

BASELINE ASSESSMENT REPORT

AWARENESS ABOUT LAWS AND ACCESS TO REMEDIES FOR WOMEN MIGRANT WORKERS IN THE GARMENT SECTOR WITHIN THE CONTEXT OF BUSINESS AND HUMAN RIGHTS

LEAD PARTNER



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September 2021

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This baseline report is an important contribution to the journey of business and human rights and women's empowerment in India, which are both significant focus areas for Change Alliance Private Limited (CAPL). Thus, this project with the United Nations Development Programme's (UNDP) B+HR Asia initiative is naturally aligned with CAPL's broader objectives of serving the socially and economically marginalized segments of society.

The project – 'Devising innovative approaches for greater awareness and access to remedies for right holders' subject to adverse human rights impacts (esp. women's rights) within the context of the business and human rights narrative of the country' – has a two-pronged approach consisting of an in-depth baseline assessment, followed by interventions to address the findings from the baseline assessment and to bring all key stakeholders to a common understanding and advance business and human rights (BHR) practice in India.

In order to achieve the goals of the project, CAPL established a project advisory committee (PAC) representing a wide range of stakeholders, including Sean Lees (Business and Human Rights Specialist, UNDP Bangkok Regional Hub), Nusrat Khan, (Business and Human Rights Specialist, UNDP India), Chandrima Chatterjee, (Advisor, Apparel Export Promotion Council), Viraf Mehta, (Senior Consultant with Change Alliance on BHR, Member of the Advisory Committee on the National Action Plan, Ministry of Corporate Affairs Government of India, Core Member of 'Business, Environment and Human Rights' at National Human Rights Commission), Chayanika Kunjwal, (Ethical Trading Manager, Superdry), and Anand Kumar Bolimera, (CEO, Change Alliance Private Limited). We gratefully acknowledge the contribution of the PAC, which was instrumental in shaping the direction of this baseline report and the overall project.

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The development of the baseline report was led by the CAPL team consisting of PV Narayanan (Director, Development Advisory and Operations), Dr Archana Shukla Mukherjee (Senior Manager, Gender, Diversity and Inclusion) and Subhadra Gupta (Consultant Expert on BHR). We also thank Niyati Dhuldhoya (consulting editor with CAPL) for editing and proofreading the report.

Business and human rights is a pressing priority to advance excellence, responsible business practices, and the application of a human rights lens in the world of work. We hope that this baseline assessment, and the interventions that the project envisages to follow, will contribute to realizing this worthy goal.

CONTENTS

List of tables.....	6
List of figures.....	6
List of abbreviations.....	7
Executive summary	8
1. Introduction and background.....	12
2. Research design and methodology.....	18
3. Research findings and observations.....	21
3.1. Respondent background	21
3.2. Recruitment practices	23
3.3. Impact of COVID-19, socio-economic and living conditions.....	28
3.4. Working conditions, wages and benefits at the workplace	36
3.5. Gender sensitisation and GBV	43
3.6. Grievance (redressal) mechanisms.....	50
4. Placing the findings in the context of BHR in India.....	56
5. Recommendations and conclusion.....	59
ANNEXURE I	68
ANNEXURE II	69

LIST OF TABLES

Table 1: Quantitative interviews with women migrant workers	68
Table 2: Break-up of telephonic and face-to-face surveys.....	68
Table 3: Qualitative survey – KIs, FGDs and case studies	68
Table 4: Break-up of qualitative survey respondents.....	68
Table 5: Areas of enquiry and indicator framework.....	69

LIST OF FIGURES

Figure 1: Assessment process.....	18
Figure 2: Age group of respondents (in percent)	21
Figure 3: Age group of respondents covered (state-wise, in percent)	22
Figure 4: Social category of respondents (in percent).....	22
Figure 5: Education level of respondents (in percent).....	23
Figure 6: Reasons for migration (in percent)	24
Figure 7: Reference given for current job (multiple choice question, n=662, data in percent)	25
Figure 8: Challenges faced during migration (multiple choice question, data in percent)	26
Figure 9: Documentation process, negotiations and challenges (data in percent)	26
Figure 10: Situation during COVID-19 (in percent)	29
Figure 11: Challenges due to COVID-19 and lockdown (in percent).....	30
Figure 12: Impact of COVID-19 on life and livelihood (overall and state-wise, in percent).....	31
Figure 13: Wages received during lockdown (in percent)	31
Figure 14: Ability to meet expenses and access benefits during lockdown.....	32
Figure 15: Borrowing and debt during lockdown (data in percent)	32
Figure 16: Income levels during lockdown	33
Figure 17: Percentage of women working overtime (in percent)	34
Figure 18: Facilities provided by factory (in percent)	36
Figure 19: Basic facilities at the workplace (in percent).....	37
Figure 20: Restrictions on breaks and facilities (in percent)	38
Figure 21: Regular sitting breaks of at least 3 times, in case of standing jobs (in percent).....	38
Figure 22: Safety gear and safety training provided to workers (in percent).....	39
Figure 23: Wages and safety compliance at the workplace (in percent)	40
Figure 24: Wages and work (in percent)	40
Figure 25: Workplace social security benefits (in percent).....	42
Figure 26: Received maternity benefits (in percent, n=309).....	42
Figure 27: Sexual harassment at the workplace (n=662, in percent)	44
Figure 28: Awareness of what constitutes sexual harassment at the workplace (in percent)	45
Figure 29: Awareness of laws related to sexual harassment at the workplace (in percent).....	46
Figure 30: Training received on sexual harassment at the workplace (in percent)	47
Figure 31: Experience of harassment faced (in percent)	48
Figure 32: Awareness of grievance redressal systems (in percent).....	50
Figure 33: Awareness of complaints committee and IC in factory (in percent).....	51
Figure 34: Awareness of the Industrial Disputes Act, 1947, and works committee (in percent)	51
Figure 35: Available options to register complaints (in percent)	52
Figure 36: Complaints registered against sexual harassment at the workplace (in percent)	53
Figure 37: Reasons for not complaining against harassment at the workplace	55
(multiple choice, n=662, in percent)	

LIST OF ABBREVIATIONS

BHR	Business and human rights	NGO	Non-government organization
BRR	Business responsibility report	NGRBC	National Guidelines on Responsible Business Conduct
BRSR	Business responsibility and sustainability report	NHRC	National Human Rights Commission
CAPI	Computer-assisted personal interview	NVG	National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business
CII	Confederation of Indian Industry	OBC	Other Backward Classes
CMIE	Centre for Monitoring Indian Economy	OECD	Organisation for Economic Co-operation and Development
CSO	Civil society organisation	PDS	Public Distribution System
CSR	Corporate social responsibility	PMJDY	Pradhan Mantri Jan-Dhan Yojana
EPF	Employee Provident Fund	PoSH	Prevention of Sexual Harassment
ESI	Employees' State Insurance	RBC	Responsible business conduct
FGD	Focus group discussion	READ	Rights Education and Development Centre
GBV	Gender-based violence	RMG	Ready-made garment
GC	General category	SAVE	Social Awareness and Voluntary Education
GDP	Gross domestic product	SC	Scheduled Castes
GLU	Garment Labour Union	SEBI	Securities and Exchange Board of India
HRDD	Human rights due diligence	SME	Small and medium enterprises
IC	Internal committee	ST	Scheduled Tribes
ICN	India Committee of the Netherlands	UIN	Unique Identification Number
ILO	International Labour Organization	UNCHR	United Nations Commission on Human Rights
IPC	Indian Penal Code	UNDP	United Nations Development Programme
JSMCR	Jharkhand State Migrant Control Room	UNGPs	United Nations Guiding Principles on Business and Human Rights
KIIs	Key informant interviews		
MGNREGS	Mahatma Gandhi National Rural Employment Guarantee Scheme		
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act		
NAP	National Action Plan		
NCR	National Capital Region		
NCTV	National Council for Vocational Training		



EXECUTIVE SUMMARY

Awareness programme for garment factory workers on workers' rights and grievance redressal mechanisms at the workplace at Manesar, Haryana.

India is a major hub in the global apparel industry and the world's second-largest exporter of apparel.¹ The sector is one of the largest employers in the country, with 45 million people² working directly in the industry. The vast majority of the workers are women. The major garment hubs are located in Tiruppur in Tamil Nadu, Bengaluru in Karnataka and Gurugram in the National Capital Region (NCR).

A large proportion of the women in the ready-made garment (RMG) sector workforce are first-generation industrial workers and interstate migrants. Many of them face exploitative working environments, with challenges including gender-based discrimination and violence.

There is a growing trend of employing women workers through third-party contractors or recruiters and at times without any formal contracts. Employment in the sector is characterised by excessive overtime, low wages, poor access to social security provisions, verbal and sexual harassment, lack of grievance redressal mechanisms, and poor working conditions. Women migrant workers are particularly vulnerable to violation of workers' rights, abuse and harassment.

Human rights in the area of work, or business and human rights, have increasingly occupied the attention of policymakers, civil society organizations (CSOs) and industry, with respect to providing a just, fair and dignified space for workers. The United Nations Guiding Principles (UNGPs)³ on Business and Human Rights are a pivotal development in addressing the challenges to workers' rights and in protecting, respecting and remedying human rights abuses through actions by all key stakeholders and in particular by the State.

This project emphasises innovative approaches relating to greater awareness and access to remedies for right holders subject to adverse human rights impact within the context of the business and human rights (BHR) narrative of India. The project plans to achieve its objectives broadly through a baseline assessment and interventions in the form of a series of activities.

The baseline assessment was integral to the objectives of the project in order to advocate and reach out to key stakeholders for improving work conditions for women migrant workers in the garment industry. Accordingly, the baseline

¹ Invest India – National Investment Promotion and Facilitation Agency, "Textiles & Apparel". Available at <https://www.investindia.gov.in/sector/textiles-apparel>.

² These statistics pages are a product of Fashion United Business Intelligence. For more fashion data, company information and statistics, please refer to the Fashion United BI homepage and also see <https://fashionunited.in/statistics/fashion-industry-statistics-india/>.

³ Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework. New York and Geneva, 2011. https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

assessment's focus was to explore the perspectives of migrant women workers in the garment industry and specifically, the impact of COVID-19 on them. The baseline assessment captured responses on migration trends including current recruitment practices, working conditions, grievance redressal mechanisms, gender-based violence, specific impact of COVID-19 and provision of social protection schemes.

Chapter 1 outlines the background of workers' conditions in the garment sector, the adverse impacts of COVID-19 and the objective of the baseline assessment. COVID-19 worsened the conditions of migrant workers and exposed the existing vulnerabilities of the sector. Lack of social security measures, lack of awareness on social security and recruitment processes, poor accessibility to social protection schemes due to complicated processes of documentation, non-payment of wages, and lack of support mechanisms from the government have created considerable suffering for migrant workers.

Chapter 2 highlights the process and methodology followed for the baseline assessment. The assessment collected information and data through development of research tools and field testing of these tools. The focus was on the adverse impacts of COVID-19 on women migrant workers from the origin states of Jharkhand, Uttar Pradesh (UP) and Bihar, with the NCR and Tamil Nadu being the

destination states where the workers were employed in factories.

Quantitative and qualitative research methods consisting of 662 structured interviews with women migrant workers, 22 key informant interviews (KIIs), 21 focus group discussions (FGDs), and 10 case studies were used.

Chapter 3 discusses the findings of the study and delves into the responses of workers with respect to workplace experiences, socio-economic conditions and the impacts of COVID-19. A total of 662 women migrant workers were a part of this research. More than 75 percent belonged to the age group of 18-35 years and more than half of the respondents were from the Scheduled Tribes (ST), Scheduled Castes (SC) and Other Backward Classes (OBC) social categories. Almost half of the women had an education up to middle school. Most of the women migrated in search of jobs and were ready/willing to accept uncondusive working environment and low wages. For the most part, they were not aware of recruitment processes or their rights in the workplace. Forty-two percent respondents said that they had not received any written employment contracts. Survey respondents reported that wages were decided by the companies or agents and then communicated to the workers. Rarely were workers able to even negotiate their wages. Schemes like the Employees' Provident Fund (EPF), the Employees'



Awareness session on laws and access to remedies for garment factory workers in a factory at Ranchi, Jharkhand.

State Insurance (ESI), and so on, were known to or were accessed by less than 10 percent of migrant workers. Workers also said that they received limited access to public schemes, for example, the public distribution system (PDS).

The COVID-19 pandemic increased the burden on migrant workers due to non-payment of wages, excessive working hours, retrenchments, and by forcing them to travel all the way back to their home states. Many workers walked long distances with their families and children, facing deplorable conditions. The respondents indicated they experienced anxiety due to COVID-19 and its uncertainties, including the fear of losing jobs and the burden of loans.

Women migrant workers in Tiruppur (Tamil Nadu), engaged with under this project, came from economically weaker sections and with low levels of literacy. They also come with a number of disadvantages such as difficulty in adapting to local working conditions, culture, and lack of fluency in local languages. This makes them highly vulnerable and open to potential exploitation. Their living conditions were also challenging. Working conditions in the factory were also difficult, since there were no separate medical rooms for women and sometimes they had to go to their own rooms to use the toilet. Workers also faced freedom of movement in the factory hostels.

Workers who were with their families and children faced more hardships, as government schools offered education in the local language. The COVID-19 pandemic has also forced the children of migrant workers to drop out of school. Migrants also did not, at times, possess identification documents, which makes it harder for them to prove their identity and residency.

Interviews with various stakeholders revealed that there were no systems in place to ensure safe and fair migration practices. This was particularly evident during COVID-19, when many respondents mentioned that they did not have access to government social security schemes. Individual states, to varying degrees, tried to bring their migrants back to their state and provide some assistance. For example, Jharkhand took the initiative of setting up helpdesks and portals to

support migrant workers in returning home safely, as well as extending schemes for their benefit. Yet, these measures were not adequate for reaching out to all the migrant workers. However, as mentioned by a few of the key stakeholders in interviews, a few CSOs and workers' collectives/unions played a very important role in enabling workers to access government social security schemes during the COVID-19 pandemic.

As reported by respondents, social security schemes in workplaces were also not accessible to workers, which further deepened the problems of women migrant workers during the pandemic. Almost half of the respondents who were eligible for maternity benefits said that their factory did not provide any maternity benefits. One of the findings on the issues of workplace safety for women was that many of them were not aware of the committees formed under the Prevention of Sexual Harassment at Workplace Act, 2013 (PoSH). They were not aware of the laws related to sexual harassment at the workplace, and hence only a few cases were formally raised. Women workers were also not aware of the grievance redressal committees. Fifty-three percent of the respondents were not aware of the existence of internal committees (ICs) and their function in factories, and 46 percent were not aware of the complaints committee.

Chapter 4 places the findings in the context of the broader BHR discourse, its evolution, and developments. BHR has occupied the attention of stakeholders since the advent of the UNGPs in June 2011.

BHR, naturally, assumes greater significance in defining the role of the corporate sector throughout the supply chain. It was evident during the baseline survey that women migrant workers' understanding of their workplace rights was limited to getting paid as per their oral and written contracts, and that they had not been educated by their employers about their basic rights provided under the Constitution or the stipulated labour regulations or factory laws. It is also hard to overlook the fact that their rights have been effectively undermined in part by the State⁴ as well, due to insufficient engagement of the State with employers and other key stakeholders on the issue of BHR.

⁴ Jayaram, N., Varma, D. Examining the 'Labour' in Labour Migration: Migrant Workers' Informal Work Arrangements and Access to Labour Rights in Urban Sectors. *Ind. J. Labour Econ.* 63, 999–1019 (2020). <https://doi.org/10.1007/s41027-020-00288-5>

This is where an evolving instrument such as the National Action Plan (NAP) on business and human rights has a critical role to play. It is important to ensure that the NAP is not limited in its application and that the marginalised sections of the population working in factories, both formal and informal, are empowered through such an instrument of historic significance.

Chapter 5 focuses on recommendations based on learnings from the baseline assessment, interactions with key stakeholders, the evolution of BHR and the responsibilities of the key actors for the future of human rights in the workplace.

An enduring theme that emerged during the course of conducting the baseline assessment in the context of BHR was that workers are seemingly treated as a factor of production (labour) and little else by brands, buyers and factories. It is also true that there are considerable gaps between regulatory instruments, the mechanisms of interaction between regulators and businesses, and the engagement of businesses with workers. The primary claim of achievement for businesses, it appears, has been that they provide jobs to millions of women. Yet,

paradoxically, these women are deprived of their basic rights at workplaces, including and not limited to their rights to personal safety and dignity.

We have proposed a series of steps that can be adopted by policymakers, brands, CSOs and factories, which will not only serve the purpose of making the workplace more conducive to work, but will also ensure the long-term sustainability of the business. In the absence of such measures, the recurring issues of poor building safety, abuse and harassment of women, unwarranted restrictions on liberty and failure to give workers their due by complying with laws could have long-term implications for the supply chain.

Government, by holding businesses accountable and following through on policy measures; brands, by altering their strategy of procurement and supply in national and global markets; factories, by recognizing workers as important stakeholders in business; and CSOs, with their persistent efforts involving all key stakeholders, can together make a difference in the lives of these women migrant workers and can truly claim to be contributing to BHR and sustainable development goals.

1

INTRODUCTION AND BACKGROUND

Awareness programme for garment factory workers on workers' rights and grievance redressal mechanisms at the workplace at Ranchi, Jharkhand.

