GPN Studies, in Fair Wear Foundation (FWF) 2019:17<sup>xii</sup>).

**Table 3: Textiles Workspaces And Worker Categories In NCR In Focus In This Study**

Sector	Type	Characteristics
Formal and informal	Export-oriented factories	Mostly employing between 400 to 500 workers, with a limited number of small factories with 100 to 400 workers and fewer large factories with 1,000 to 3,000 workers. <sup>viii</sup> Most workers are formal (either permanent or on fixed-term contracts) with some piece rates and daily wage workers
Informal	Informal factories	10 or more workers, working with aid of power. <sup>ix</sup> Workers are engaged on piece rates.
	Informal production units	Small workshops with fewer than 10 workers, working with aid of power (or up to 20 workers without the aid of power). <sup>x</sup> Workers are engaged on piece rates.
	Homes	Typically rented apartments, often one room only, with bathroom facilities shared between households. Homeworkers may also work in the vicinity of their homes (within courtyards or adjacent lanes), sometimes along with other women. Workers are engaged on piece rates.

According to data from 2011-12, there are around 37.4 million home-based workers in India (WIEGO 2013<sup>xiii</sup>). This figure includes self-employed workers and subcontracted workers. The workers in focus in this study, whom we refer to as homeworkers, are in the latter category. In this arrangement, the workers, by working from their own home, "provide the workplace, pay for utilities, and buy/rent and maintain their own equipment". They collect work from contractors, who "provide the work orders and the raw materials, specify the product/s to be made, and sell the finished goods," (HNSA 2016:2<sup>xiv</sup>) There are estimated to be around 5 million homeworkers who are part of textile and apparel supply chains in India, serving both domestic and global markets (WIEGO platform of Demands in HNSA 2016: 4).

It should be emphasized that each of these worker categories exhibit heterogeneity, for instance in terms of whether workers serve domestic or international markets; rates of pay; and, among workers in various production units and factories, in terms of, inter alia, the nature of work, means of payment, workplace and the relationship to (and distance from) the principal employer. Based on a review of some of the existing available literature, certain pertinent labour issues are given below, followed by a presentation of some of the forced labour risks previous studies have identified as affecting the worker categories in focus.

Labour issues and characteristics of the textile industry in NCR include:

- **Female workers are underrepresented and usually in the minority** in informal production units and factories (FWF 2019: 18-19)
- **Levels of unionization are low** to non-existent at the factory level (FWF 2019:20) and at the informal level: zero among homeworkers surveyed in Delhi in a recent study (Kara 2019:28<sup>xv</sup>); and certainly lower than Tirupur and Bengaluru (ILO 2017:34)
- **Widespread contractualisation of labour** which distances factories from social compliance requirements “imposed by transnational lead firms or first- and second-tier suppliers” (Bhaskaran, R., Nathan, D, et al:8<sup>xvi</sup>)
- **Absence of a proper labour inspection regime** (Klaveren 2016 in ILO 2017: 15)
- **Lack contracts for certain workers** which makes it difficult for them to be checked and monitored by regulatory agencies (HNSA 2016: 14)
- **Lack of common records of transaction** - notably for homeworkers which facilitates exploitation due to lack of transparency and shared worker-contractor understanding about how much is owed (HNSA 2016: 14)

Possible indicators of forced labour include:

- Widespread payment **below minimum wages** across the country, with 51% of garment workers in India paid less than the minimum wage (Cowgill & Huynh, 2016 in ILO 2017:21<sup>xvii</sup>)
- **Regular overtime, especially for men** with the usual working day averaging 9 hours (ILO 2017:34)
- **High prevalence of abuse and threats** with only 1/5 of 432 workers in Delhi and Bengaluru saying they were not aware of any threats or abuses in their factory (ILO 2015:22<sup>xviii</sup>) and being **subject to some form of penalty** “for not meeting targets or doing the required overtime” (ILO: 2015 in ILO 2017: 20)
- **Sexual harassment faced by** almost all female workers (NSM in FWF 2019: 23)
- **Payment significantly below the minimum wage:** approximately Rs 72 per day (HNSA 2016; Mezzadri and Srivastava 2015 in Mezzadri and Fan

2018); with all respondents in Delhi in a recent study being paid below the minimum wage (Kara 2019: 28)

- **A number of forced labour risk indicators** were found to be present among homeworking communities in Delhi in a recent study, with 74.9% of homeworkers surveyed saying they “began the work under a form of duress;” 79.8% of workers saying they would “rather leave but cannot” (Kara 2019:28)<sup>xix</sup>; 14.9% saying they are penalised if work is not finished on time; and only 24% expressing the view that they are free to do other work.
- **Debt bondage** - a definitive marker of forced labour - is also an issue among homeworkers in Delhi, though only with 2.9% - lower than some of the surrounding areas in NCR (Kara 2019:28)
- **Homeworking amongst children** (below 18 years), which could signal an abuse of vulnerability, was also found to be common in New Delhi (19.9%) (Kara 2019:28)

## Focus NCR Geographies and Worker Backgrounds

As indicated above, the study focused on two geographically contiguous areas. The first and principal area was Kapas Hera in the South West Delhi district and adjacent parts of Gurugram, in Haryana, where workers at multiple tiers are known to form part of global supply chains and domestic supply chains too, particularly at more informal tiers.

**Table 4. Minimum wages during the data collection period**

Delhi		Haryana	
Category	Minimum wages after adding Dearness Allowance in INR wef 01-04-19 to 30-09-19	Category	Minimum wages for textile workers in INR (01-01-2019 to 30-6-2019)
	Monthly		Daily
Unskilled	14468	Unskilled	339.51
Semiskilled	15920	Semiskilled A	356.49
Skilled	17508	Semiskilled B	374.31
		Skilled A	393.03
		Skilled B	412.68
		Highly Skilled	433.31

Source: Delhi Minimum Wage Notification <https://www.hryogi.com/wp-content/uploads/2019/11/The-Delhi-Minimum-Wages-Notification-April-2019-And-October-2019.pdf>

Source: <https://paycheck.in/salary/minimumwages/haryana/haryana-minimum-wage-january-2019-latest-minimum-wage-in-india>

The second and additional area of study was Welcome Colony and Old Seelampur in Shahdara district, located between northeast Delhi and East Delhi district, where we met workers engaged in domestic supply chains.