Migrant workers in the apparel industry

India is the world's second-largest exporter of apparel, with a massive raw material and manufacturing base. The garment industry is a significant contributor to the economy, both in terms of its domestic share and exports. It contributes about 7 percent to industry output, 2 percent to the GDP and 15 percent to India's total export earnings, and it held 5 percent of the global trade in textiles and apparel according to 2020-21 data.⁵ The sector is one of the largest job creators in the country, employing about 45 million people directly, of which more than 60 percent are women,⁶ making it the second-largest employer of women workers in the country after agriculture.

The readymade garment (RMG) sector is one of the largest urban employers in India and is a key driver of the national economy. Over the past two decades, it has transitioned from a largely informal to a largely formal, factory-based industry, highly dependent on labour inputs. The largest RMG manufacturing centres, in Bengaluru (Karnataka), Tiruppur and Chennai (Tamil Nadu), and the

National Capital Region (NCR), have a combined workforce of well over a million women and men. In the southern centres, women dominate, while there are more men in the northern NCR. A large proportion of the RMG sector employees are first-generation industrial workers, many of whom are internal migrants. Despite a massive internal market in India, the RMG sector is largely export-oriented, with a significant proportion of production destined for markets in the countries of the Organization for Economic Cooperation and Development (OECD). The sector's large and mid-sized manufacturing companies are part of a global value chain.⁷

An important characteristic of garment manufacturing is its competitiveness, which is largely determined by a low cost of production, aided by the availability of "cheap labour". Pricing is one of the important considerations for buyers (brands or retailers) when procuring garments from factories. Thus, there is little commercial incentive for garment manufacturers to invest in promoting ethical recruitment practices, fair wages or a good work environment. From a human rights perspective, this leads to unsafe work conditions, long hours with little or no overtime compensation,

⁵ India, Ministry of Textiles, Indian Textile Journal, Department of Industrial Policy and Promotion, Press Information Bureau, *Indian Textiles Industry Report* (July 2021). Available at <https://www.ibef.org/industry/textiles.aspx>.

⁶ These statistics pages are a product of Fashion United Business Intelligence. For more fashion data, company information and statistics, please refer to the Fashion United BI homepage and also see <https://fashionunited.in/statistics/fashion-industry-statistics-india/>.

⁷ ILO, *Insights into working conditions in India's garment industry, Fundamental Principles and Rights at Work (FUNDAMENTALS)* (Geneva: International Labour Office, 2015).

low wages, abusive work environments, harassment (including sexual harassment), and little job security, as stated by a few key stakeholders during Key informant interviews. Workers are often hired on short-term informal contracts, including with third parties (middlemen or recruiting contractors), without any social security or benefits.

Given that women account for approximately 80 percent of the global garment sector workforce,⁸ many of the sectoral impacts of the COVID-19 pandemic disproportionately affected women globally.

A large proportion of the RMG sector employees in India are first-generation industrial workers, many of whom are internal migrants.⁹ More than 60 percent of those employed in the sector are women from vulnerable sections of the society who migrate from various states in search of livelihood.¹⁰ However, despite being an industry with a large proportion of women employees, gender discrimination is common and women work under highly exploitative conditions. The primary reason for this is that the large majority of women are employed at the lower end of the production process, and it is uncommon to see them in supervisory or managerial positions.¹¹ This leads to a power imbalance, inherent gender biases, and resource challenges (including a lack of women-friendly workspaces and sanitary facilities).

The sector has become increasingly fragmented and informal. There has been a rise in contract workers in the formal sector even as the informal sector has been expanding. Work is constantly subcontracted from larger to smaller enterprises, from formal to informal sectors through a complex network of subcontracting arrangements. The growing informalisation of the work directly affects the recognition of human rights, since these enterprises

are out of the ambit of labour laws. Employment in the sector is characterised by excessive overtime, low wages, poor access to social security provisions, verbal and sexual harassment, and prevalence of forced labour-like conditions.¹²

A lack of adequate social security measures further exacerbates the adversities of the already vulnerable and disadvantaged communities, especially women migrant workers.¹³ In addition, women shoulder the major responsibilities at home, including childcare and care for the elderly, which contributes to additional stress.

Regulatory mechanisms to provide protection to migrants, like the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (now replaced by the Occupational Safety, Health and Working Conditions Code, 2020¹⁴), have not been effectively implemented by states or adopted by employers. If one looks at the recent plight of migrant workers, it is starkly evident that such provisions have proved to be inadequate to address their social and economic marginalisation.¹⁵

In addition, the COVID-19 pandemic has emerged as an additional challenge as brands have cancelled orders, leaving the supply chain dry—both in terms of orders and production. The suffering of migrant workers, who returned to their home states under adverse conditions and with little savings was a reminder of their subsistence living conditions at the destination states and the lack of social mechanisms to protect their rights.

While many government efforts were directed towards relaxing labour laws, and especially towards hours¹⁶ as an emergency measure to support the industry in the aftermath of COVID-19, support for migrant workers remained inadequate.

⁸ ILO and Better Work, *Gendered impacts of COVID-19 on the garment sector*, (ILO, November 2020).

⁹ ILO, *Working conditions of migrant garment workers in India: A literature review*, (International Labour Office, Fundamental Principles and Rights at Work Branch, Geneva 2017).

¹⁰ Kamal Kanta Mohapatra, "Women Workers in Informal Sector in India: Understanding the Occupational Vulnerability", *International Journal for Humanities and Social Sciences*, vol. 2, No. 21 (November 2012).

¹¹ Eshan Fotedar and Nirupama V, "The garment industry needs more women leaders", *India Development Review*, 29 April 2021.

¹² ILO, *Working conditions of migrant garment workers in India: A literature review*, (International Labour Office, Fundamental Principles and Rights at Work Branch, Geneva 2017).

¹³ Kanupriya, "COVID-19 and the Indian Textiles Sector: Issues, Challenges and Prospects", *Vision* vol. 25, No. 1 (March 2021).

¹⁴ India, Ministry of Law and Justice, *The Occupational Safety, Health and Working Conditions Code 2020*, No. 37 of 2020 (28th September, 2020).

¹⁵ Siddharth Sivaraman, "Is the Inter-State Migrant Workmen Act 1979, a dead letter?", *ORF*, 21 April 2020.

¹⁶ Bhasker Tripathi, "Relaxing Labour Laws Can't Help Industry In The Long Run; Formalising The Economy Can", *IndiaSpend*, 12 May 2020.



Awareness session for migrant workers on workers' rights through theatre performance at a garment factory at Manesar, Haryana.

Among other factors, the dilution of the role of trade unions, the increase in working hours across the board, and the relaxation of the industrial dispute resolution mechanisms have all contributed to the relegation of fair labour rights and entitlements to a level of secondary consideration. In some states, government support has existed through the public distribution system (PDS) and the Pradhan Mantri Jan-Dhan Yojna (PMJDY), along with livelihood opportunities for short periods through the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), but in most states, migrant workers were not able to access these packages due to various factors like lack of identity cards, cumbersome documentation processes, lack of bank accounts, and non-registration under any social security scheme.¹⁷

The work of civil society and social impact organisations, including Change Alliance, has highlighted the fact that “engagement with workers and management in their workplaces has been effective in bringing behavioural and attitudinal change in the factories.”¹⁸ One critical aspect is

the inclusion of the businesses (both factories and brands) as part of any initiative. The role of BHR assumes great significance, especially when the factories do not challenge themselves to follow standard recruitment and employment practices (for example, employment letters, working hours, overtime payment, social benefits like health benefits, provident funds and safe workplaces) and their own code of conduct.

There are few progressive factories that have shown that they care for their workers and do not just passively respond to market forces. Unfortunately, innumerable factories have not followed regulations on workplace labour practices, decent wages, workplace facilities, safety and recruitment, and are not in compliance with the provisions (registration of workers, provision of safe workplace, living space, safe drinking water and sanitation, etc.) of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, which is now part of the Occupational Safety, Health and Working Conditions Code, 2020.¹⁹

¹⁷ Sadhika Tiwari, “No Documents, No Benefits: How India’s Invisible Workforce Is Left To Fend For Itself”, IndiaSpend, 21 Jun, 2020

¹⁸ Change Alliance, *Promoting gender equality and empowering factory workers: Gender equality programme in garment factories*, 2018. Available at https://www.changealliance.in/wp-content/uploads/2018/11/FINAL-Gender-Equality-Programme-Report-change-alliance-final-report_29-10-18-2.pdf.

¹⁹ India, Ministry of Labour & Employment, The Occupational Safety, Health and Working Conditions Code, No. 37 of 2020. Available at <https://labour.gov.in/whatsnew/occupational-safety-health-and-working-conditions-code-2020-no-37-2020>

Regarding the particular human rights of workers, the International Labour Organization (ILO) commits all its Member States to its Declaration on Fundamental Principles and Rights at Work, 1998. The ILO governing body has identified the following eight conventions as “fundamental”, of which India has ratified six (3–8 in the list below).

1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

3. Forced Labour Convention, 1930 (No. 29)

4. Abolition of Forced Labour Convention, 1957 (No. 105)

5. Minimum Age Convention, 1973 (No. 138)

6. Worst Forms of Child Labour Convention, 1999 (No. 182)

7. Equal Remuneration Convention, 1951 (No. 100)

8. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

These core ILO conventions provide the basic reference points for businesses so that they can begin to understand what human rights are; how their own activities and business relationships may affect them; and how to ensure that they prevent or mitigate the risk of adverse impacts.

In December 2018, the Indian government initiated the process of developing a Business and Human Rights National Action Plan (BHR–NAP) by releasing a zero draft. The zero draft is primarily a listing of relevant existing legislations and policies categorised under the three pillars outlined in the UNGPs: protect, respect, and remedy. It does not present an analysis of the status of or the existing gaps in the legislative framework. Still, it is expected that the NAP will bring about greater awareness and positive responses from all stakeholders across industries.

Background

In the context of COVID-19 pandemic and the socio-economic fallout that has followed in its wake, there are increased calls for a renewed commitment to decent work, environmental protections, rights to land and livelihood, and the rights of migrants,

women and indigenous peoples under the framework of the UNGPs.

Widely recognised as the world’s most authoritative, normative framework guiding responsible business, the UNGPs outline the roles and responsibilities of government and business to prevent and address human rights abuses in business operations. Among other things, the UNGPs provide that both government and business should ensure access to remedy to those individuals and groups that have suffered adverse impacts on their human rights in the context of business operations. Under the third pillar of the UNGPs, access to remedy can involve a range of remedies and processes, including judicial and non-judicial processes.

The EU-supported *Business and Human Rights in Asia: Enhancing Sustainable Economic Development under the Protect, Respect and Remedy Framework (B+HR Asia)* programme facilitates the implementation of the UNGPs in seven countries in Asia, including India, Indonesia, Malaysia, Myanmar, Mongolia, Sri Lanka and Thailand. Enabling Sustainable Economic Growth through the Respect, Protect and Remedy Framework of B+HR Asia is a joint action of the European Union (EU) and United Nations Development Programme (UNDP). The action promotes and facilitates the implementation of UNGPs, and in the process, contributes to better human rights conditions, inclusive economic growth, and environmental sustainability. In India, B+HR Asia is collaborating with the government for the development of an NAP on BHR, promoting greater awareness among businesses on human rights due diligence practices and supporting CSOs to raise awareness of the UNGPs and to provide direct support to vulnerable groups adversely impacted by business operations.

In alignment with its focus on Business and Human Rights in India, UNDP has entered into a partnership with Change Alliance, a social impact consultancy organisation based in Delhi, for implementing a project on devising innovative approach on awareness and access to remedies for rights holders (particularly women and indigenous communities) severely impacted by COVID-19 pandemic, facing loss of employment, livelihood, housing, social protection, compromised participation in legal fora, etc., and planning a range of activities including awareness generation, providing access to social, legal and protection measures, and support for livelihood.

Purpose and scope of the project

The current project aims to create greater awareness and access to remedies for women migrant workers in garment sector. In the process the project contributes to better human rights conditions, and inclusive economic growth through awareness and providing employment and livelihood opportunities. The project achieves its objectives broadly through a baseline assessment of the target population (women migrant workers) and interventions in the form of a series of activities.

In the course of translating UNDP's goals to project outputs, Change Alliance reached out to women migrant workers, a highly vulnerable group of right holders, employed in India's vast garment sector. Taking an approach of engaging all the influencers and stakeholders affecting the BHR aspects of these women migrant workers, the project also closely engages with garment sector factories, brands, CSOs and the government.

The choice of garment sector and its stakeholders as the focus of the project was an outcome of reported cases of neglect of human rights, gender-based violence (GBV) and inadequate social security

provisions in many of the factories. The sector, in which 60 percent of the workforce are women, has remained a concern for BHR advocates. In addition, the sector was one of those hit hardest by the COVID-19 pandemic. A number of garment factories were unable to manage the cost implications arising out of the cancellation of orders and could do little to support their women workers economically, pushing them into increased poverty and uncertainty over the future of their families.

The project has been under implementation during January–September 2021 for women migrant workers from the origin states of Jharkhand, Uttar Pradesh (UP) and Bihar, from where migration takes place, and the destination states of Delhi/ NCR, Jharkhand and Tamil Nadu, where the women migrant workers were or are employed.

The project aims to achieve the goals outlined above through the following key components:

- i. A baseline assessment of COVID-19's impact on women migrant workers in the aforesaid locations, and pertinent recommendations aimed at influencing policies and actions, and applying a gender lens in the course of engagement



Inauguration of a stakeholder consultation with the state government by Jharkhand Labour Minister Shri Satyanand Bhokta, held at Ranchi on 28 September 2021.

- ii. Innovative approaches in aiding recovery, with emphasis on legal grievance redressal, reskilling and employment
- iii. Promotion of constructive dialogue with government, media and businesses about the issues faced by rights holders in the context of BHR

Purpose of the baseline assessment

BHR is at the heart of this baseline assessment study, which is a key deliverable in the project. From both a BHR as well as gender lens, it comprehensively covers women migrant workers' recruitment processes, safety, grievance redressal mechanisms, working and living conditions. In addition, the impact of COVID-19 has been amply covered in the survey process.

This baseline assessment was integral to the objectives of the project to advocate and reach out to key stakeholders for improved BHR for women migrant workers in the garment industry. Accordingly, the baseline assessment's focus was to explore the perspectives of migrant women workers in the garment industry and in the specific context of COVID-19 and its impact. The baseline assessment captured responses on migration trends including current recruitment practices, working conditions, grievance redressal mechanisms, GBV, the specific impacts of COVID-19 and provision of social protection schemes.

The baseline assessment study was designed to engage with a wide range of stakeholders including migrant workers, suppliers, brands, industry associations, labour organizations, and NGOs to

analyse and arrive at a holistic assessment of the challenges and vulnerabilities faced by women migrant workers in the sector, applying varied data collection tools, including both quantitative and qualitative methodologies.

Recommendations have been developed as part of the baseline assessment with the benefit of responses and inputs from all the stakeholders who were part of the assessment, by referring to standards and frameworks, and considering the context and prevailing status of BHR in India.

Objectives of the baseline assessment

- To assess the impact of COVID-19 and the access to social protection schemes and safety nets for women workers in the garment sector and understand whether the existing human rights protections and remedial mechanisms provide adequate safety nets to address the crisis emerging out of the COVID-19.
- To explore recruitment processes, working conditions, awareness and access to remedy for migrant workers in the garment sector, with a focus on women migrant workers, and to understand the constraints, vulnerabilities and needs of key stakeholders of the sector.
- To provide recommendations for suppliers, buyers, communities, CSOs and government on how to engage with the “protect, respect and remedy” framework outlined in the UNGPs, and to cohesively address the human rights concerns of women migrant workers

2

RESEARCH DESIGN AND METHODOLOGY

Awareness programme for factory migrant workers on workers' rights, laws related to prevention of sexual harassment and grievance systems at the workplace at Gurugram, Haryana.

The baseline assessment is aimed at obtaining primary data to help improve working conditions of women migrant workers in the garment industry who are facing adverse human rights impacts within the context of BHR. The assessment places special emphasis on the impact of COVID-19 on women migrant workers. It covers women migrant workers from Jharkhand, UP and Bihar associated with the garment sector in Jharkhand, Delhi/NCR and Tamil Nadu, predominantly working in or with experience in export garment factories. The details of the coverage are provided in Annexure I.

Survey process and methodology

The database of women migrant workers available with Change Alliance and its partners was referred to for the purpose of obtaining a list of potential respondents (the population for the survey). The sample for the survey was drawn from socially excluded communities, especially the tribal community of Jharkhand and vulnerable communities from Bihar and UP, who were working in or had worked in garment factories (exporters/suppliers), so that they could respond to the questions related to workplace safety, working



Figure 1: Assessment process



conditions, GBV in the organised sector, trainings on safety, etc.

Detailed indicators for the baseline assessment (baseline indicators) were developed in order to prepare the survey questionnaire for quantitative and qualitative research. The baseline indicators were developed based on a literature review and by referring to the UNGPs, the OECD, the ILO conventions and the National Guidelines on Responsible Business Conduct (NGRBC).

Quantitative survey

A structured questionnaire was developed, based on baseline areas of enquiry, as given below, and with detailed indicators (Annexure II).



Recruitment practices and process



Working conditions



Socio-economic and living conditions



Wages, compensation and benefits



Grievance mechanisms



GBV and sexual harassment



Impact of COVID-19 and relaxation of labour laws



Social protection and support



Policies and practices at the sector level

For conducting the interviews, a customised computer-assisted personal interview (CAPI) software was developed and survey information was captured in the software on tablets.

A sample of 600 women factory workers were selected for coverage across the target states (Delhi/ NCR, Jharkhand and Tamil Nadu) for the primary quantitative survey. Eventually, data was collected from 662 women migrant workers. The workers for telephonic interviews were identified and listed by Change Alliance from its repository of women workers from the garment sector. For face-to-face interviews, CSO partners who have prior experience of working in the garment sector shared a list of women migrant workers from the target states and provided support in conducting the interviews.

All the relevant baseline data collection was carried out between mid-February and mid-April 2021. The quantitative survey had been planned telephonically considering COVID-19 precautions, while the qualitative survey had been planned through face-to-face interviews due to the nature of discussions as well as due to limited contact with people. However, due to the limitations of telephone surveys, the quantitative survey was also conducted predominantly face-to-face, while ensuring that all COVID-19 precautions were taken.

Qualitative research, using the following three approaches, was administered with key stakeholders in Jharkhand, Delhi/NCR and Tamil Nadu. The process for qualitative research was in operation concurrently with the quantitative research.

1. FGDs were conducted with 21 groups of women migrant workers (against a target of 18) in both source and destination areas, covering a total of approximately 130 women.
2. KIIs were conducted with 22 key respondents (against a target of 18), such as factory managers, brands compliance heads, heads of unions and labour rights organisations, industry and subject matter experts, key community leaders and village-level functionaries, and government officials.
3. In-depth case studies (10 cases) in line with the target were prepared, focused on women migrant workers from both source and destination areas.

Limitations of baseline assessment

At the beginning of the quantitative survey, the research team found it difficult to meet the target of conducting the survey with 600 women migrant workers, primarily due to limited reach through the telephone. It became necessary to shift to a face-to-face research process, following COVID-19 safety norms and protocols. Therefore, in the final analysis, the survey was a mix of face-to-face and telephonic responses. Differences were noted in the quality of responses between the telephonic and physical processes. Our analysis of telephonic surveys and physical surveys has shown that the interviews conducted through telephonic conversations did not result in sufficiently open sharing of information and that these respondents gave brief responses, while the respondents in face-to-face interviews opened up and shared a variety of issues related to work and the impact of COVID-19, which we have documented under the research findings and

observations.

There were 560 interviews conducted face to face and 102 interviews were conducted telephonically. It is important to note that the physical interviews vastly outnumber the telephonic interviews in our baseline assessment, thereby mitigating the risk of impacting data quality through the use of mixed methods of enquiry. Survey results have been documented in Chapter 3, Research findings and observations.

The baseline assessment was carried out from February to April 2021. Since the COVID-19 pandemic's impact on people and livelihoods has not been uniform across regions or populations, and since the situation has remained unstable since then, it is possible that responses have been influenced by the individual mental, social and economic states of respondents.



Awareness programme for factory workers on safe migration, labour helpline and registration process of workers with labour department at a factory in Ranchi, Jharkhand.

3

RESEARCH FINDINGS AND OBSERVATIONS

Awareness programme on laws and access to remedies for workers through theatre performance inside a garment manufacturing factory at Ranchi, Jharkhand.

This chapter includes a field-level assessment of the various aspects of workers' rights, including their working conditions, socio-economic situation, wages, impact of COVID-19 on them and their families, grievance mechanisms available to them at work, and recruitment practices followed by employers.

The chapter is divided into six thematic sections.

SECTION 3.1. Examines the respondents' backgrounds

SECTION 3.2. Highlights recruitment practices

SECTION 3.3. Focuses on COVID 19 impacts and the socio-economic and living conditions of migrant workers

SECTION 3.4. Captures the working conditions, wages and benefits at the workplace

SECTION 3.5. Explores issues of gender sensitisation and GBV

SECTION 3.6. Elucidates the availability of, awareness of and access to grievance redressal mechanisms

3.1. RESPONDENT BACKGROUND

For the purpose of the baseline assessment, the respondents considered were primarily women belonging to the states of Jharkhand, Bihar and UP (states of origin), who had migrated to other states for work (Tamil Nadu, Delhi/NCR and other

destination cities). The study was conducted in one origin state (Jharkhand) and two destination states (Delhi/NCR and Tamil Nadu)

- A total of 662 women migrant workers were interviewed, and complete interviews were analysed for this assessment.
- The majority (34.4 percent) of the migrants came from Jharkhand; 31.7 percent came from Bihar and 30.5 percent from UP.
- Just over 3.4 percent of the respondents were migrants from West Bengal, Assam and Odisha.

Demographic details of the women migrant workers



Figure 2: Age groups of respondents (in percent)

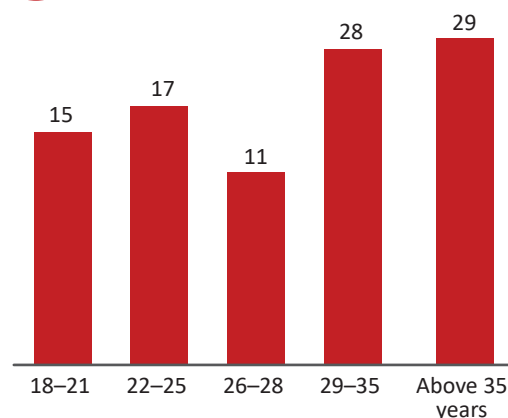
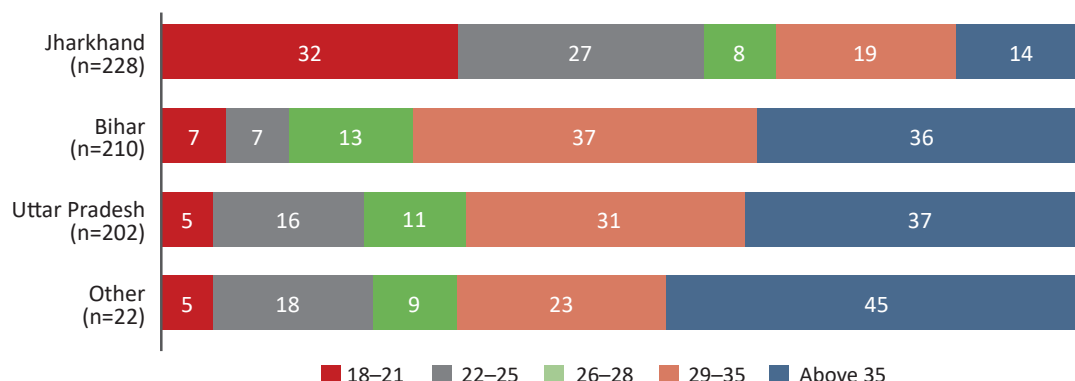
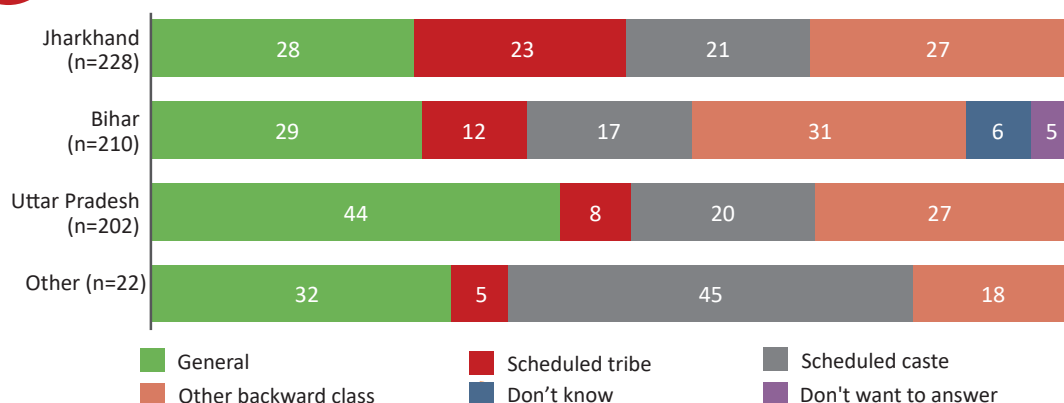


Figure 2 shows that more than 70 percent of the women were in the age group of 18-35 years in the garment sector. However, women from Jharkhand

**Figure 3: Age group of respondents covered (state-wise, in percent)****Figure 4: Social category of respondents (in percent)**

were considerably younger and were in the age group of 18–21 years (See figure 3).

Respondents were from diverse social categories: more than 62 percent were from the SC, ST and OBC categories.

Figure 4 highlights the social category composition of the migrant women in different states. It can be seen that:

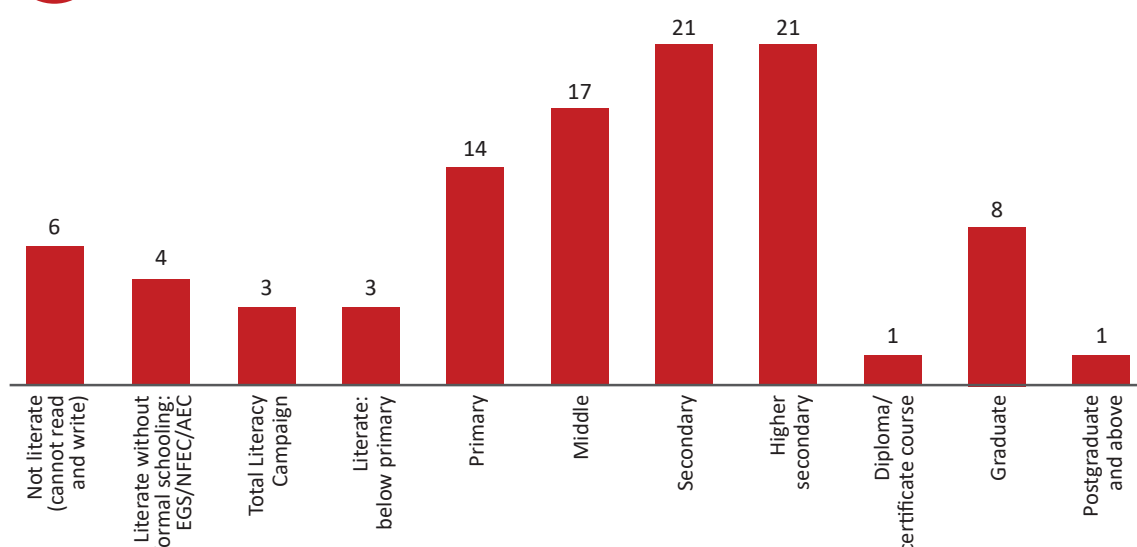
- SC representation was highest from the source states of West Bengal, Assam and Odisha (45.5 percent).
- GC representation was highest from UP (44 percent).
- OBC representation was highest from Bihar (31 percent).

- GC representation was also highest from Jharkhand (28 percent). However, the state also represented the highest number of ST migrants as compared to the other states in the study (23 percent).
- The baseline assessment is in line with similar previous works and other research on social identity representation of women in the garment sector. A 2020 status report by Change Alliance titled 'Migration in Ready Made Garment Industry: Causes and Impact on Young Women Workers in Jharkhand and Delhi-NCR' found that more than 70 percent of women working in the garment sector were from socially excluded (SC, ST and OBC) communities.²⁰

²⁰ Change Alliance, *Status Report: Migration in Ready Made Garment Industry: Causes and Impact on Young Women Workers In Jharkhand and Delhi-NCR*, 2020. Available at <https://www.changealliance.in/wp-content/uploads/2021/01/full-report-migration-report-final-2020.pdf>.



Figure 5: Education level of respondents (in percent)



The findings with regard to education of respondents present a mixed picture of enrolment and access to education for women (figure 5).

- Almost half of the respondents had an education of middle school or less, with a sizeable 31 percent having either no formal education or only primary education.
- Even amongst the relatively better educated, about 21 percent had completed the 10th standard (secondary) and about the same number had completed the 12th standard (higher secondary) education.
- Less than 10 percent had a graduate education.

The respondents' profiles clearly indicate that for these women migrant workers, the intersection of young age, low education, gender and social category together adds to the precarity of their situation when they leave their origin state for work. These multiple vulnerabilities hamper their career progression, besides forcing them to accept the given wages and standards at the workplace.

3.2. RECRUITMENT PRACTICES

Internal migration is an important and pervasive feature of the Indian economy and society,²¹ and workers are increasingly looking for job opportunities beyond their native states in search of decent work and better livelihoods. This migration is also due to acute poverty and lack of livelihood options in their places of origin, a fact that is also evident from the findings of the assessment below.

It is mostly women workers who migrate from India's socially and economically backward states like Jharkhand and Bihar.²² Informal recruitment agencies, contractors, government skill development/training centres and factory agents are a few sources primarily responsible for the recruitment of workers from these states. These agencies are not properly monitored for compliance with applicable regulations, and concerns have been raised about the growing role of unscrupulous employment agencies, informal labour intermediaries and other operators acting outside the legal and regulatory framework and exploiting low-skilled workers.²³

²¹ S. Irudaya Rajan and R.B. Bhagat, "Internal Migration in India: Integrating Migration with Development and Urbanization Policies", KNOMAD, February 2021. Available at <https://www.knomad.org/publication/internal-migration-india-integrating-migration-development-and-urbanization-policies>.

²² Census of India, Office of the Registrar General & Census Commissioner, Data Highlights, Migration Tables, India, 2001. Available at https://censusindia.gov.in/Data_Products/Data_Highlights/Data_Highlights_link/data_highlights_D1D2D3.pdf

²³ ILO, *The Fair recruitment initiative: Fostering fair recruitment practices, preventing human trafficking and reducing the costs of labour migration*, 30 March 2015.

The qualitative interviews clearly highlight that there are principally four methods by which workers are recruited:

Formal recruitment:

1. Direct recruitment by the employing company or the principal employer
2. Vocational skills training providers, accredited by the National Council for Vocational Training (NCVT)²⁴ provide skilling under government schemes or unaccredited/informal training providers (ranging from informal training centres to *karkhanas*/workshops where training is held)

Informal recruitment:

3. Labour contractors or recruiting agencies
4. Informal and personal networks

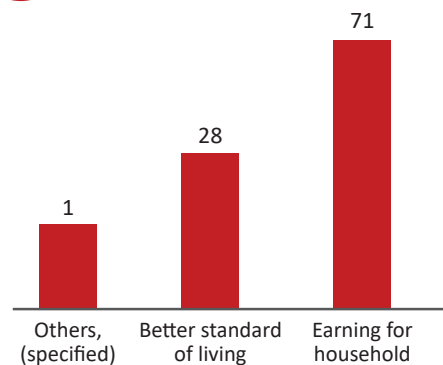
Recruitment practices, including the preference for either local or migrant workers, differ amongst garment factories in northern and southern India (ILO, 2015),²⁵ with interstate migrants widely preferred in the large southern garment hub of Tiruppur.²⁶ In addition, sometimes workers also act as unregistered agents and contractors to recruit other workers from their network of friends, relatives and acquaintances.²⁷



Awareness on workers' rights and laws through posters in Tiruppur, Tamil Nadu.

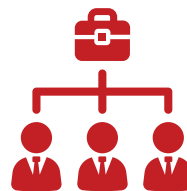


Figure 6: Reasons for migration (in percent)



The baseline assessment focuses on issues related to reasons for migration, the ways workers found work and the recruitment practices encountered by them.

The research findings (figure 6) in the baseline assessment study show that improved prospects (28 percent) and better income (71 percent) are the major reasons for migration. The women interviewed said that they migrated because of a lack of employment and earning opportunities in their native villages.



“In our villages there are few opportunities for jobs. As the expenses increase, we have to look for other options. The government should work on creating employment in rural areas, so we don't have to be separated from our families,” said a woman migrant worker from Jharkhand who had travelled to Tiruppur in Tamil Nadu to work in the garment sector.

²⁴ India, Ministry of Skill Development and Entrepreneurship, Annual Report 2019-20. Available at <https://www.msde.gov.in/sites/default/files/2020-12/Annual%20Report%202019-20%20English.pdf>

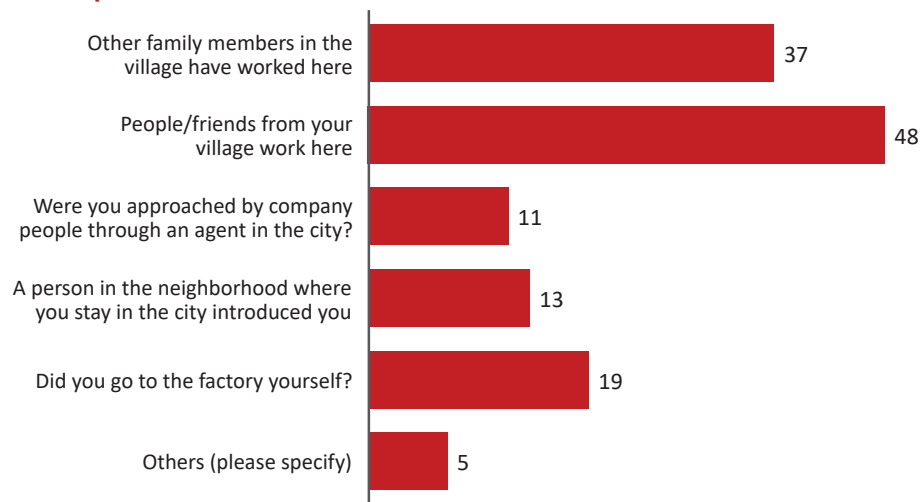
²⁵ ILO, *Working Conditions of Migrant Garment Workers in India – A literature Review*, 2017.

²⁶ A. Mezzadri and R. Srivastava. *Labour regimes in the Indian garment sector: capital labour relations, social reproduction and labour standards in the National Capital Region*, London: Centre for Development Policy and Research, 2015.