## Southwest Delhi and Gurugram

The local population in Kapas Hera includes members of the Yadav and Raosahab communities who make up a large proportion of the landlords in the area. In recent years many migrants have come here from Bihar and Uttar Pradesh, and, to a lesser extent, from West Bengal and Jharkhand. Large numbers are drawn to Kapas Hera, and to nearby areas such as Dundaheera, in neighbouring Gurgaon, due to the proximity to the Udyog Vihar industrial estate. The population of Kapas Hera was 74,073 in 2011,<sup>xx</sup> but is now likely to be considerably higher, with estimates from local informants ranging from between 150,000 to 200,000 before the Covid 19 crisis and the resultant lockdowns which precipitated many migrants' return to rural areas. Udyog Vihar has many export-oriented garment factories, of different sizes and capacities: units employ an average number of around 2000 workers, but sizes vary considerably. In addition to these factories, in recent years there has been mushrooming of smaller informal factories and production units often run by ex-managers and supervisors who employ workers on a piece rate basis.

All 51 of the workers we met in this locality migrated to Delhi during their lifetimes, principally from Bihar and Uttar Pradesh, with 16 migrating to the NCR area within the last 5 years.

**Table 5. Backgrounds of workers in southwest Delhi and Gurugram**

Worker categories	Gender		Religion			Caste			No.
	Male	Female	Hindu	Muslim	n/a	Scheduled	Other Backward	General	
Homeworkers	0	19	15	4		2	3	12	<b>19</b>
Informal factory and informal production unit workers	9	1	5	4	1	3	0	7	<b>10</b>
Export-oriented Factory workers	13	9	22	0		6	9	7	<b>22</b>
<b>Total</b>	<b>22</b>	<b>29</b>	<b>42</b>	<b>8</b>	<b>1</b>	<b>11</b>	<b>12</b>	<b>26</b>	<b>51</b>

The majority of workers met were female (29); most were also Hindu (42), with Muslim workers found only in the more informal workspaces; in terms of caste, there were significant numbers of scheduled caste and other backward caste workers, alongside general caste workers.

## Northeast Delhi

The exploratory work in northeast Delhi focused on two locations in Shahdara district: Welcome Colony and Old Seelampur.

**Welcome Colony** was established in the 1970s to relocate a population that had been displaced following the demolition of their homes (mainly slum settlements) in north and central Delhi. With a population estimated at 60,000<sup>xxi</sup> it is home to a predominantly Muslim community. The area contains many small manufacturing units, mostly producing jeans. Unit premises also sometimes serve as accommodation for workers, with a resultant blurring of work and leisure hours. **Old Seelampur** is a low income commercial and residential area around two kilometres from Welcome Colony. It is near the well-known Gandhi Nagar Market, considered to be Asia's largest readymade garment market. The majority of workers in the factories in the area are male.

Among the northeast Delhi respondents, all but two of the 20 workers interacted with migrated to Delhi during their own lifetime, though a low proportion (4) within the past 5 years.

Table 6. Worker backgrounds in northeast Delhi

Worker categories	Gender		Religion		Caste			N
	Male	Female	Hindu	Muslim n/a	Scheduled caste	Other Backward Caste	General Caste	
Homeworkers	0	12	1	11	1		11	12
Informal production unit workers	3			3			3	3
Informal factory workers	3	2	3	2		2	3	5
<b>Totals</b>	<b>6</b>	<b>14</b>	<b>4</b>	<b>16</b>	<b>1</b>	<b>2</b>	<b>17</b>	<b>20</b>

In contrast to the southwest Delhi area, the majority of workers (16) in Welcome Colony were Muslim, including all of the homeworkers and informal production unit workers interacted with.



# STUDY FINDINGS: WORKER PERSPECTIVES

## Export-oriented factory workers

### Gurugram

The team met these workers from their homes in Kapas Hera. From there the workers commute, usually by foot, to factories in Udyog Vihar. These workers we met were engaged variously on permanent, contract and piece rate basis in factories in the Udyog vihar area of Gurugram which are tier 1 and tier 2 suppliers within primarily global supply chains. Interactions with female workers suggested that they were more likely to be excluded from work opportunities during lean production periods. The workers were mostly permanent (19 out of 22), with two-piece rate workers and one worker on a contract. Though the majority consider themselves permanent workers, only 12 reported having an appointment letter. The men are engaged mostly on womenswear such as ladies' shirts, tops, short trousers and other items, with some also working on menswear including shirts and trousers. Specific jobs include stitching, embroidery and product checking. The women the study team interacted with were found to do various types of work including stitching, buttoning, hemming on shirts, jeans and various ladies' clothes.

As indicated below, forced labour risks were found to cluster around excessive overtime and the oppressive nature of production regimes, characterized by widespread intimidation, threats and concerns and risk of physical and sexual violence<sup>1</sup>. One female worker also complained about the uncomfortable working conditions. "We work standing", she said, pointing to the swelling starting on her feet.

#### Excessive overtime

Most men reported work approx 72 hrs per week during certain periods; there were reports of 80+ and even 100+hr weeks at busy times.

Most women also reported working excessive overtime during busy periods (though generally for fewer hours than the men we spoke to)

#### Intimidation and threats

Most men reported one or more of the following;

- Some form of aggressive verbal behaviour or abuse when the work was not completed on time.
- Threat of dismissal (eg for refusing overtime, failing to meet targets, for mistakes, for not doing good work "one or two times", or for arguing with management).
- Most women reported some form of intimidation or threat, including shouting and harrassment and being threatened with dismissal when work was not completed.

#### Physical and sexual violence

One woman reported harassment; another reported that the master touched her body: sexual assault.

*n* = 22

<sup>1</sup> Actual instances of sexual harassment are likely to be higher given social norms around sharing information of that nature and the fact that the researchers are not well known to the respondents.

Notably, one of the male workers reported that female workers find that supervisors will use sexual favours as leverage to let workers off failures to complete targets. It is significant that among those who had complaints (eg of a threatening or abusive environment at work), there were multiple reports of there being no *remedy* for these. Of the 22 export factory workers we met, ten said that they have some channel (group, association or HR contact point) through which to raise concerns they have, but of these, only seven said that sharing a complaint leads to any kind of action. This is important as it is suggestive of the involuntariness of the circumstances in which workers find themselves in: unable to complain and seek any redress or reform, they have little option other than to comply with demands of overtime and meet the targets they are set. If they do not, they risk losing their job altogether.

“If we will not do overtime or complete the target then they abuse and behave badly... If the target hasn't been met they shouldn't fight with us or abuse us and they should not ask us to leave. If overtime is not done they should not ask us to leave.” ( Male factory worker)

“If females are not completing targets then they touch them physically and she has to compromise (if she wishes to remain in the job).” (45-year-old male worker)

“If work is not finished on time they sack the worker. 10–15 workers are sacked each month (in a factory of around 1200).” (Male worker)

“They cheat with their overtime payment dividing it by 31 days instead of 26 days. On making a complaint the manager asks ‘do you want to work or not?’... No slip is provided for PF. Every month they sack workers so they don't have to pay any PF.” (Male factory worker)

“To show off to a buyer, one committee is being formed – but only for show off as they don't take any actions. There is no facility for lodging a complaint or telling our problems.” (Male worker)

“If we complain to HR they don't listen, they sack us” (Male worker)

“Workers are engaged on a contractual basis (through a contractor – not directly under the company) now. Workers don't get full payment and can be sacked at any time. The contractor is abusing and hitting the workers – it is a normal thing.” (Male factory worker)

“If work is not complete, the male supervisors start shouting.” (Female worker)

## Informal factory and production unit workers

### Southwest Delhi and Gurugram

Kapas Hera and bordering areas of Gurugram such as Dundahera are home to dozens of textiles workshops, some which we categorise here as informal factories and others as informal production units. They serve either export markets, or domestic markets, or both. The unit sizes vary considerably, as do the numbers of workers per unit, which ranges between around 3 to 30. Workers are engaged on piece rates. Four out of the ten workers we spoke to said that their factory unit works for foreign companies. Workers were engaged with a range of different garments, including women's wear (dresses, tops and other items) and menswear (shirts and trousers). Nine out of the ten workers were doing stitching (including overlock stitching) whilst one was doing checking work. For some, insufficient work (rather than any other issues) due to being occupied only for 15-20 days in a month - was a primary concern.

At the same time, discussions with these workers revealed a number of forced labour risks.

#### Abuse of vulnerability

One worker reported being paid only 350 Rs for 10 hours of work: less than 1/4 of the minimum wage. Three other workers reported monthly payments below the minimum wage.

#### Excessive overtime

Most workers reported working 11 hours per day and between around 66-80 hours per week

#### Physical and sexual violence

The woman worker we interviewed reported that female workers are subject to sexual harassment

*n=10*

As they work on a piece rate basis, workers receive no increased pay for overtime. Six workers shared that they are not able to share any concerns that they have in relation to their work with anyone in the workplace; no worker reported any sort of worker association being present. Four cited that they can share concerns with the owner or 'master', and three that this helps solve problems. The risk of sexual harassment may help to explain the observed relatively low levels of women in these workspaces.

One worker explained: "often, if they don't have work they threaten to remove us; also if work is not complete they threaten us and ask us to leave the work; this is made worse by the fact that we cannot say anything and cannot complain to anybody"

## Northeast Delhi

In **Welcome Colony**, the three informal production unit workers we interacted with all worked around 72 hours per week during normal weeks and up to 96 hours during busy periods: clearly excessive overtime. Working as tailors, stitching jeans, their hours are made easier by the fact that they live and work in these units, with time out to prepare lunch their only significant break between morning and night. All three receive piece rates.

### Excessive overtime

Two of the workers reported regularly working 72 hours per week, rising to 90+ hours during the busiest periods. The other worker reported around 60 hours per week during normal periods and 72 hours per week at peak times.

### Abuse of vulnerability

The workers received payment rates between half to two thirds of the minimum wage, once hours worked is taken account of.

*n=3*

In **Old Seelampur**, near Gandhi Nagar market, we visited a factory serving the domestic market. We term this an informal factory, since workers are generally engaged on a piece rate basis and the space was not subject to the regulations found in export-oriented factories. A great range of different garments were made here serving a variety of low-end Indian brands. All workers are paid a piece rate.

### Excessive overtime

All male workers reported excessive overtime – up to 66 or 72 hours a week during busy periods.

### Abuse of vulnerability

4 of the 5 workers interviewed (2 men and 2 women) are paid below the minimum wage, with figures working out even lower once overtime and the lack of payment thereof, is taken into account.

*n=5*

Whilst not being specific about workplace problems, one worker did suggest that they face challenges. More particularly, though, the absence of opportunity for resolution of any complaints or grievances was striking. “We don’t disclose our problems to anyone,” said one male worker. “If we have any problem, then we have to leave the work.”

Widespread among workers in these informal factories and production units, in both locations, was a lack of access to remedy. Of the 18 workers working we met in this broad category, only four indicated that they can speak to unit owners in case of any issues, and of these, three said that this can help to solve problems they have. There were no reports of any worker association.

## Homeworkers

### Southwest Delhi

**Homeworkers** work from home in single room rented apartments in Kapas Hera, and serve either export markets, or domestic markets, or both. All were female, married and all but three had children. They do a variety of different work, both unskilled and semi-skilled, including *daga* (thread cutting on tops, *kurti*, skirts and baby frocks; *moti sitara* (embroidery) work on various items; fixing buttons (eg on shirts); making tassels and *dori* (string cloths); hemming; and stitching work. Piece rates were found to be extremely low. There were different categories of piece, some of which could be completed quickly, and which would fetch between 50 paise to around Rs 5; and others of which took longer to do (5 to 8 hrs) and fetch between around Rs 50 to Rs 100 per piece.