²⁷ Verite, Regional Report: Indian Workers in Domestic Textile Production and Middle East-Based Manufacturing, Infrastructure and Construction, 2010.



Figure 7: Reference given for current job (multiple choice question, n=662, data in percent)



As can be seen in figure 7, most of the respondents migrated through friends (48 percent) and relatives (37 percent) and through direct contact with the factory (19 percent). This clearly indicates that a majority of them migrated through known sources rather than any informal agency or labour contractor. During the KIIs, a trade union respondent and the head of a CSO working with migrant workers mentioned that agents often followed unfair

recruitment processes that lacked due diligence. They also highlighted that the recruitment agents, who are responsible for a sizeable portion of recruitment, are supposed to be licensed but, in most cases, they do not follow the legal protocols drawn out by the states. The agents do not follow government recommendations on registration, migration, training and recruitment of migrant workers, making the entire process more obscure.



A woman operating a machine at a garment manufacturing unit in Ranchi, Jharkhand.



Figure 8: Challenges faced during migration (multiple choice question, data in percent)

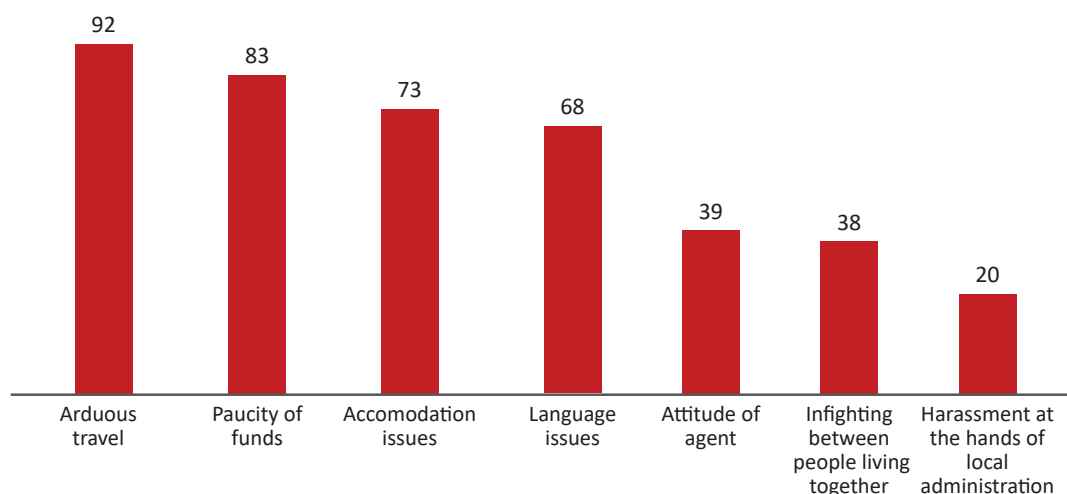
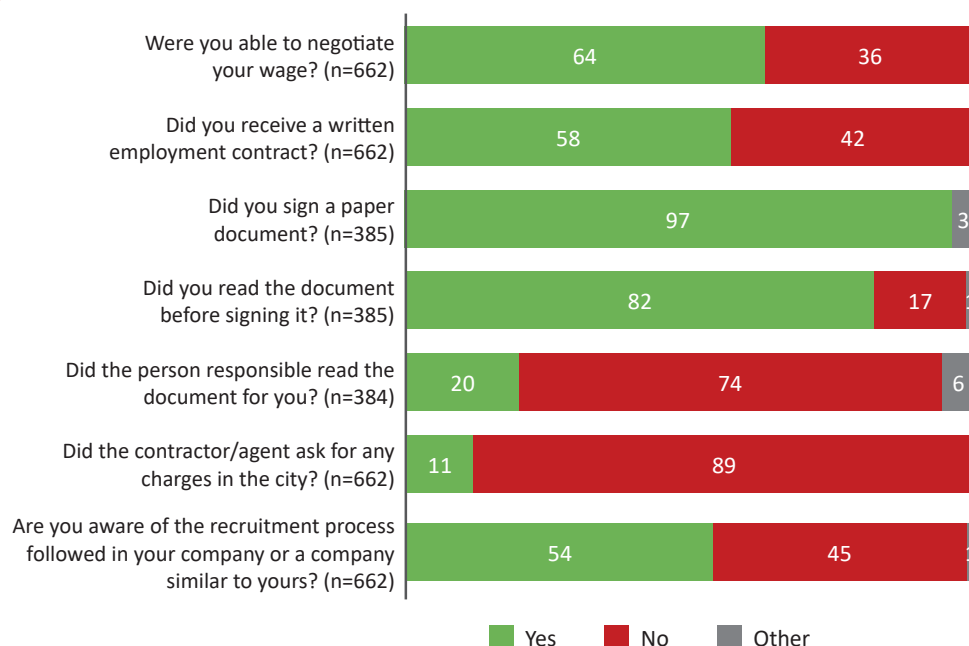


Figure 9: Documentation process, negotiations and challenges (data in percent)



Migration involves significant hardships on workers especially with regards to financial, travel, and accommodation considerations. Language barriers compound the challenges (figure 8). Many women who migrated through references from family were able to stay with them at their destinations during the initial period. Women migrant workers had multiple concerns apart from travelling from their origin states to their destination states, including speaking the language in the destination areas.

Figure 9 shows that a number of respondents (42 percent) said that they had not received any written employment contracts, although the employers had taken the signatures of women workers on documents. This indicates that there are procedures to get employment letters signed by factories, but that the employment letters are not given to workers for their own reference and records.

Wages were decided by the companies or agents and simply communicated to the workers. Almost

36 percent of the respondents were not in a position to negotiate their wages. However, most had found their jobs through references from friends, family members and neighbours or directly from the factories (figure 6). In either situation, most of the women (89 percent) did not have to pay anyone in order to secure their jobs.

Overall, as per the findings of the baseline assessment,

there is low standardisation of recruiting practices. They are still very informal in nature, making workers vulnerable to exploitation. Responses during the qualitative survey confirm that challenges such as a lack of formal and regulated recruitment practices, non-registration of migrant workers, false promises, and an absence of proper written contracts are some of the worrying aspects of recruitment practices.



Community awareness programme on laws and access to remedies for migrant workers and their families at Erode, Tamil Nadu.

CASE 1

SAHANA KUMARI

GOVERNMENT LENDS A HELPING HAND



Sahana Kumari, age 20, of Hut, Arki, Khunti district, is a permanent resident of Jharkhand. She has undergone skills training with the Department of Skill and Training, government of Jharkhand. She was placed in a factory in Tiruppur, Tamil Nadu, after the completion of training. There, she worked on single-needle and over-lock machines, earning a monthly salary of Rs. 7020. Sahana is the eldest of her siblings and sends her entire savings to her family. She has faced multiple problems related to language and has to communicate through gestures. She was unable to properly communicate about her ill health, and her digestion system was unable to adapt to local food. She was abused for not knowing the local language. Her employer asked her to submit her identity documents, with the intention of restricting her movement and preventing her from returning home. She even had restrictions placed on staying in contact with her family, and her leave was not sanctioned when she needed it. Sahana contacted the skills institute that delivered the skill development programme to her, but received no response. Finally, she contacted and registered her complaint with the Jharkhand State Migrant Control Room (JSMRC), in operation under the state government of Jharkhand since March 2020 and managed by the Phia Foundation, a not-for-profit organisation. The JSMRC helped her to return to Jharkhand. The state government also helped Sahana with a job in a local factory within a month of her return to Jharkhand. This is a good example of workers being supported in returning to their home states and also being given jobs by the Jharkhand government.

The section on recruitment practices clearly brings out the issues and challenges of fair recruitment practices in the garment sector. The primary reason for migration is the desire for a decent livelihood and earning. Most of these women migrated with friends, families and relatives. Women workers reported that the job opportunities provided by government skill development institutions were more reliable than those provided by local agents. They migrated with no awareness of employment and wages, and most of them faced challenges while going to their destinations for work.

3.3. IMPACT OF COVID-19, SOCIO-ECONOMIC AND LIVING CONDITIONS

Indian garment sector,²⁸ and workers, in particular women working in the sector, have been the hardest hit²⁹ by the COVID-19 crisis in terms of wages, livelihoods and even the sense of safety and security, both physical and emotional. In terms of both consumer demand and production networks, the calamity has made its presence felt across different processes in the sector.

The COVID-19 pandemic has dealt a major blow to all economic sectors, but the worst brunt has been borne by migrant workers working in these sectors. One of the respondents during an FGD said, “I heard about the virus from my factory, but I did not understand it. I did not know why everything had to be closed down. I was worried about my family back in the village.”

According to the ILO,³⁰ “Women account for approximately 80 percent of the garment sector workforce, so they are heavily affected to start with by many of the impacts of the COVID-19 pandemic. However, women also experience additional impacts due to the existing challenges they face in the workplace as well as expectations regarding women’s obligations in the home.”

The impact of COVID-19 has been devastating for all sectors of the economy and all people. The impact has been particularly debilitating for poor and marginalised groups. Millions of them were laid off as factories shut down due to a lack of orders and brands cancelling orders or asking for heavy discounts on orders already placed. With

CASE 2

SMITA KUMARI

HAPPY RETURN TO HER VILLAGE



Smita Kumari (name changed), aged 22, is from Latehar, Jharkhand. She received training from the Jharkhand Skill Development Mission and was placed (by an agency) in a textile industry in Tiruppur, Tamil Nadu in 2018, where she did single-needle work. Since she was a migrant worker, she faced problems related to accommodation, food and language, in addition to which she faced strict discipline and restricted movement. When she fell sick, it was difficult to communicate her problems to her warden since she did not know the language. She was also feeling homesick as she missed her family. After a year, she returned to Jharkhand with the help of the JSMRC (labour helpline). She was left with no job for a year, but through the support of her cousin sister, who was working in a garment factory in Ranchi, she successfully applied for and received a job offer from the same factory. This turned out to be the opportunity she was looking for. She now has a job she likes, with no cultural or language issues and no conflicts with neighbours, and she is able to live with her family. She no longer needs to migrate to another state through difficult agents or exploitative recruitment practices.

²⁸ Kanupriya, “COVID-19 and the Indian Textiles Sector: Issues, Challenges and Prospects”, *Vision* vol. 25, No. 1 (March 2021).

²⁹ ILO, *Women hit hard by COVID-19 impact on garment sector*, press release, 20 November 2020. https://www.ilo.org/asia/media-centre/news/WCMS_761496/lang--en/index.htm

³⁰ Ibid.



Awareness on workers' rights and grievance redressal mechanisms by theatre artists through posters at a garment factory in Gurugram, Haryana.

many modes of transport shutting down during the national lockdown that was announced on 23 March 2020, migrants walked back to their home states for days, without sufficient food and rest, facing the wrath of district administrations at times. Unfortunately, many workers, on their journey back home, collapsed due to fatigue, dehydration and starvation. There were numerous sad and fatal occurrences during these precarious attempts of migrant workers to reach their villages.

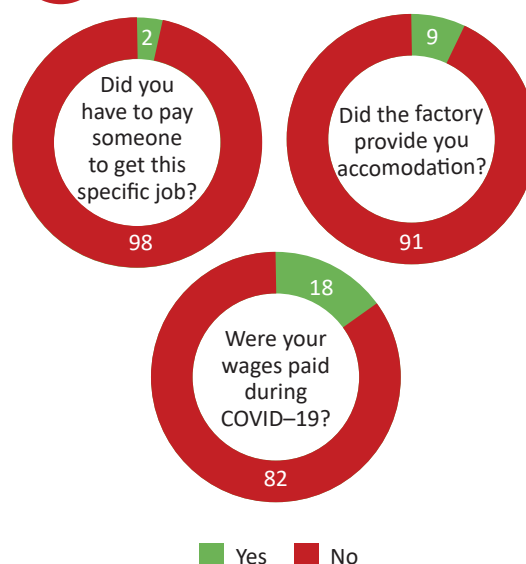
Migrant workers face extra risks and are more vulnerable than the general population. They are away from their communities, lack social support and an understanding of how to access assistance when their labour rights are violated. In some states, they do not speak the regional language or dialect, which adds to their social isolation. Women migrant workers are frequently given short-term contracts and considered as surplus labour, making them easy to lay off as suppliers began experiencing financial constraints due to the pandemic. With no social security, these workers were left without any financial support.

Figure 10 depicts the status of women migrant workers following the onset of COVID-19 in terms of job, wages and accommodation.

According to the women migrant workers surveyed, rates of GBV increased during the COVID-19 period. Women surveyed reported an increase in cases of domestic violence and their vulnerability increased as they were restricted at home with the offenders.



Figure 10: Situation during COVID-19 (in percent)



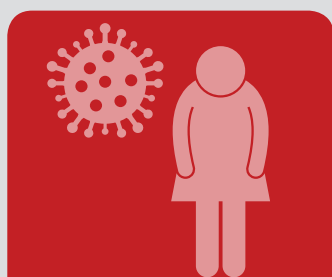
On the work front too, violence and harassment remained a risk for women migrant workers in garment factories.³¹ A qualitative interview with one of the heads of a women's collective highlighted the increased incidence of violence and harassment due to the combination of low wages and excessive overtime. Additionally, during the pandemic, the stress that workers faced at home and in the factory, amidst the economic insecurity, led to an increase in intimate partner violence.³²

³¹ ILO and Better Work, *Gendered impacts of COVID-19 on the garment sector*, (ILO, November 2020).

³² ILO, *Working conditions of migrant garment workers in India: A literature review*, (International Labour Office, Fundamental Principles and Rights at Work Branch, Geneva 2017).

CASE 3

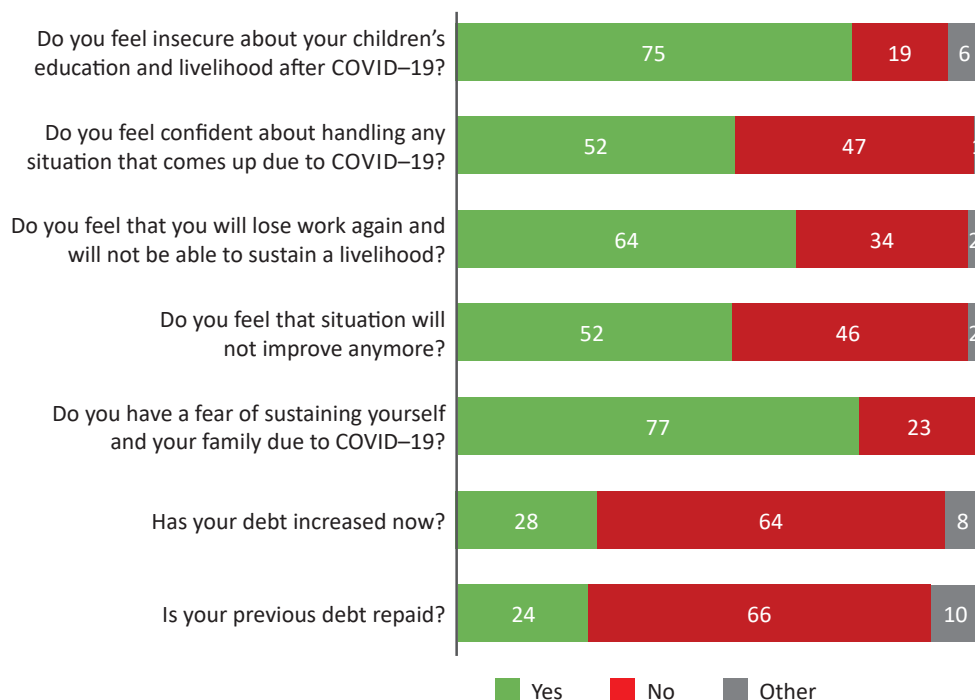
COVID-19 AND THE SUFFERING OF A WOMAN MIGRANT WORKER



Suraiya Begum (name changed), aged 23, is from a remote village in UP. She is married and the mother of two children. Her husband worked in a garment factory in Tiruppur. Due to acute poverty, she migrated in search of a livelihood and joined her husband in the same factory in 2019. Soon after she started work here, both her husband and she came to know that the factory would be closed down because of “some disease”. The government of Tamil Nadu declared a state-wide lockdown. Suraya was shocked to learn that the factory had suspended work and that she and her husband would soon be out of work. They did not receive their wages for almost two months. Even providing food at home became difficult. Suraya was also unable to access any government social security schemes during the pandemic, since she did not have a bank account or any relevant documents. She tried to contact the factory human resources (HR) department and the contractor who gave her the job. The contractor’s phone number had changed, and he was not traceable. The HR representative was also out of reach. Finally, a local CSO came to the family’s rescue, and with their help, the family managed to return to their home state.