#### Abuse of vulnerability

All homeworkers interviewed were being paid below the minimum wage

More than three quarters of the homeworkers interviewed stated that they have no alternative but to work at home due either to family or other household commitments

#### Abusive working conditions

Most complained that they do not have enough light to work

#### Withholding of wages<sup>xxii</sup>

At least two workers' wages were delayed until the next major festival (Holi, or Diwali)

#### Physical and sexual violence

One worker reported sexual harassment

*n*=19

Table 7. Estimated daily rates of homeworkers in southwest Delhi<sup>xxiii</sup>

Estimated daily rate (INR)	Number of women earning this amount/ in this range
<20	2
25-40	4
50	3
60-75	5
100-200	3
300	2

Estimated daily rates of homeworkers (when working) are provided in table 7: in all cases, wages are considerably below the minimum wage even for unskilled work (the lowest threshold), despite the skill involved in work such as stitching and *moti sitara* work.

Four homeworkers said that they lack space to work and most workers

complained they do not get enough light. Given that these conditions are at home, it is not possible to attribute blame to the employer, even if landlords may be held partially responsible. Rather, it is a function of a broader set of social and economic circumstances, including but not solely landlord negligence, that contributes to the living and working conditions of these women.

Almost half of the women also say that they sometimes work at night, when the work is urgent.<sup>xxiv</sup> Two of the homeworkers, meanwhile, commented that they have to wait until Holi, or Diwali, to get paid, which may put them in a situation in which it is difficult to leave work, for fear of missing out on payment.<sup>2</sup>

“The company from where I am taking the work, the master uses bad language, saying go out with me, stay with me.... Their master and the person-in-charge uses dirty language”, said one of the women.

## Northeast Delhi

Homeworkers we interviewed in **Welcome Colony** said that in their locality at least 75% of the families are doing garment work, including thread cutting and button fixing. Earning them approximately INR 3000 to 4500 per month approximately, a typical piece rate is 60 paise, of which 50 paise is for thread cutting and 10 paise is for buttons. Working at nights is not uncommon, and the work itself leads to pressure on hands, eyes and stomach, as well as backache. The workers find it difficult to get better rates for what they do: if they ask the contractor to increase their amounts they are simply told to “please find other work.” There were also reports of the contractor sometimes underestimating the number of pieces completed (seemingly a deliberate underestimation) leading them to be paid less than that which they are owed. Overall, earnings range from Rs. 90 to Rs. 250 per day, depending upon number of working hours per day and on the number of working members in the household. Ten of these twelve homeworkers earn wages below the minimum wage for unskilled work, and seven less than half of the minimum wage for this level of work.

### Abuse of vulnerability

Eleven of the twelve homeworkers interviewed reported wages below the minimum wage. Five of the ten asked indicated they had no other choice but work from home, due to factors such as lack of permission from parents, or household responsibilities.

### Intimidation and threats

Half the homeworkers mentioned that their wages are sometimes deducted if there is any error or cut in the piece, or if a piece is lost: effectively they work with the threat of a fine.

One worker explained that there is always pressure to complete work quickly

### Excessive overtime

One homeworker reported excessive overtime

*n* = 12

<sup>2</sup> The actual number of homeworkers whose wages are withheld (also describable as deferred payment) is likely to be higher since this question was not part of the interview tool, so not asked to all homeworkers.





Two cases came to light, meanwhile, of homeworkers taking advance payments, which would need further probing to identify any risk of debt bondage. Fines are a distinct threat for homeworkers who are anyway paid very little. “When a piece got lost six months ago, Rs 250 was deducted by the contractor”, said one homeworker.

Child labour – understood here also as an abuse of vulnerability – is common in the area, with mothers and daughters seen working together. One of the homeworkers interviewed was herself a child of 15 years, working 9-10 hour days, 4 days a week: clearly incompatible with school attendance.

In both southwest Delhi and northeast Delhi, homeworkers suggested they tend to share problems with family members or with their female neighbours and their friends; they are not part of any organized homeworkers collective. They thus lack mechanisms for addressing and redressing issues, such as pay rates below minimum wage level.



## SUMMARY OF KEY FINDINGS

Forced labour risks are in evidence among all worker categories in focus here.

The broadest spread of risks is evident among men and women factory workers engaged in (primarily) global supply chains in Gurugram. Women workers in these export-oriented factories are at clear risk of sexual harassment and of sexual violence, as well as of excessive overtime. Their male counterparts appear at particular risk of physical violence in the workplace and at even higher risk of excessive overtime. Threats and intimidation are a feature of the working life of both men and women workers in these factories, including threat of dismissal, or some form of abuse for failure to meet targets.

Significant risks were also found in informal production units and factories, for both men and women workers, in both the mixed (ie. global and domestic) supply chains of southwest Delhi and the Gurugram border areas, and the domestic supply chains of northeast Delhi, though in the former setting irregularity of work was also a key concern.

Wages are lowest among homeworkers, all of whom were women. Other worker categories – notably in informal production units and informal factories – also work below the minimum wage and, being on piece rates, do not have overtime accounted for at all. These minimum wage failures are interpretable as an abuse of vulnerability, most compellingly in the case of women homeworkers who also widely expressed a lack of alternatives to homeworking – due to childcare and other domestic responsibilities.