Figure 11: Challenges due to COVID-19 and lockdown (in percent)

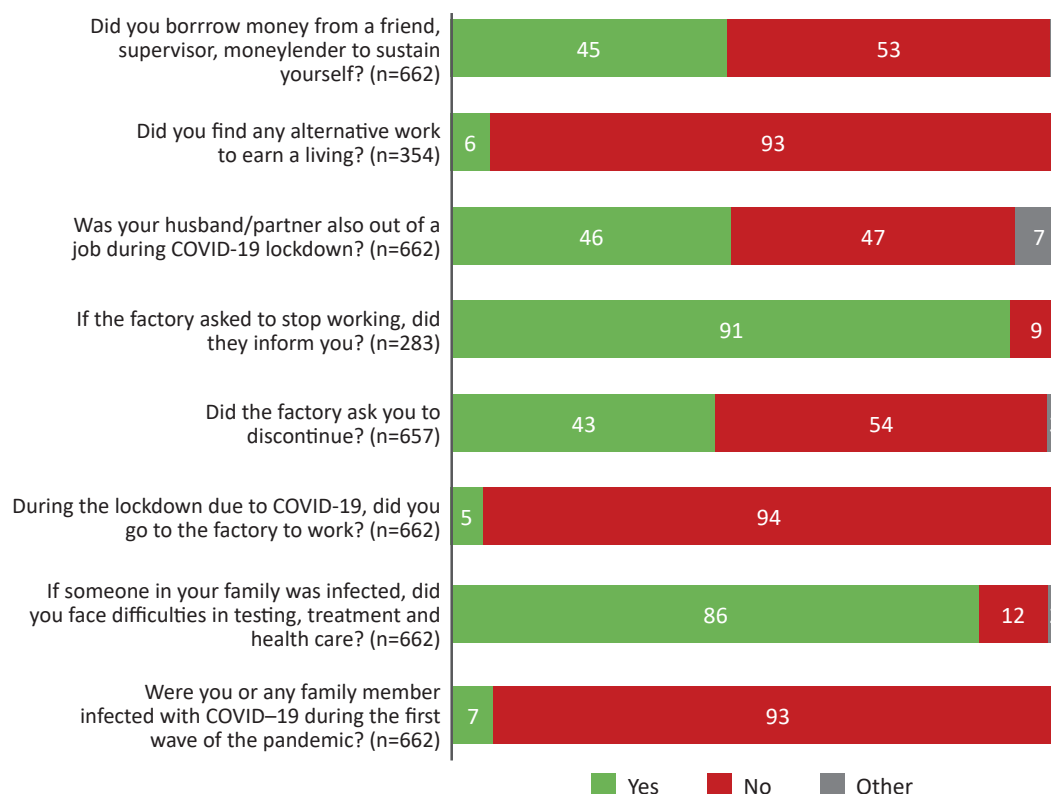


The impact of COVID-19 and the related lockdown is shown in figure 11. Livelihoods and incomes have been the major areas of setbacks for the respondents. Over 75 percent of them were

insecure about their current livelihood prospects, with 64 percent worried about losing their work and nearly 77 percent unsure about whether they could financially sustain their families.



Figure 12: Impact of COVID-19 on life and livelihood (overall and state-wise, in percent)



Many of the workers reported increased anxiety about not being able to comprehend the entire scope of threats that COVID-19 presented, which was exacerbated by their inability to travel home, clubbed with the fear of losing their jobs. Overall, 93 percent of the respondents did not have any alternate sources of employment during the lockdown, and almost 45 percent had to take loans to sustain their families during lockdown; 43 percent of the respondents said that their factories had asked them to leave or resign (figure 12).

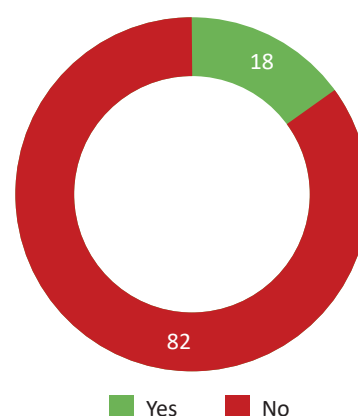
Overall, only 7 percent of respondents reported that their family members had been infected with COVID-19.

Of those affected by the virus, 86 percent said that they faced challenges in accessing testing, treatment and other healthcare.

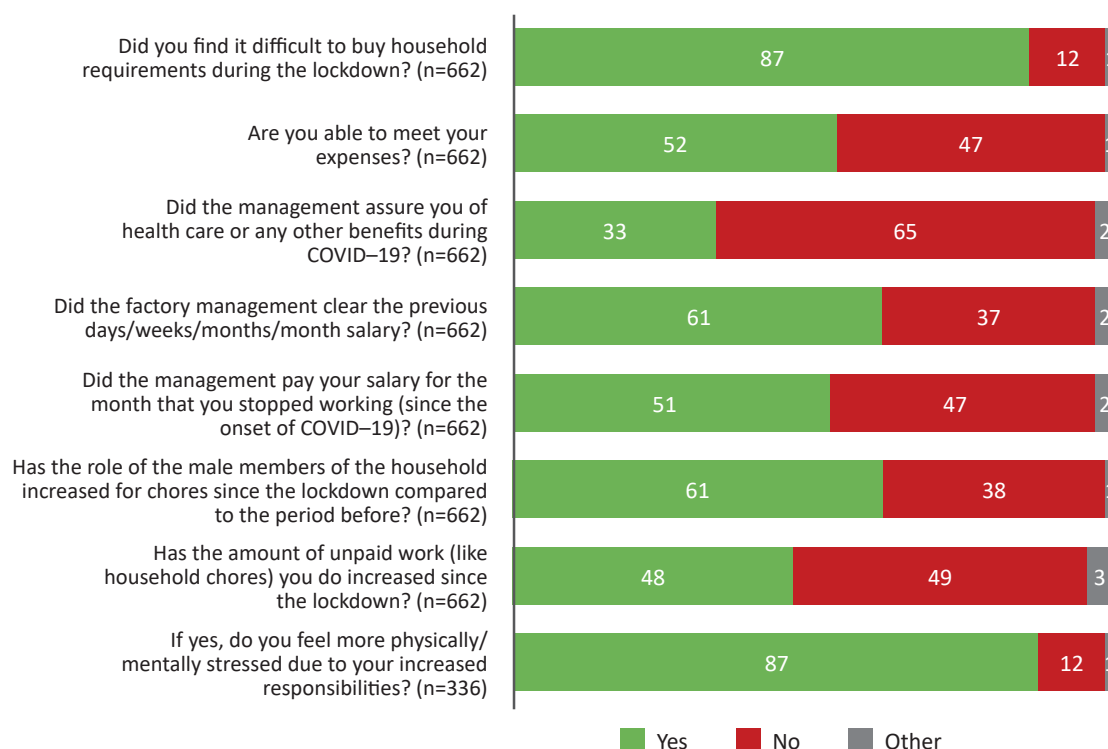
During the peak of the pandemic in 2020 (April–May), 82 percent of workers (figure 13) were not paid any salaries or compensation. While a few of the factories provided dry ration kits/compensation to their workers, this was later adjusted against



Figure 13: Wages received during lockdown (in percent)



their salaries when they returned to work after the lockdown. Respondents reported that support for workers mostly came from CSOs, women's collectives and labour unions.


Figure 14: Ability to meet expenses and access benefits during lockdown


Almost 87 percent (figure 14) of the respondents stated that they found it difficult to buy household requirements during the lockdown period. Over half of the respondents said that they were unable to meet their expenses. Only 33 percent of the women received assurances of healthcare and other benefits from factory management during the COVID-19 pandemic. Only 61 percent said that management had paid their salaries for the previous days/week/month, and only 51 percent had been paid their salaries once they returned to work post-lockdown, for the month when they had stopped working. About 48 percent of women said they faced an increase in unpaid care work such as household chores, and 61 percent said they saw an increase in male members' household responsibilities during the lockdown.

In contrast, apparel brands during the KIIs said that many provisions had been made with suppliers to ensure that workers in factories did not suffer during the lockdown and could return to work under safe working conditions. A few leading companies from the UK, who were interviewed during the study, said that while new orders were significantly reduced during the pandemic, previous orders were not cancelled. Brands also said that they kept

regular accounts of wages and benefits received by workers even during the period of the pandemic to ensure that workers were receiving wages regularly. They tracked social security benefits received by workers, such as paid sick leave, as well as provided assistance with rations, by providing ration kits and, in a few cases, cash up to Rs. 3000 (as mentioned by both brands and factory managers during KIIs).

Many respondents, particularly those from the north Indian states, said that during the pandemic, they had no financial support from any source. They had approached multiple contractors and agents to help them secure temporary employment opportunities but this was of no avail. They did not receive any support from the government, and hence they had to rely on moneylenders to cover their expenses during the entire duration of the lockdown. In most cases, respondents said that their landlords would take all the rations that had been distributed by government agencies, while they, being on rent and therefore vulnerable, were deprived of accessing the same. However, some CSOs did identify workers in need and came forward to distribute rations in Delhi/NCR.

In Karnataka and Tamil Nadu, CSOs and unions like Social Awareness and Voluntary Education (SAVE),

Rights Education and Development Centre (READ), Munnade, Garment Labour Union (GLU) and others distributed ration kits to workers and also extended support with bank documentation so that the workers could access government schemes. Many workers were also helped by their state governments and a few CSOs helped them with train/bus/flight tickets to their respective hometowns, and meals were distributed when workers were stuck enroute.



Figure 15: Borrowing and debt during lockdown (data in percent)

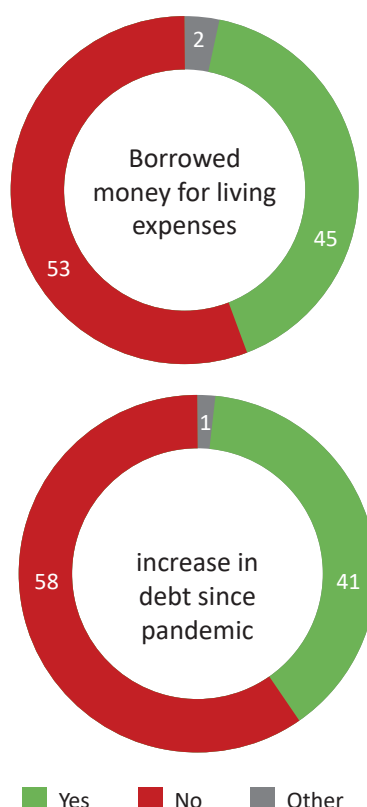
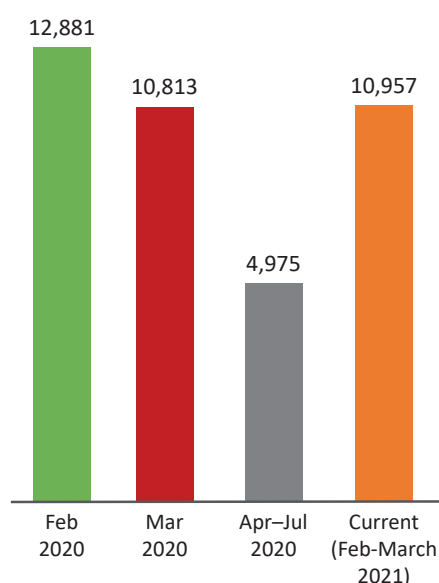


Figure 16: Income levels during lockdown



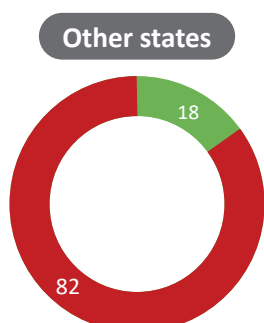
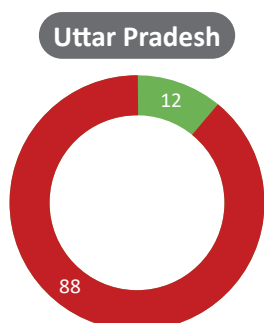
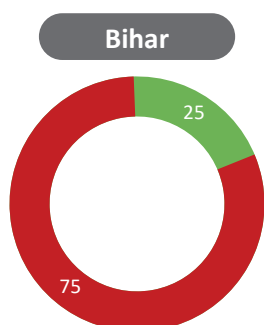
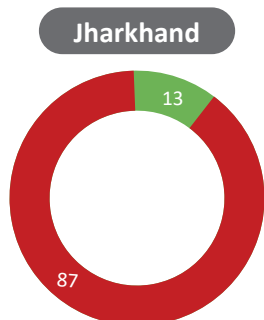
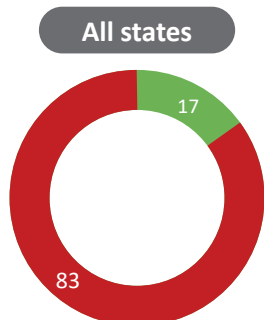
Looking at the data around monthly income (figure 16) and how the first wave of COVID-19 impacted livelihoods, it was found that the pre-COVID-19 lockdown average monthly income was close to Rs. 13,000. During the lockdown period (April–July 2020), this dropped to less than Rs. 5,000 per month. At the time of the survey, from the month of February to mid-April 2021 (the current period), monthly income had improved and was nearly Rs. 11,000.



Awareness programme for garment factory workers on workers' rights and grievance redressal mechanisms at the workplace at Ranchi, Jharkhand.



Figure 17: Percentage of women working overtime (in percent)



Yes No

As depicted in figure 17, only 17 percent of respondents had undertaken overtime. After the nationwide lockdown (during March–April 2020), the situation for workers became alarming, since most factories began producing masks and experienced high demand with tight delivery deadlines from sourcing companies, resulting in massive overtime work and increased health hazards to workers, including the threat of being affected by COVID-19. Qualitative data found that though some factories followed protocols like social distancing, most were unable to follow them strictly since the seating arrangements on a typical factory floor are cramped.

During this lockdown period, many workers went back to their home states. In the course of KILs, factory representatives shared that about 50 percent of the migrant workers had not returned to work even after the nationwide lockdown was lifted. The lack of workers meant increased demands on those who were available to work, leading to an increase in overtime.

Socio-economic and living conditions

The GLU in Bengaluru and SAVE, another CSO in Chennai and Tiruppur, underlined the fact that workers who come from the northern and eastern parts of India are given separate accommodation and are prone to exploitation due to vulnerabilities like language and cultural barriers. Where hostel facilities are provided by the factories, workers are forced to survive in cramped and poor living conditions, as observed in many of the living facilities for migrant garment workers in Tiruppur. Hostels are either located within the factory premises or at walking distance from the factories.

Workers in these hostels have to share rooms and toilets with their co-workers. The number of workers sharing a room may range from 5 to 15 workers. Conditions are considerably worse in some of the hostels provided by the textile mills and garment factories in Tiruppur, Erode and Coimbatore in Tamil Nadu. Rooms are sometimes shared by 35–40 workers in a hostel. All hostel facilities seem to lack basic amenities such as proper furniture, storage facilities, beds and mattresses.

A study conducted by the India Committee of the Netherlands (ICN) in 2016 for women workers in Bengaluru garment factories found that the conditions were especially bad for women migrant workers as they faced severe restrictions on their movements. They were required to go back to their hostels

immediately after work and were allowed to leave for only two hours, once a week. Similarly, in Tiruppur in Tamil Nadu, women living in hostels provided by their factories were not allowed to leave the hostels on their own, while male workers could easily do so. These workers were hardly connected with the outside world, to the extent that cell phone use was prohibited. They were permitted to go out only twice a month, accompanied by the hostel warden.³³ These are clear indicators of threats to the freedom of movement, the right to privacy and the right to health and safety. The Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act, 2015, seeks to regulate such hostels and the living conditions therein.

During the quantitative research survey, it was observed that almost all the respondents had migrated to cities for better employment opportunities and to improve their standard of living. However, many workers reported challenges in their living conditions in the cities. The high cost of living in cities, coupled with the need to send a part of their income back to their families, often forced these workers to live on tight budgets.

Workers who brought their children with them to the cities faced many more challenges. While they spent most of the day at work, their children were unsupervised and spent time in the neighbourhood with other children. They were unable to go to school due to a number of reasons, such as a lack of identity documents and education being in the local language. During FGDs with women workers, most of them said that leaving their children unattended at home was a safety concern.

A significant challenge for workers was that the government schools in destination states were local language schools (Tamil medium in case of Tiruppur, Erode and Coimbatore), so children of migrant workers from the northern/eastern parts of India were unable to access the free education being provided there. On the other hand, private schools, which teach in English/Hindi, were beyond the reach of most respondents. During FGDs many respondents recommended that the government establish Hindi-medium government schools, or hire teachers who can speak Hindi, so that their children could continue their studies. Additionally, providing day care facilities in factories where there are large numbers of women employees was also a requirement shared by women migrant workers.

In the garment sector, women workers are made to feel like a burden and often find themselves at the bottom of the pyramid in the power structure within factories. Employers find it easy to exert control over a female workforce as compared to their male counterparts. This control often leads to practices like withholding pay, longer work hours for low pay, no overtime, and supervisors hurling abuse at women workers to meet production targets. These factors often lead to emotional breakdowns and the use of coercion and threats in case the workers want to raise their concerns or wish to join independent unions outside the factories.

The working conditions, safety issues, wage disparities and excessive working hours are also perilous for women garment workers.

CASE 4

LIFE IN THE PANDEMIC FOR A FEMALE MIGRANT FROM TIRUPPUR



Tasleena (name changed) was sent from her rural home in Jharkhand to a Tiruppur garment factory for work. She was under the control of the factory or the broker, living in a dormitory. She often worked up to 12 hours a day. She did not understand the local language, which exacerbated her isolation and dependency. She often worked overtime and for poor wages. She was homesick, and due to COVID-19, she was locked up in the hostel dormitory, unable to even speak with her family members. Her employer did not pay her salary for March and April 2020, and only a few NGOs and the government provided rations and food for her. She was distressed and hopeless; she needed this job, and had no option but to accept the exploitation and injustice.

³³ ILO, *Working conditions of migrant garment workers in India: A literature review*, (International Labour Office, Fundamental Principles and Rights at Work Branch, Geneva 2017).

3.4. WORKING CONDITIONS, WAGES AND BENEFITS AT THE WORKPLACE

The garment industry in India remains primarily a low-cost production base where excessive overtime and low wages are the existing norms. There is a great disparity in working conditions and wages of vulnerable women compared to men.³⁴ In addition, women shoulder the majority of unpaid care responsibilities at home, including child care, elderly care and taking care of the sick,

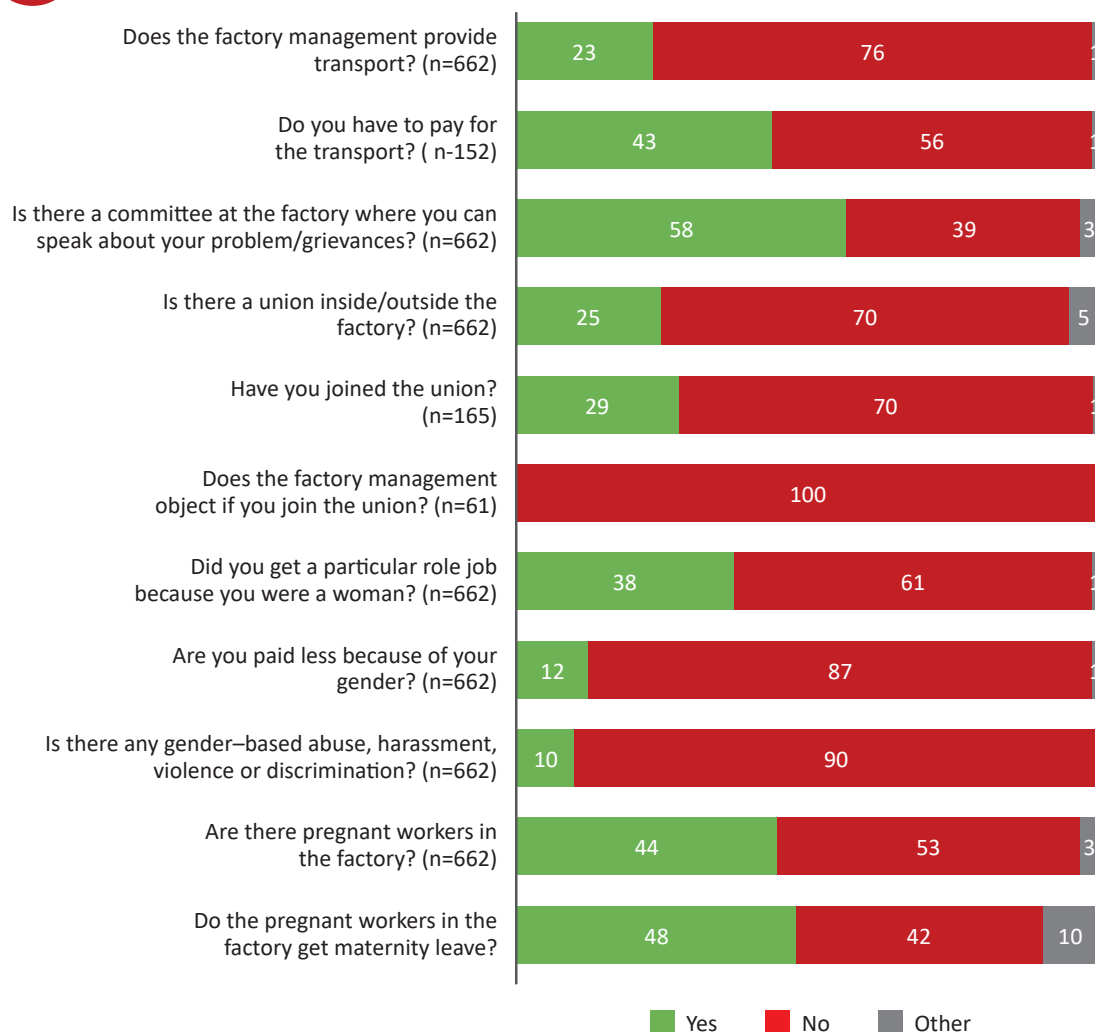
responsibilities which have increased during the pandemic.

Despite the fact that the garment sector has women as the majority of its workforce, there is a wage gap between women and men, with most women being positioned at the lower end of the ladder.³⁵ Men hold positions as supervisors and master tailors (based on the qualitative data obtained through KIIs), while women work as helpers, cutters and tailors in the stitching department, and for ironing the finished products.

Basic facilities and safety



Figure 18: Facilities provided by factory (in percent)



³⁴ Fair Wear Foundation, "How does Covid-19 affect women garment workers?"

³⁵ Change Alliance, Promoting gender equality and empowering factory workers: Gender equality programme in garment factories, page 25, 2018.

Figure 18 shows that factories did not seem to be regularly providing transport for workers. It is interesting to observe that of the 23 percent of women who affirmed getting transport from the factory, only 56 percent said that this transport was arranged and paid for by the factory. Only 58 percent of women said that there was a committee in the factory where they could speak about their problems, and only 25 percent of them were aware of a union outside/inside the factory, of whom only 29 percent had joined this union. While a large majority of women were not part of any workers' union, the respondents who were part of a union seemed to suggest that their factories had not objected to them joining the union. About 87 percent were of the view that they were not paid less due to their gender, although 10 percent confirmed issues related to abuse, discrimination and harassment.

During the qualitative interviews with women workers, it was noted that the large majority of workplaces did not have toilets for women. Instead, women workers had to return home during their lunch breaks to use the toilets, as cited in FGDs by migrant women workers in Faridabad (NCR). A few respondents felt that supervisors were often harsh

and critical about their work in a discriminatory way.

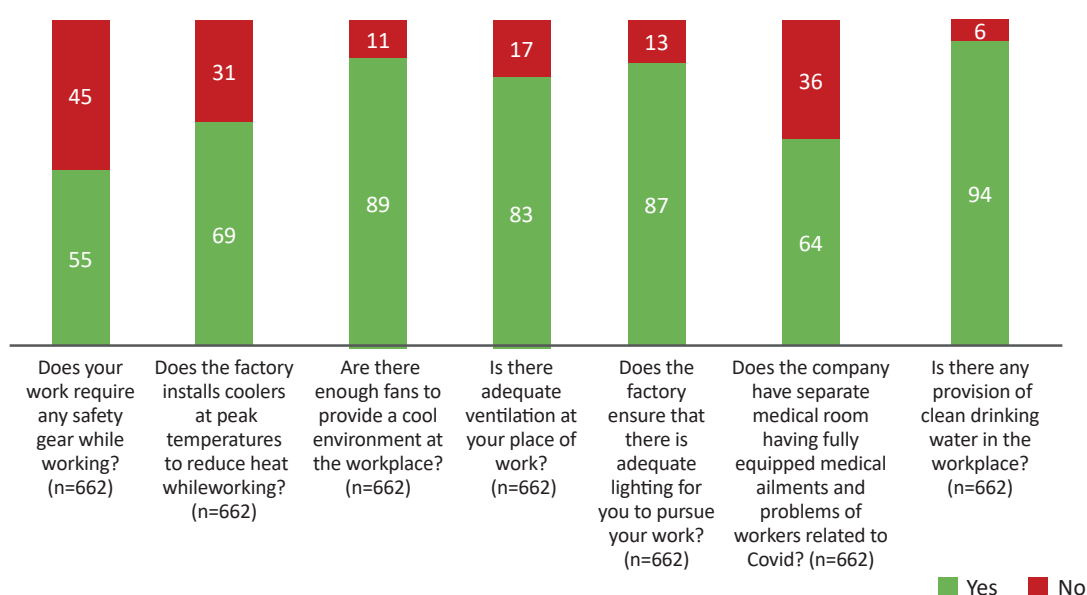
Women in factories were given high targets. "We have to continuously work for eight hours every day to meet those targets," said one of the workers in the FGD.

There are other forms of gender-based discrimination and violence against young women in dormitories such as restrictions on movement, harassment and instances of forced labour, such as the Sumangali scheme.³⁶ Many women interviewed believed that the government should focus on creating gainful employment opportunities in rural areas so that women can work from within the vicinity of their villages and towns and continue to contribute to their families. It is also essential that mechanisms to ensure hygienic working conditions are put in place and that workplaces are held accountable for them.

It appears that safety and comfort at the workplace met reasonable expectations in most cases. However, 36 percent women responded that their company did not have a separate medical room with fully equipped medical kits (figure 19). This is especially in case of occupational injuries and other medical emergencies, unless there is an external medical facility close to the factory.



Figure 19: Basic facilities at the workplace (in percent)



³⁶ R Rochin Chandra, "Sumangali Scheme: When marriage assistance becomes bonded labour in disguise", The News Minute, 03 November 2016

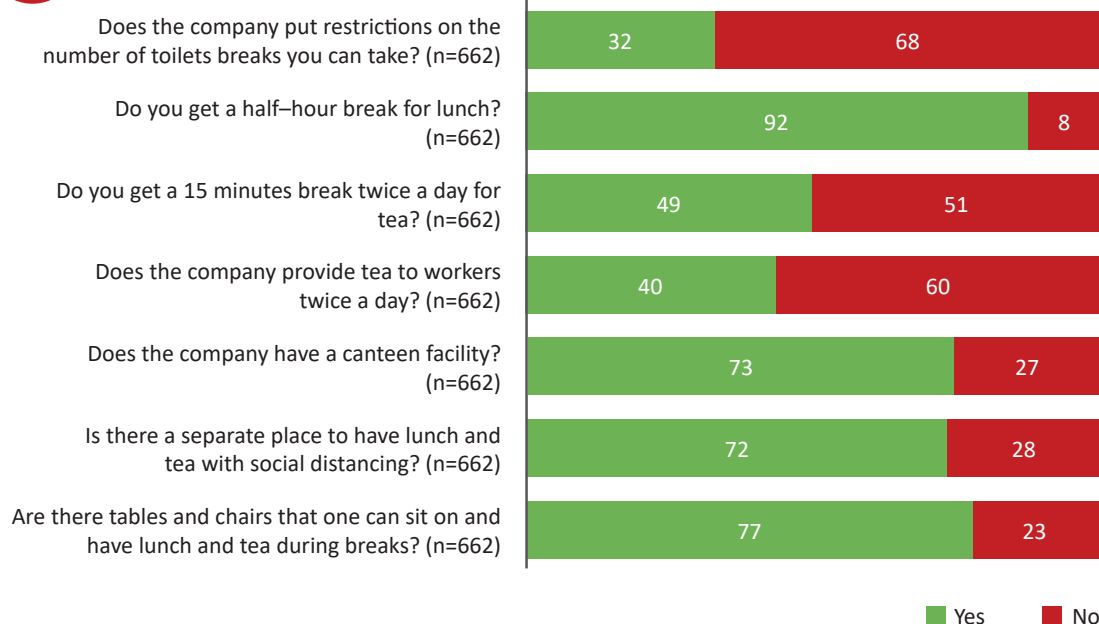

Figure 20: Restrictions on breaks and facilities (in percent)


Figure 20 shows that 32 percent of the migrant women workers said that there were restrictions on the number of toilets breaks they could take. Also, more than half the workers said that they did not get a 15-minute tea break twice a day during working hours.

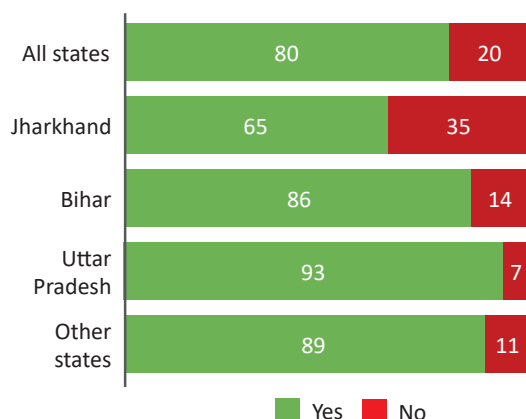
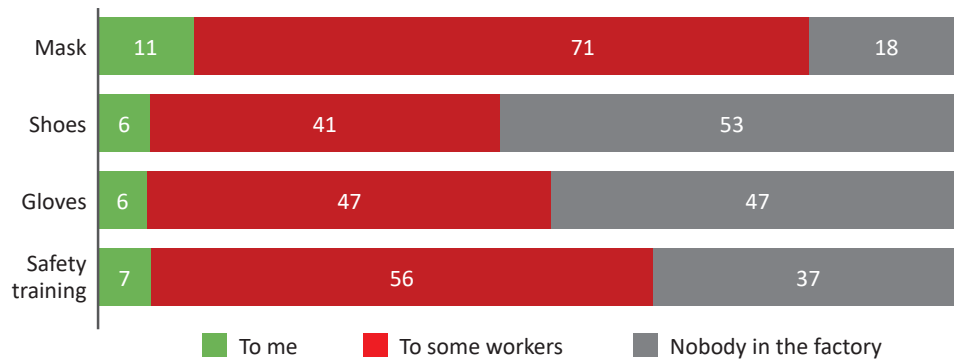

Figure 21: Regular sitting breaks (at least 3 times), in case of standing jobs (in percent)


Figure 21 shows a considerable difference across states in the sitting breaks that are provided to workers who have standing jobs, such as helpers and those involved with finishing, packing and so on (45 percent, i.e., 299 respondents had standing jobs). Overall, 20 percent of workers stated that they did not get three to four sitting breaks during working hours. However, it appears that about 80 percent of the respondents were able to take a break from their standing work from time to time, with the highest response from UP and lowest from Jharkhand. Sewing, spreading and cutting workers, tended to work in sitting positions, worked continuously in a fixed position and posture, using their hands, arms and eyes; the most common problem therefore was that almost every employee had musculoskeletal complaints. Inevitably, employees who worked long hours sitting or standing and were responsible for continuously performing a repetitive job in accordance with the production speed demands were found to experience problems with their hands, arms, eyes, neck and back as a result of long working hours over the years.³⁷

³⁷ Özlem Kaya, "Design of workplace and ergonomics in garment enterprises", *Procedia Manufacturing*, vol. 3, 6th International Conference on Applied Human Factors and Ergonomics (AHFE 2015) and the Affiliated Conferences, AHFE 2015.



Figure 22: Safety gear and safety training provided to workers (in percent)



It is clear from figure 22 that though factories initiated COVID-related protocols, as stated by 18 percent of respondents, none of the workers received masks from their factories, and similarly, 53 percent and 47 percent affirmed that they had not received shoes and gloves respectively. 37 percent of the respondents stated that they had not received any safety training. State-wise data shows that this was worst amongst workers from Jharkhand who worked in Tamil Nadu, with nearly 49 percent workers not having received any training, while for UP workers working in Delhi/NCR this number was lower at 29 percent. The RMG sector has several production processes that carry various occupational risks and can cause injuries to workers. Coupled with the stress of production targets, inadequate breaks and brief periods of rest, these risks are magnified. It is therefore essential that workers are trained on how to work safely. In addition, employers need to apprise workers of guidelines and instructions for responding to fires, electrical risks and so on. It is recommended that a standard worker safety training be considered a mandatory and documented practice in all factories.

Wages and benefits

In the formal sector, wages are mutually agreed upon between the employer and the employee, based mainly on the latter's skills, whereas in the informal sector, wages are often fixed between the principal employers, contractors or agents and then conveyed to the employee.³⁸ There are different types of work, some workers are paid on a monthly basis, some are paid based on the pieces they

produce in an hour/day, and some work for a daily wage. The prevalence of these exploitative practices often emerges from the fact that there is surplus labour and workers are willing to compromise on their wages as they are not aware of their rights.