Table 8. Forced Labour risks per worker category and location, disaggregated by gender

	Female home-workers (KH)	Female home-workers (WC)	Female informal production unit worker (KH)	Female informal production unit workers (OS)	Female factory workers (UV)	Male informal production unit and informal factory workers (KH)	Male informal production unit and informal factory workers (WC & OS)	Male factory workers (UV)
Number sampled	19	12	1	2	10	9	6	13
Abuse of vulnerability	Majority	Majority	No reports	At least one	No reports	At least one	Majority	At least one
Deception	No reports	No reports	No reports	No reports	At least one	No reports	No reports	No reports
Physical and sexual violence	At least one	No reports	At least one	No reports	At least one	No reports	No reports	No reports
Intimidation and threats	At least one	At least one	No reports	No reports	At least one	At least one	No reports	Majority
Withholding of wages	At least one	No reports	No reports	No reports	At least one	No reports	No reports	No reports
Abusive working & living conditions	Majority	At least one	No reports	No reports	No reports	No reports	No reports	At least one
Excessive overtime	At least one	At least one	No reports	No reports	Majority	Majority	Majority	Majority

**KEY**

**Gurugram and Southwest Delhi context**

KH= Kapas Hera and Gurugram,  
 UV= Udyog Vihar, Gurugram

**Northeast Delhi context**

WC = Welcome Colony  
 OS = Old Seelampur

- A risk reported by the majority of workers in the given category..
- A risk reported by at least one worker in the given category.
- No reports of this risk from workers in the given category.

## Exploring potential drivers of forced labour

Identifying drivers of forced labour risk is a complex task and beyond the scope of this small study; however, certain factors can be noted. One issue concerns the deployment within export-oriented factories of the threat of dismissal - among other significant threats. Concern about losing jobs seems, quite understandably, to be enough to compel some to work excessive overtime in order to meet production targets, or even, most disturbingly, persuade women workers to withstand sexual violence. Workers effectively take the view that it is better to tolerate work, even when conditions are severe, than be out of work altogether. Here, then, it may be harsh economic realities associated with unemployment that represent the greatest penalty of all. These realities converge on workers' lives in such a way as to point to forced labour: a situation in which the worker is compelled to conform to a highly demanding production model both by the logic of the regime itself (intimidation, abuse, sexual or physical violence) and by the larger, looming threat of economic uncertainty and poverty.

A connected issue is lack of access to even the most basic forms of remedy for concerns that workers have, attributable in no small part to trade unions not being able to function. In export-oriented factories, most workers referenced a lack access to remedy, making them even more vulnerable to exploitative labour arrangements and potentially to forced labour. Within informal spaces very few workers reported effective means of having grievances redressed, and no reports of any formal and independent channels. Meanwhile, among homeworkers, there are no such channels available. Given the issues that workers evidently face, the lack of remedy at these different levels speak of a context of impunity and chronic lack of accountability even for the most heinous forms of abuse, such as sexual harassment. This failure to provide spaces for workers to be heard and to have their grievances redressed is a failure of workplace and supply chain governance, and ultimately a failure of democratic governance itself.

A feature of international law, including on forced labour, is the attribution of culpability and so ultimately of criminality to those who perpetrate forced labour. Whilst this is important and necessary, it is also important to locate forced labour risks in their proper context in order to be able to overcome it more holistically and sustainably. As in the example of export-oriented factories provided above, in homeworking, too, it is arguably in the dynamic interaction between (i) certain 'given' economic, cultural and social realities and (ii) individual decisions that potential for forced labour is created. For instance, a female homemaker may be subject to an abuse of vulnerability when a contractor offers her well below minimum wage payment, and this is accepted by the homemaker, in part because she perceives - and the contractor knows - she has (likely due to domestic responsibilities and to patriarchy) no alternative to homeworking. These ground realities have a bearing both on a worker's capacity for self-determination in the world of work and - just as importantly - on how it is likely to be perceived by those who employ her. However, it is important to see the contractor (as also, in certain cases, a supervisor in a factory who drives staff to excessive overtime through a regime of intimidation and threats) as part of a larger socio-economic structure of exploitation, in which he plays a part but cannot be considered solely responsible, especially where he himself is operating under considerable economic constraints. It may be possible to attribute greater levels of accountability to certain more powerful actors within this structure - notably lead buyers, for example - or with those who enact or are at greatest proximity to instances of abuse; but even this exercise should not obscure recognition of forced labour risks as a symptom of a deeply unjust socio-economic order, to which the larger private sector, national governments, consumers and the wider society, within India, and internationally, all contribute.



# RECOMMENDATIONS

Some necessary measures for preventing, mitigating and remedying forced labour are suggested below.

## FOR COMPANIES PLACING ORDERS

- **Buyers, Indian and international, should follow a comprehensive due diligence approach to addressing forced labour and other forms of modern slavery in their supply chains**

This will include consulting specific guidance such as the ETI base code guidance on modern slavery<sup>xxv</sup>, developing policy commitment to respect labour rights of all workers in their supply chains, mapping these chains, down to the lowest tiers; using leverage to root out and prevent forced labour risk; and establishing accessible grievance mechanisms at the factory level and the local community level, in collaboration with suppliers. Indian buyers new to supply chain due diligence should consult the National Guidelines on Responsible Business Conduct<sup>xxvi</sup> (Principle 3 and 5), which expects all businesses to promote human rights across their value chains.

- **Buyers need to ensure that inspection processes are not check box exercises by making them more rigorous**

Buyers should make more rigorous inspection processes, including adequate worker consultation as well as sufficient control over which workers are spoken to, and follow up inspections from a third party.

- **Buyers need to work proactively with suppliers in order to:**
  - Establish shared responsibility in which suppliers institute good workplace practice whilst buyers incentivize them<sup>xxvii</sup>

This requires buyers insisting on opportunities for worker representation and resolution of complaints. It requires a joint commitment to openness and dialogue, in which, for instance, suppliers have the confidence to decline a customer order on the basis that their production facility is already fully booked. Lead buyers should also incentivize supplier efforts to institute measures to prevent forced labour and promote decent work, such as greater consistency in orders when they are seen as reliable; or providing suppliers a greater voice in the price or margin negotiation.

- Ensure purchasing practices do not contribute to the high and volatile production targets that drive excessive overtime; regularly assess any contribution to this and other forced labour risks; and take corrective action wherever needed

In order to reduce need for supplier overtime, buyers need to order well in advance so that suppliers can plan, and avoid making last minute design changes, order changes or delivery conditions. Sampling teams also need to conduct accurate time and motion studies for the factory to assess average worker production time. Buyers need to assess the extent to which their

payments to factories can accommodate decent wages for workers without the need for excessive overtime.