In an attempt to remain globally competitive, garment suppliers tend to reduce their costs of production across the board, including the cost of labour. This has been clearly seen during the pandemic too, when factories easily got away with non-payment of wages to their workers for almost two months during the lockdown. Persistent minimum wage violations or wage theft practices coupled with a lack of freedom of association are becoming alarmingly visible across the Indian manufacturing sector.³⁹

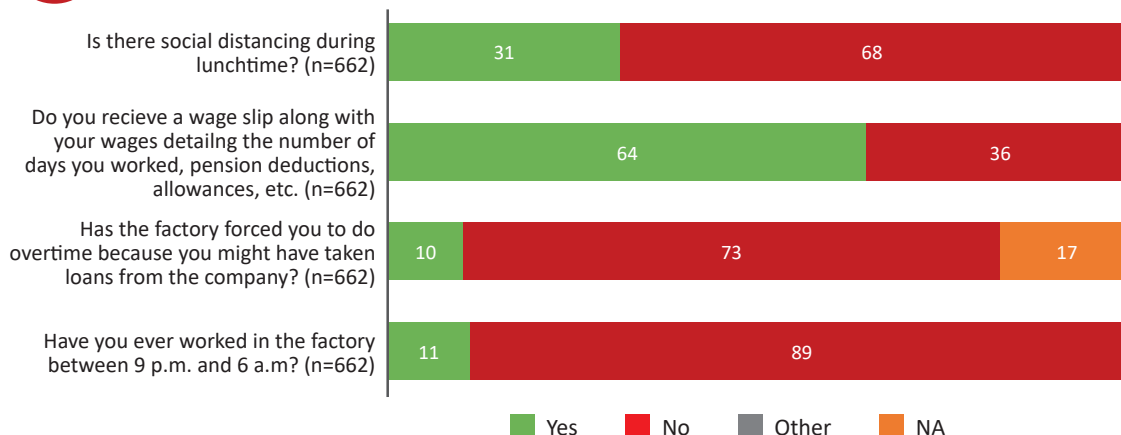
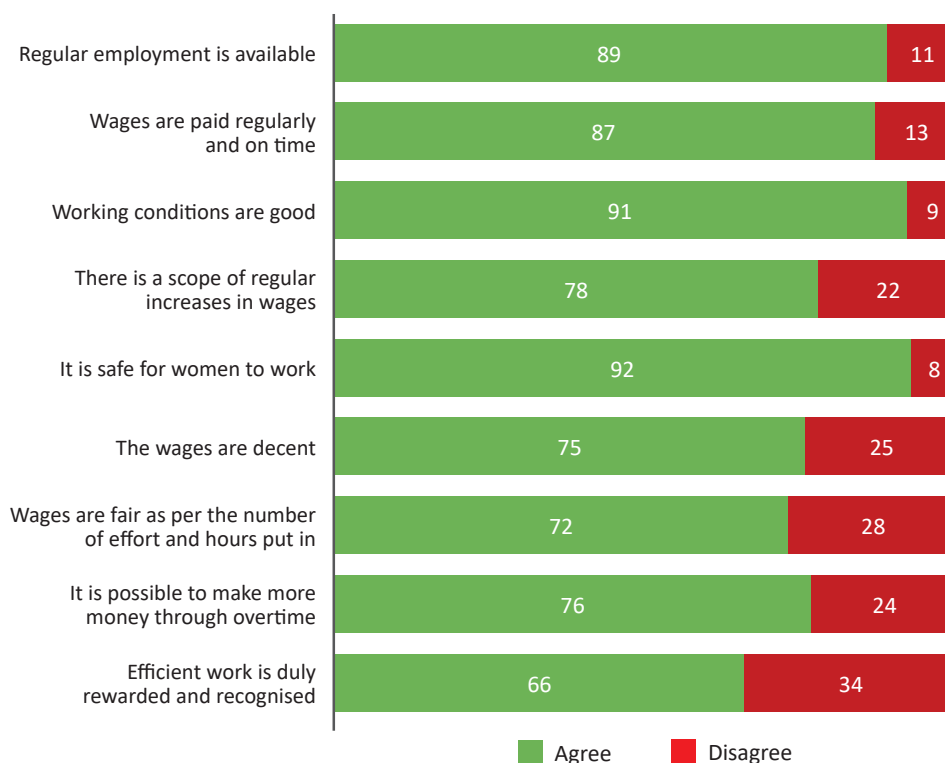


In one of the KILs, a union representative based in Bengaluru shared the threats that she received from a local politician about the union's engagement in his constituency and area of operation.

According to her, he said "How dare you enter my area and engage with workers in factories in my constituency? The factory management and owner are under my leadership. Do not instigate workers in those factories to join the union or try to enter the area and work with them."

³⁸ ILO, *Wages and Working Hours in the Textiles, Clothing, Leather and Footwear Industries*, GDFTCI/2014.

³⁹ Ibid.

**Figure 23: Wages and safety compliance at the workplace (in percent)****Figure 24: Wages and work (in percent)**

Alarming, 68 percent of respondents stated that no social distancing was being practiced in their factories during breaks and at lunch time (figure 23). Also, 36 percent were not receiving a wage slip with work details. Around 10 percent of the women were forced to do overtime due to loans they had taken from the company, and the same percentage were also found working night shifts.

The research questions focused on wages, regularity of payment and overtime conditions. As shown in figure 24, on an average, 75 percent of respondents felt that they were being paid decent wages. However, the data significantly shows a disparity between respondents from different states. Data from Jharkhand shows that 61 percent felt that they were not paid decent wages,

whereas 90 percent of workers from UP said that they believed they received decent wages. One common thread across all respondents was that wages were paid regularly and on time, with 87 percent affirming the same.

Despite some disparity amongst respondents from different states, data shows that broadly, the respondents were satisfied with the wages they received and the opportunity to earn from overtime, with the latter being a mutually acceptable form of compensation for both factories and workers. One area of common agreement amongst respondents from all states is that recognition of their work could be better.

Social protection and maternity benefits

The Indian garment sector is governed by various labour and factory regulations, but awareness amongst workers of these laws is poor.

Interviews with various stakeholders highlighted the fact that there were no systems in place to ensure safe and fair migration practices in the places where workers are registered, counted, and tracked on state labour department's portals. Social protection and security are fundamental features of formal sector employment, but in a sector where labour is employed in an informal manner without proper documentation, provisions of the laws are not followed.⁴⁰ "In some states, there are state portals for migration registrations to ensure their rights, safety and protection. But these portals can only be accessed by factories in some cases, and not directly by the workers," said one of the CSO representatives during a stakeholder interview. If workers are registered on these portals, they are eligible for social protection and can access social security schemes.

As gleaned from the vast majority of the respondents of the survey, only the larger companies and factories provide workers with letters of employment. Smaller companies only collect the address proof

of the workers—primarily the Unique Identification Number (UIN) or Aadhaar number—and merely give verbal commitments to workers on employment, working hours, wages, etc.

Another observation that came up during the FGDs was that most migrant workers could not access subsidised food grains from fair price shops as their permanent addresses were in their places of origin and they lacked proof of residence in their destination states. When the lockdown was announced in March 2020, all factories were shut down and none of them provided any compensatory wages to their workers. During this period, all social security schemes by destination states were restricted largely to residents of the states, thus excluding the migrant population. Some governments did set up helpdesks and portals to support migrant workers in returning to their home states safely, but workers had limited access to these facilities. In both large and small enterprises though, no provisions were made to educate employees about the various social security schemes available to them. Instead, stakeholders like CSOs and workers' collectives/unions played a crucial role in helping workers access government social security schemes, including support in the form of helping them obtain the relevant documents to access these schemes.

Implementation of the Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979, now part of the Occupational Safety, Health and Working Conditions Code 2020,⁴¹ could make it easier for workers to access certain benefits upon migration. Under the law, employers are required to hold or facilitate, through third parties, formal orientation sessions for migrant workers on their rights, entitlements and provisions under various laws applicable to factories, contractors and workers, as well as mechanisms available within the factory for grievance redressal, sexual harassment and healthcare. A monitoring mechanism should be set up at the district level to strengthen these requirements.

⁴⁰ Mridusmita Bordoloi, Mohammad Hamza Farooqui, and Sharad Pandey, *Social Security for Informal Workers In India: Research Brief*, Centre for Policy Research, November 2020.

⁴¹ India, Ministry of Labour & Employment, The Occupational Safety, Health and Working Conditions Code, No. 37 of 2020. Available at <https://labour.gov.in/whatsnew/occupational-safety-health-and-working-conditions-code-2020-no-37-2020>

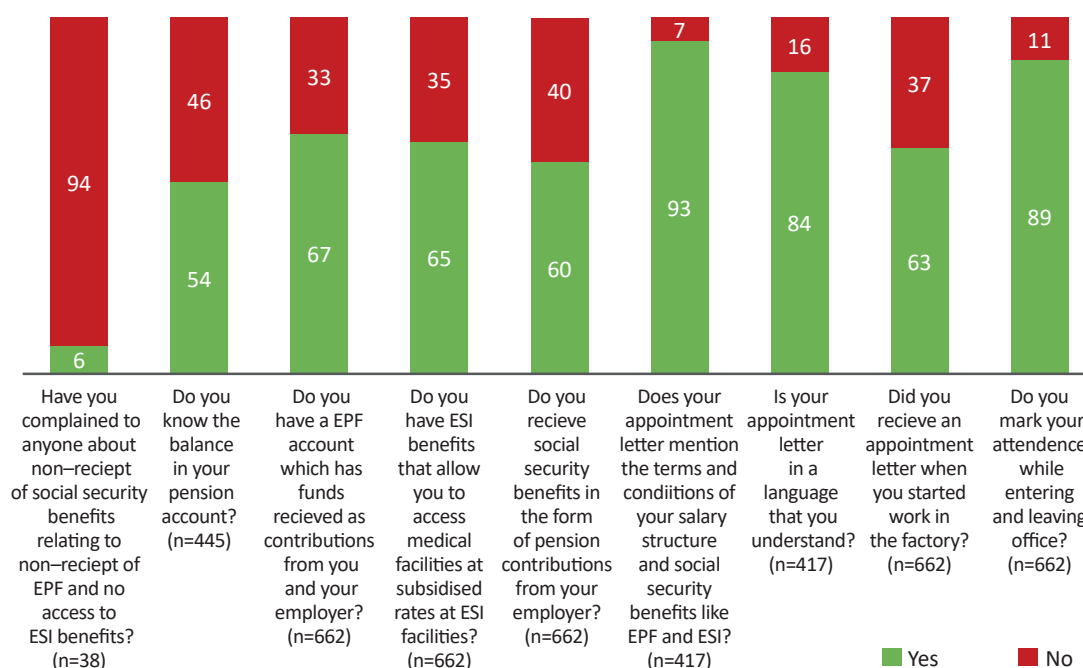

Figure 25: Workplace social security benefits (in percent)


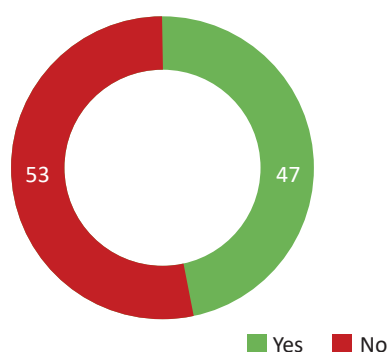
Figure 25 reveals that only 63 percent of respondents had received an employment contract from their company when they started work in the factory. Interestingly, state-wise responses show that an appointment letter was received by only 37 percent of migrant workers from Jharkhand. It is also pertinent to note that the large majority of Jharkhand respondents had either worked in garment factories of Tiruppur or were currently working there, which indicates that the factories in Tiruppur in particular have not been giving their employees written employment contracts.

A full 93 percent of respondents said that their letter of employment mentions benefits like EPF and ESI, which shows that they were aware of the existence of these benefits. In addition, more than 60 percent of respondents also confirmed the availability of pension, ESI and EPF accounts in their names. However, it seems that only 54 percent knew about the balance in these accounts, which could be because the rest of the employees have simply not kept track of it. At the state level, Jharkhand's response percentage was quite low compared with that of UP and Bihar.

The director of READ, in Erode, Tamil Nadu, mentioned that social security benefits like EPF and ESI are extended to only some workers. Many workers prefer to work for a piece rate rather than as

permanent workers and therefore continue to work without benefits.

A trade union leader also mentioned during an interview that labour laws exclude many workers, since they are applicable only to factories with certain employee numbers. This leads to many smaller factories being left out of the ambit of the law. According to him, "Schemes like EPF, ESI and schemes for migrant workers reach less than 10 percent of migrant workers. Corruption and political interference make it difficult for workers to access public schemes like the PDS."


Figure 26: Received maternity benefits (in percent, n=309)


Maternity leaves by eligible respondents (in percent)

In weeks	Overall	Jharkhand	Bihar	Uttar Pradesh	Others
12 weeks	48	31	49	54	65
26 weeks	14	9	14	17	14
Other	4	3	4	2	14
Did not get	9	4	14	7	0
NA	25	53	19	20	7
Base (Respondents)	309	58	110	127	14

Overall, 53 percent of the workers who were eligible for maternity leave said that their factory did not provide paid maternity leave (figure 26). Overall, of those eligible, only 14 percent received the mandated 26 weeks of paid maternity leave (according to the Maternity Benefit Act, 2017), while 48 percent received 12 weeks of paid maternity leave (according to the law before 2017).

3.5. GENDER SENSITISATION AND GBV

According to the ILO, the term “violence” in the world of work should be broadly interpreted to encompass violence in all its forms—physical, psychological and sexual. While physical violence may be the most visible form of violence, psychological violence is quickly emerging as one of the priority concerns in the workplace. Also referred to as “emotional violence”, this includes verbal and non-verbal abuse, psychological and sexual harassment, bullying, mobbing and threats. Violence in any form threatens the dignity, security, health and well-being of workers (ILO 2016).⁴²

Reported abuses involved one or more of the following, as mentioned during KIIs and by respondents in Tiruppur: deception about the nature and conditions of work; illegal wage deductions; debt bondage linked to repayment of recruitment fees; and threats if workers wanted to leave their employers. A combination of these

abuses can amount to human trafficking and forced labour. Despite the existence of international labour standards relating to recruitment, national laws and their enforcement often fall short of protecting the rights of workers, and migrant workers in particular.

Sexual harassment: Understanding and experience

Violence, especially in the form of verbal abuse and threats of removal from job as well as physical violence, are not uncommon in the garment sector.⁴³ In fact, verbal and physical violence against women are often used as tools by employers and contractors to force workers into submission and into working overtime to meet the high production targets that are prevalent in the sector. Despite safeguards like the Vishakha Committee Guidelines⁴⁴ (1997) and the Sexual Harassment of Women (Prevention, Prohibition and Redressal) at Workplace Act, 2013, commonly known as the Prevention of Sexual Harassment at Workplace Act (PoSH), the incidence of GBV in the workplace continues to rise.⁴⁵ It should be noted that instances of GBV are significant in the informal sector, specifically among vulnerable communities. For instance, women homeworkers who produce for global supply chains are particularly affected by COVID-19 as their incomes depend heavily on now-suspended orders from high-income countries. In this context, when gender intersects with other personal characteristics

⁴² ILO, Meeting of Experts on Violence against Women and Men in the World of Work, MEVWM/2016/7 (International Labour Office, Geneva 2016).

⁴³ ILO, Working conditions of migrant garment workers in India: A literature review, (International Labour Office, Fundamental Principles and Rights at Work Branch, Geneva 2017).

⁴⁴ Subodh Asthana, “The Vishaka Guidelines: A step against Sexual Harassment”, iPleaders, 2 March 2020. Available at: <https://blog.ipleaders.in/vishaka-guidelines/>.

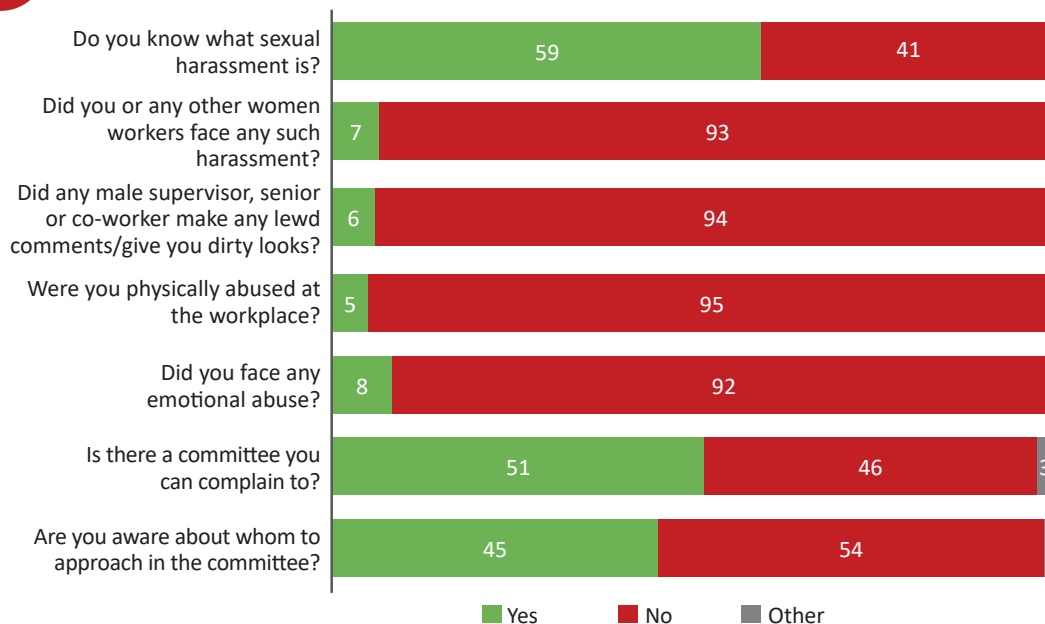
⁴⁵ Sisters for Change and Munnade, Eliminating Violence Against Women At Work – Making Sexual harassment laws real for Karnataka’s women garment workers, June 2016.



Awareness programme on laws and access to remedies in garment factories by Change Alliance and theatre artists at Manesar, Haryana.



Figure 27: Sexual harassment at the workplace (n=662, in percent)



such as ethnicity, nationality, age, disability or HIV status, there is a risk that both gender disparities and intra-women inequalities will widen further.⁴⁶

As mentioned by respondents, only 59 percent of them were aware of sexual harassment at the workplace (figure 27). Further, only 7 percent of them responded affirmatively to an indirect question on whether they or any other women they knew had faced sexual harassment. Additionally, more than 51 percent of the respondents were not aware of any committee where they could register complaints and that was dedicated to handling cases of sexual harassment at the workplace,

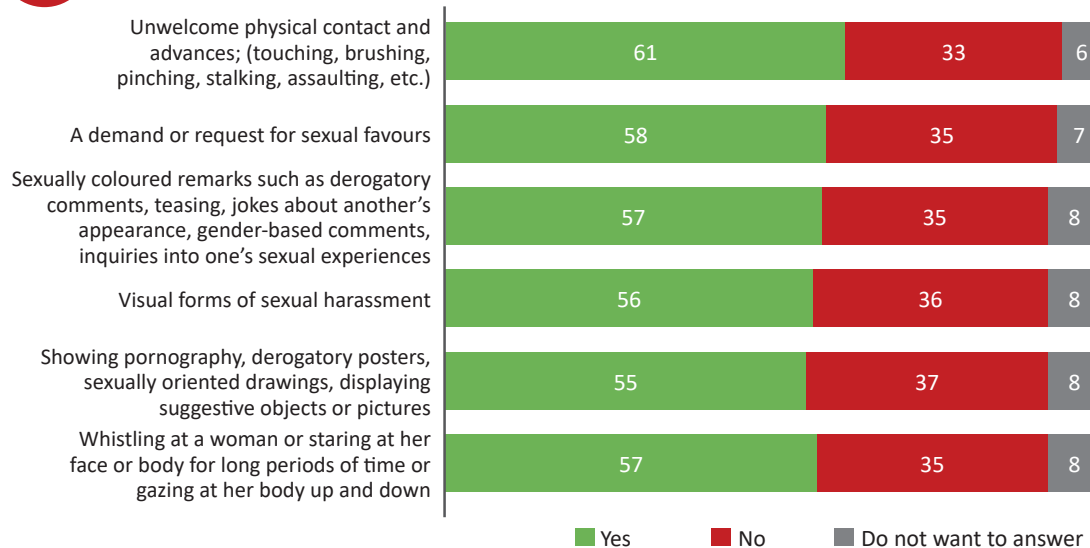
or of who they could approach under such circumstances.