- **Promote greater openness about subcontracting practices by developing more inclusive compliance standards**

Buyers need to be more proactive in engaging with suppliers around subcontracting. Through more frequent dialogue with suppliers, subcontractor declaration should be more actively encouraged.

Further, even if an undeclared subcontractor is identified, rather than driving it underground or risk putting workers out of work by ceasing orders entirely, buyers need to initiate time-bound, remedial action plans in partnership with suppliers to promote integration of Code of Conduct standards across the supply chain, addressing risks such as below minimum wage payment, sexual harassment, and overtime.

## FOR GOVERNMENT

- **Strengthen institutions for grievance redressal and make them more worker-responsive**

In terms of sexual harassment:

- Local Complaints Committees envisaged through the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (PoSH) are not currently addressing the needs of women outside formal factories or in those with ten or fewer workers. Further, the location of Internal Complaints Committee (ICCs) within factories and the fact that the majority of members are factory employees is problematic; workers need to have the freedom to utilize an external commission such as the LCC, independent of the ICC, wherever there may be a perceived need. PoSH also needs to be seen as a core labour issue, not just a women's issue, and brought under the domain of the Labour Ministry.

In terms of other issues related to forced labour:

- There should be legislation to strengthen and widen the role of LCCs set up through PoSH to incorporate handling of other forced labour risks, or, failing that, new grievance redressal institutions should be established. Women and men workers need to be supported in being able to voice their concerns and get redressal for them. It is essential that both men and women who encounter other forms of labour abuse that may represent a forced labour risk can also find opportunities to register grievances without fear of consequence.

- **State agencies need to map workers, monitor wages and design action plans to address minimum wage violations, paying particular attention to informal settings**

Local government agencies also need to understand patterns of forced labour risk in their localities, including in terms of minimum wage violations, in order to be able to take the necessary steps to address these



issues. Where they are not adequately informed, they need to seek out support from civil society, trade unions and others.

- **Strengthen labour laws**

The four recently tabled Indian Labour Codes weaken many existing laws. The Government of India needs instead to legislate in accordance with the 1998 ILO Declaration on Fundamental Principles and Rights at Work, and with decent work standards more broadly. The Code on Wages, which became an Act in 2019 but not yet notified at the time of writing, needs to be reviewed:

- Minimum wage revisions should be made annually, not once every five years
- Inspection must be comprehensive, not randomized; electronic inspection cannot be replaced with onsite inspection; separate facilitators should be appointed in order to support awareness on compliance: it should not be conflated with that of the inspector

The other three Codes, which have been introduced in the Lok Sabha (Indian Parliament) but not passed at the time of writing, need urgent review. Among the areas of change needed:

- The role of the Inspector-Cum-Facilitator in the Occupational Safety, Health and Working Conditions Code 2019 also needs to be revised. The Code also needs to be made applicable to units with fewer than 10 workers. Principle Employers need to be made accountable for wages.
- The Industrial Relations Code needs to relax the requirement for union recognition – requiring 75% worker support is clearly too stringent and unrealistic, by Indian and global standards
- The Social Security Code needs attention to ensure that it is applicable for all informal workers. Special mechanisms need to be in place for those below minimum wages who would have difficulty getting support from employers to document the fact that they are being paid below the minimum wage. It should also be ensured that any worker expected to contribute to his/her social security can actually afford to do it. From a forced labour prevention perspective, social security (including a universal basic income) should be developed alongside the minimum wage law in order that workers are not forced to stay in jobs they do not want to stay in, or to take work below the minimum wage. Further, it will also ensure that those who wish to continue in work that appears to have no short-term prospect of meeting the minimum wage can still do so, whilst receiving enough state support to fulfil their household requirements.

- **Institute suitable policy commitments and lead the development of a coordinated action plan to eradicate forced labour**

Ultimately the State needs to lead the kind of organized, multi-sectoral change required to eradicate forced labour risks in the long term. The Government of India needs to demonstrate its commitment to tackling forced labour by ratifying the 2014 Protocol to the Forced Labour

Convention, 1930 (No. 29). Beyond and yet related to this, there are also a number of complementary policy imperatives, including:

- India needs a National Policy for Homeworkers: without this, there is no clear roadmap for addressing issues this constituency of workers faces.
- The new Action Plan on Business and Human Rights needs to deal squarely and holistically with the challenge of forced labour across its Protect, Respect and Remedy framework.
- Going forward, the State needs to work with industry bodies, worker associations and other groups to develop a coordinated response to the issue of forced labour at different levels and spaces within global and domestic supply chains. As indicated in the 2014 Protocol to the Forced Labour Convention, 1930 (No. 29) this should include “educating and informing employers in order to prevent their becoming involved in forced or compulsory labour practices.” It should also involve “supporting due diligence by businesses to prevent and respond to forced labour risks.”
- Strengthen the government education system, including secondary and higher education in order that children are less likely to drop out and into child labour, and possibly into conditions of forced labour. It should be ensured that education is not seen as incurring too much of an opportunity cost: here, improved quality standards are essential.

## FOR SUPPLIERS

- **Suppliers should integrate labour standards throughout their factories, in line with the National Guidelines on Responsible Business Conduct<sup>xxviii</sup> (cf. Principles 3 and 5) ensuring that workers are paid at least minimum wages. Top management should train staff on how to communicate humanely with workers without threats and intimidation. Gender-based training should also be organized in order to overcome gender-based discrimination and sexual violence.**
- **Suppliers need to plan thoroughly and effectively in order to avoid production rushes**
- **Suppliers need to communicate openly with buyers about what works for them in terms of enabling better workplaces**
- **Suppliers need to support establishment of grievance mechanisms with third party ownership within factories and also alternative community level systems for workers who may feel uncomfortable to raise any concerns on factory premises and to factory-based staff.**
- **Suppliers need to also integrate and uphold labour rights standards within their own supply chains**

## FOR TRADE UNIONS

- **Community-centred worker representation systems should be established and strengthened**

Until the point when labour legislation and wider circumstances makes it more feasible for trade unions to operate in factories, community-centred worker representation systems should be facilitated in order to enable their concerns to be aired and then relayed to appropriate stakeholders. The remit of focus needs to include not only factory workers but also informal workers including homeworkers, who otherwise have limited or no access to formal channels for redress of any issues or grievances.

## FOR CIVIL SOCIETY

- **Opportunities need to be provided to workers to register their concerns and grievances**

Civil society has a role to play in opening up community channels for these purposes and in removing social and cultural barriers to worker articulation of issues they have faced. These channels can gain leverage through strategic collaboration with business stakeholders. Even where judicial systems exist, non-judicial systems should also exist alongside them in order to ensure that victims have more options for registering their grievances and for securing remedy.

- **Strategic campaigns to address forced labour in apparel supply chains**

Building on and learning from previous international efforts, further campaigns are needed both internationally and adapted to the Indian context, where many consumers now buy international brands as well as domestic brands, of varying profiles.

Beyond these areas, civil society should be involved in supporting the above initiatives and in holding key stakeholders accountable for meeting their responsibilities: especially governments; and businesses, according to the leverage that they have.



## KEY AREAS FOR FURTHER RESEARCH

### 1. Build understanding of the interaction between socio-economic vulnerabilities and forced labour risk

A point of learning from the study was the ways in which victims of forced labour are embedded in highly iniquitous social structures. These structures are important to understand as they help to illuminate the kinds of vulnerabilities which characterize the lives of individuals and groups at risk. What constitutes an *abuse of vulnerability*, for instance (one of the eleven indicators of forced labour), is not altogether very well-defined by the ILO<sup>xxix</sup> and this study has suggested certain additional ways of understanding it among workers in these contexts<sup>xxx</sup>, taking account of factors such as gender inequality, the lack of perceived alternatives to a certain form of employment, and below minimum wage payment.

More research on this, using methods such as life history to gain insights on workers' lived experience, is needed. Findings can, where appropriate, be used to help determine the merit of more contextualized framings of forced labour and other areas of labour rights; support engagement with relevant

global and national bodies responsible for reviewing indicators of forced labour<sup>xxxii</sup>; and encourage the development of context-responsive methods to measure it.

## **2. Further studies on recruitment practices at multiple tiers of the supply chain**

There is a tendency to associate trafficking with migration but, as articulated within the Palermo Protocol, trafficking occurs when there is an act (such as recruitment etc) that occurs by means of some form of abuse or use of coercion for the purposes of exploitation. As such, it is not only in the process of migration that trafficking becomes a risk: workers may continue to be vulnerable to it long after they have settled in an area, whether or not they are actually migrants. Further studies are needed to gain more clarity on the incidence of trafficking risk.

## **3. More assessment of the value of information and communication technology (ICT) in improving supply chain transparency to the homeworker level**

Recent years have seen a proliferation of effort and enthusiasm around leveraging ICT to tackle labour rights issues and forced labour risks but more needs to be done here, especially at the level of the informal workers such as homeworkers, to understand what works best and what systems can be sustained. For keeping records of work and payment patterns, specific approaches need to be assessed, for instance, for workers with access only to a family member's mobile phone; for workers with access to their own simple phone; and for workers with access to a smart phone. Factors supportive of the cooperation of contractor and subcontractor involvement in these digital record-keeping processes should be better understood, in order that these actors can be incentivized. The involvement of brands, and of tier 1 and tier 2 suppliers, in feasibility studies into these and other areas, such as use of bank payments to homeworkers, will be key.

## Endnotes

- <sup>i</sup> The UK Modern Slavery Act, 2015 also refers to “forced or compulsory labour.” <http://www.legislation.gov.uk/ukpga/2015/30/section/1/enacted>
- <sup>ii</sup> The term ‘random’ is used here because respondents were located by community mobilisers engaged for the purposes of the study. Source: [https://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_508317.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_508317.pdf)
- <sup>iii</sup> [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_203832.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf)
- <sup>iv</sup> “The fact of irregular or delayed payment does not automatically imply a forced labour situation.” (p. 19 [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_203832.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf))
- <sup>v</sup> <https://indiankanoon.org/doc/1071750/>
- <sup>vi</sup> “Bonded labour is defined in the Bonded Labour System (Abolition) Act of 1976 as a system of forced or partly forced labour under which a debtor accepts an advance of cash or in-kind in exchange for a pledge of his or any family member’s or other dependant’s labour or service to, or for the benefit of, the creditor. The agreement can be oral or in writing, may be of a fixed duration of time or not, and with or without wages paid. Debt bondage denies individuals the right to choose their employer or to negotiate the terms of their contract. Workers are forced work until they repay a debt that is constantly manipulated and augmented through the imposition of interests, penalties and deductions, and they cannot work for other employers in the interim.” <https://accountabilityhub.org/country/india/>
- <sup>vii</sup> People’s Union For Democratic Rights vs Union Of India & Others, on 18 September, 1982 Indian Kanoon—Also known as the Asiad Workers’ Case <http://indiankanoon.org/doc/496663/>
- <sup>viii</sup> Stakeholder Interview with ASK on 27 November 2018 and GPN Studies on 28 November 2018 in FWF 2019
- <sup>ix</sup> As per Factories Act (1948) definition  
Available at: <https://labour.gov.in/sites/default/files/TheFactoriesAct1948.pdf>
- <sup>x</sup> As per Factories Act (1948) definition
- <sup>xi</sup> Working Conditions of Migrant Garment Workers in India – A Literature Review, International Labour Office, Fundamental Principles and Rights at Work Branch, Geneva: ILO, 2017  
Available at: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_554809.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_554809.pdf)
- <sup>xii</sup> Fair Wear Foundation, India Country Study 2019 Available at: <https://api.fairwear.org/wp-content/uploads/2019/06/CS-INDIA-2019.pdf>
- <sup>xiii</sup> WIEGO Statistical Brief 2013: Home-based Workers in India: Statistics



and Trends <http://wiego.org/sites/default/files/publications/files/Raveendran-HBW-India-WIEGO-SB10.pdf>

<sup>xiv</sup> Sinha, S. and Mehrotra, F with Homenet South Asia (HNSA) team, Working in the Shadows: Women Home Workers in the Global Supply Chain, September 2016 Available at: <https://hnsa.org.in/sites/default/files/Working%20in%20the%20Shadows%2C%20Nepal.pdf>

<sup>xv</sup> Kara, S. (2019) The Exploitation of Women and Girls in India's Home-Based Garment Sector, Blum Center for Developing Economies, University of California, Berkeley, January 2019

Available at: <https://blumcenter.berkeley.edu/publications/tainted-garments/>

<sup>xvi</sup> Bhaskaran, R., Nathan, D., Phillips, N., Choragudi, U., Vulnerable Workers and Labour Standards (Non-)Compliance in Global Production Networks: Home-Based Child Labour in Delhi's Garment Sector, Capturing the Gains 2013 Available at: <http://www.capturingthegains.org/pdf/ctg-wp-2013-16.pdf>

<sup>xvii</sup> Working Conditions of Migrant Garment Workers in India – A Literature Review, International Labour Office, Fundamental Principles and Rights at Work Branch, Geneva: ILO, 2017

Available at: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_554809.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_554809.pdf)

<sup>xviii</sup> Insights into workin conditions in India's garment industry, International Labour Office, Fundamental Principles and Rights at Work (FUNDAMENTALS) – Geneva: ILO, 2015

<sup>xix</sup> Kara, S., Tainted Garments, Blum Center for Developing Economies, University of California, Berkeley, January 2019 Available at: <https://blumcenter.berkeley.edu/publications/tainted-garments/>

<sup>xx</sup> <https://www.census2011.co.in/data/town/64059-kapas-hera-delhi.html>

<sup>xxi</sup> The source for this figure is WHO Polio Immunization Activities 2007 in K.M. Ziyauddin, K.M, and Eswarappa, K., Dimensions of Social Exclusion: Ethnographic Explorations, Cambridge Scholars Publishing, 2009. The figure today is likely to be considerably more.

<sup>xxii</sup> As this question was not included in the interview scheduled and hence not asked to all workers, the fact that two out of 19 homeworkers mentioned it does not give a picture of how many in this set have their wages withheld. The actual numbers may be higher.

<sup>xxiii</sup> These estimations are based on reports of amount earnt, upwardly adjusted to approximate figures for eight hour periods. For instance, if a worker says she works a total of 4 hours during a day, and makes around INR 25, then the daily rate figure given in the table is INR 50.

<sup>xxiv</sup> Though it is not possible to substantiate this as excessive overtime due to lack of evidence that this was undertaken for a sufficiently extended period of days, the risk of excessive overtime may still be a cause for concern during the busiest seasons.

<sup>xxv</sup> Source: [https://www.ethicaltrade.org/sites/default/files/shared\\_resources/eti\\_base\\_code\\_guidance\\_modern\\_slavery\\_web.pdf](https://www.ethicaltrade.org/sites/default/files/shared_resources/eti_base_code_guidance_modern_slavery_web.pdf)

<sup>xxvi</sup> [https://www.mca.gov.in/Ministry/pdf/NationalGuideline\\_15032019.pdf](https://www.mca.gov.in/Ministry/pdf/NationalGuideline_15032019.pdf)

<sup>xxvii</sup> See Appendix 1 in CIPS/Traidcraft Win/Win: Achieving Sustainable Procurement with the Developing World Available at: <https://www.traidcraft.org.uk/policy-resources/2017/10/31/win-win-a-guide-to-sustainable-procurement-with-the-developing-world>

<sup>xxviii</sup> [https://www.mca.gov.in/Ministry/pdf/NationalGuideline\\_15032019.pdf](https://www.mca.gov.in/Ministry/pdf/NationalGuideline_15032019.pdf)

<sup>xxix</sup> According to the description of abuse of vulnerability in the ILO forced labour indicators guide, “it is when an employer takes advantage of a worker’s vulnerable position, for example, to impose excessive working hours or to withhold wages, that a forced labour situation may arise.” ([https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_203832.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf)). Here, there is reference to wages, but in terms of withholding wages, rather than with reference to very low wages, or wages below the minimum wage. This, then, is how “abuse” is understood. “Vulnerability” is described in various possible terms, but gender is not actually mentioned as an indicator of vulnerability. Given that women in South Asia and many other parts of the world are considerably disadvantaged in comparison to other men, in the household, in society, in economic, social, political and other domains, there would appear to be a strong case for including it. The ILO may agree on this in-principle need to, and may contend that their description implicitly includes factors such as gender. This may not preclude the need, though, for greater awareness around vulnerabilities in particular contexts, and greater clarity on the role of gender (as indeed other factors) as instrumental to forced labour risk.

<sup>xxx</sup> For instance this study understands it to be an abuse of vulnerability - albeit at a structural level which does not necessarily implicate the contractor as the critical agent of abuse - when a contractor offers a female homeworker well below minimum wage payment, and this is accepted by the homeworker, in part because she perceives – and the contractor knows - she has no alternative to homeworking.

<sup>xxxi</sup> A case in point would be if research findings corroborated the 1982 India Supreme Court Judgement on Forced Labour, which recognises below minimum wage payment as evidence of forced labour. In this case, the findings could be used to commend greater international attention to below minimum wage payment as a possible forced labour indicator.

## About

This report was written by Rohan Preece, who led the study together with Rakesh Supkar and Arati Pandya. Advice, guidance and support was provided by Mukesh Tiwary, Lakshmi Bhatia, Maveen Pereira, George Williams and Fiona Gooch. Data collection was undertaken primarily by Rita Sharma, Birendra Kumar, Madhu Saini and Shakila, with coordination support from Rakesh Mehta; Lakshmi, Shakila and Rahul mobilized community members in Kapas Hera and Welcome Colony and Old Seelampur respectively.

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*This is a summary version of a larger report, which can be shared on request.*



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Front Cover Photo: Transporting jeans in Welcome Colony