Through qualitative data (obtained through FGDs with workers), it was observed that most workers were not aware of the avenues for addressing their complaints. Most women garment workers did not even want to raise a complaint, so as to avoid being judged negatively by other workers in addition to their fear of retaliation. Some of the respondents also served on the ICs at their workplaces, but were not conversant with the PoSH Act. Therefore, these women were unable to perform their roles as IC members.

⁴⁶ ILO, "Implementing the ILO Indigenous and Tribal Peoples Convention No. 169: Towards an inclusive, sustainable and just future", op. cit., note 1. (ILO, Geneva 2019).



Figure 28: Awareness of what constitutes sexual harassment at the workplace (in percent)



The respondents had varied understandings of what constitutes sexual harassment (figure 28). The women, it appears, were able to read sexual misconduct or intrusions. However, they were not aware of the current developments on the matter in the context of the workplace. Though a number of women have participated in trainings on sexual harassment at the workplace (figure 30), there is a definite need for regular and refresher trainings for women on the subject. Respondents' answers also showed inadequate implementation of the PoSH Act at workplaces. Work by Change Alliance with garment manufacturers/suppliers since 2017

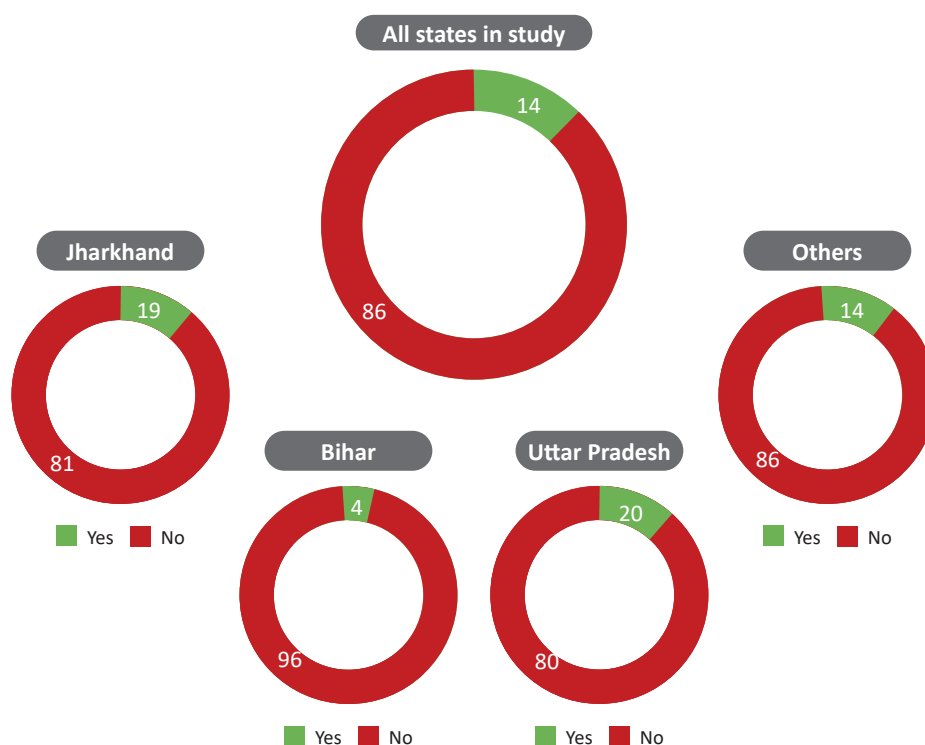
in 30 factories has shown increases in awareness and confidence among workers through capacity building of workers as change agents. The Gender Equality Programme, now known as the Providing Opportunities to Women for Equal Rights (POWER) project by Marks and Spencer and the British High Commission, has strengthened the ICs and grievance redressal awareness and mechanisms at the workplace. As reported by factory managers, in the long term, this programme has not only empowered workers but also increased their productivity, built trust in systems, and drastically decreased the absenteeism and attrition rates.



Women workers working in a garment factory in Tiruppur, Tamil Nadu.



Figure 29: Awareness of laws related to sexual harassment at the workplace (in percent)

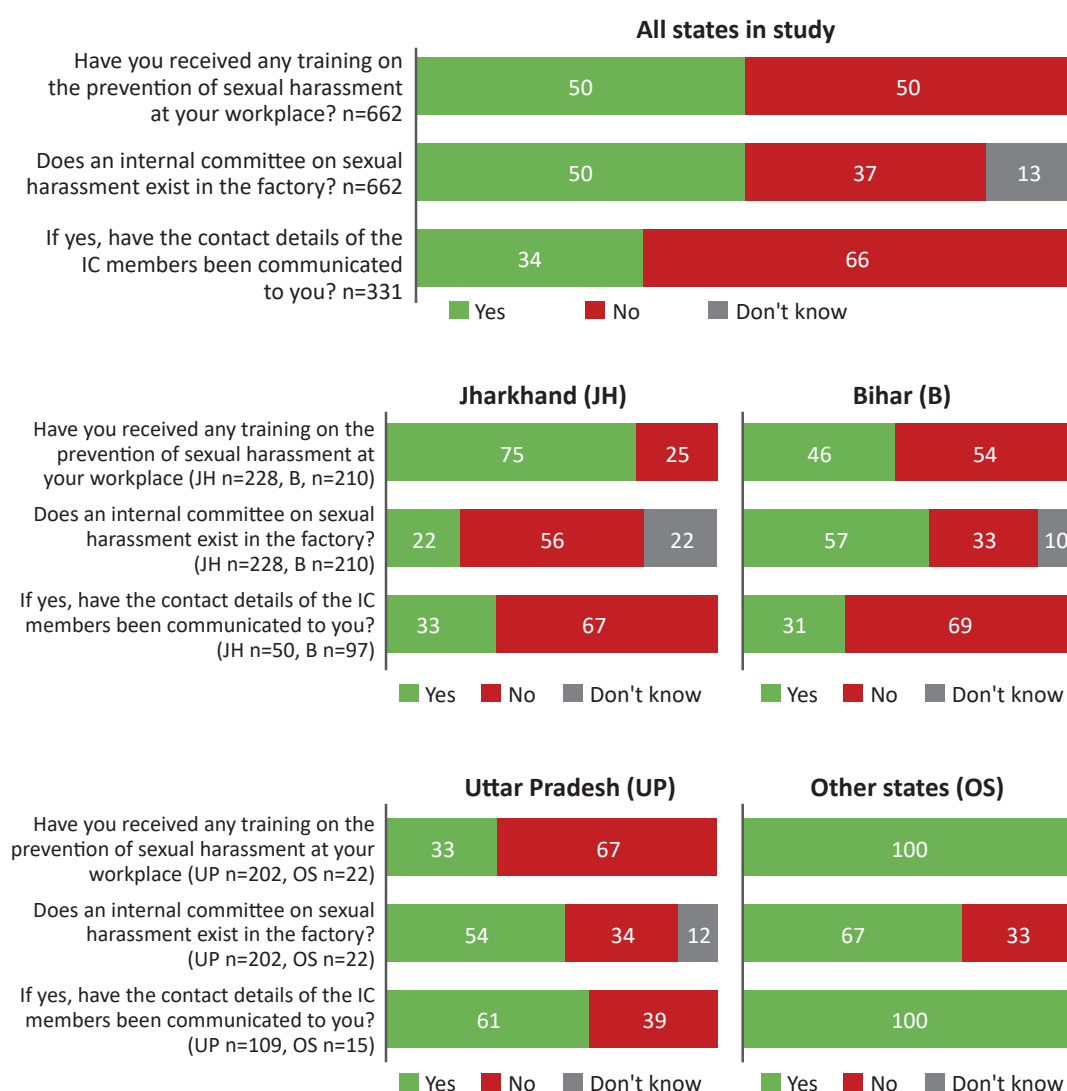


Percentage of respondents with awareness about specific laws/acts

Awareness on Law/Act	All States	Jharkhand	Bihar	Uttar Pradesh	Others
Factories Act, 1948	43	22	41	51	33
Maternity Benefit Act, 2017	7	0	5	10	0
Contract Labor Act, 1970	12	22	10	12	0
Interstate Migrant Workmen Act, 1979	3	0	8	0	0
The Sexual Harrassment of Women at Workplace Act, 2013	9	22	10	2	33
Domestic Violence Act, 2005	2	0	3	2	0
IPC Sections 354/354A/354C/354D	3	0	3	5	0
Don't know	21	33	20	17	33

An overwhelming 86 percent (96 percent of the respondents from Bihar) of women did not know about any laws related to protection against sexual harassment at the workplace. As already observed, figure 28 further confirms that women respondents had a limited understanding of the issues around sexual harassment at workplaces and the legal mechanisms available for redressal.

Though half of the respondents said that they had received training on prevention of sexual harassment at the workplace and knew about the IC, when it came to accessing the members of the committee or the procedure of registering a formal complaint in cases of sexual harassment, they did not have a clear idea.


Figure 30: Training received on sexual harassment at the workplace (in percent)


For example, as shown in figure 30, 66 percent of workers indicated that they lacked awareness regarding the procedures to get in touch with committee members, or did not have access to their contact numbers, helpline numbers, etc. This data shows that most companies/factories are in violation of the PoSH Act, which states that regular training and awareness sessions must be conducted for employees and employers, to make them aware of the law and the redressal mechanisms to protect, respect and support women workers against sexual harassment at the workplaces. Only 50 percent of respondents stated that they had attended any such training and only 34 percent had received any communication about the contact details of members of the IC.



Community awareness programme on laws and access to remedies in Erode, Tamil Nadu.

CASE 5**HARASSMENT
AND ABUSE**

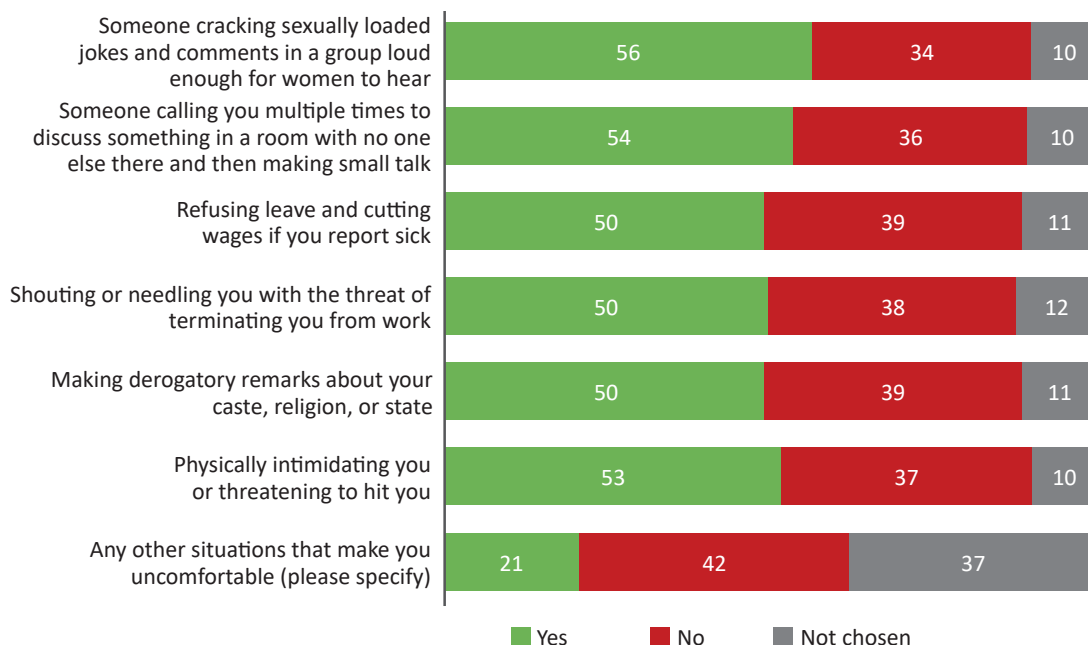
A 25-year-old garment worker has been working as a tailor in a garment factory in the Bengaluru area. She is a migrant from the Keonjhar district of Odisha. She is the sole wage earner of her family and has to send money every month to support them. She does not know the local language and her male supervisors have tried to take advantage of her. For two consecutive years, she has been suffering from repeated verbal intimidation, abuse and physically threatening behaviour from her supervisor and floor manager. She and the other women workers have not disclosed this harassment to anyone because she is scared that she will lose her job and be forced to return to her native place.

Such stories depict the sad truth about women migrant workers, many of whom are forced to continue in abusive environments with little recourse to any help, due to internal psychological barriers and financial necessity. Unfortunately, there are

many workplaces that do not recognize the need for providing safe working environments for women and give scarce attention to the sufferings of their women workers.



Figure 31: Experience of harassment faced (in percent)



The women migrant workers were asked about their experiences facing issues related to harassment, and their responses are depicted in figure 31. Under each category of harassment and abuse, whether physical or demands or requests for sexual favours,

more than 50 percent of respondents said that it was prevalent at their workplace. This shows a clear indication of prevalence of harassment and abuse in the garment sector, especially in the samples chosen for this research.



GENDER GUIDANCE IN THE UNGPS

The unpacking of gender dimensions makes the case for specific attention to the rights of women and girls in the implementation of the UNGPs. The gender guidance can address the structural gender discrimination that underpins workplaces and communities globally.

The Gender Guidance⁴⁷ is structured around a common framework for states and businesses that calls for gender-responsive assessment to inform gender-transformative measures and remedies, providing a range of illustrations of how to put this into practice. The Gender Guidance is unequivocal that implementation requires responding to the "differentiated, intersectional and disproportionate adverse impacts on women's human rights", and steps "capable of bringing change to patriarchal norms and unequal power relations that underpin discrimination, GBV and gender stereotyping".

According to a report published in 2016 by Sisters for Change/Munnade⁴⁸ on sexual harassment against women garment workers in Bengaluru, Karnataka, around 14 percent of women workers reported having been raped or forced to commit a sexual act, 6 percent had experienced physical abuse and 40–50 percent had experienced humiliation and verbal abuse. The perpetrators were in most cases supervisors and contractors and enjoyed impunity as they wielded significant power over the victims. Around 61 percent of the women said that they had been silenced and prevented from reporting these incidents due to threats from the perpetrators. There also seemed to be no functioning grievance mechanism or IC in place to deal with complaints of sexual harassment in the workplace, as reported by 75 percent of the workers.

This baseline assessment looked at some aspects of awareness, experience and redressal mechanisms around GBV at workplaces. A staggering 93 percent of respondents said that neither they nor anyone they knew had experienced any sexual harassment at their workplaces (figure 27). But this data, when seen in combination with awareness and qualitative data, reveals some interesting patterns.

Overall, half of this 93 percent were unaware of what constitutes sexual harassment at the workplace (figure 28), although under each specific category of harassment and abuse, whether physical or demands or requests for sexual favours, more than 50 percent of respondents said that the behaviour was prevalent (figure 31). 86 percent of the women were unaware of any law against sexual harassment at the workplace (figure 29). Half the women had not received the required training and were unaware about the IC (figure 30). Through qualitative data (from FGDs with workers), it was discovered that most workers are not aware of the avenues where they can direct their complaints. Most women garment workers did not want to raise complaints to avoid being judged negatively by other workers, in addition to their fear of retaliation.

⁴⁷ Nora Götzmann, "New UN Gender Guidance is a reminder that real equality requires tackling discrimination", Business & Human Rights Resource Centre, 25 Jun 2019.

⁴⁸ Sisters for Change and Munnade, Eliminating Violence Against Women At Work – Making Sexual harassment laws real for Karnataka's women garment workers, June 2016.

3.6. GRIEVANCE (REDRESSAL) MECHANISMS

Access to effective remedy is a core component of the UNGPs. Pillar III, on access to remedy, reminds states to “take appropriate steps to ensure” that those affected by business-related human rights abuses within their territory and/or jurisdiction “have access to effective remedy”. The UNGPs envisage the following three types of mechanisms to provide access to effective remedy in business-related human rights abuses: state-based judicial mechanisms, state-based non-judicial grievance mechanisms, and non-state-based grievance mechanisms.

A grievance mechanism is a procedure that provides a clear and transparent framework for addressing grievances related to the recruitment and employment practices at the workplace. This typically takes the form of an internal procedure for complaints, followed by consideration and management, and response and feedback.

An important aspect of employee welfare is grievance redressal measures, which are vital to the safety and satisfaction of employees. Companies and factories often claim to have put in place structures like an IC⁴⁹ and a suggestion and complaints box, but access to these has been found to be severely limited by

language, negotiating power and transparency (as per data from qualitative research findings).

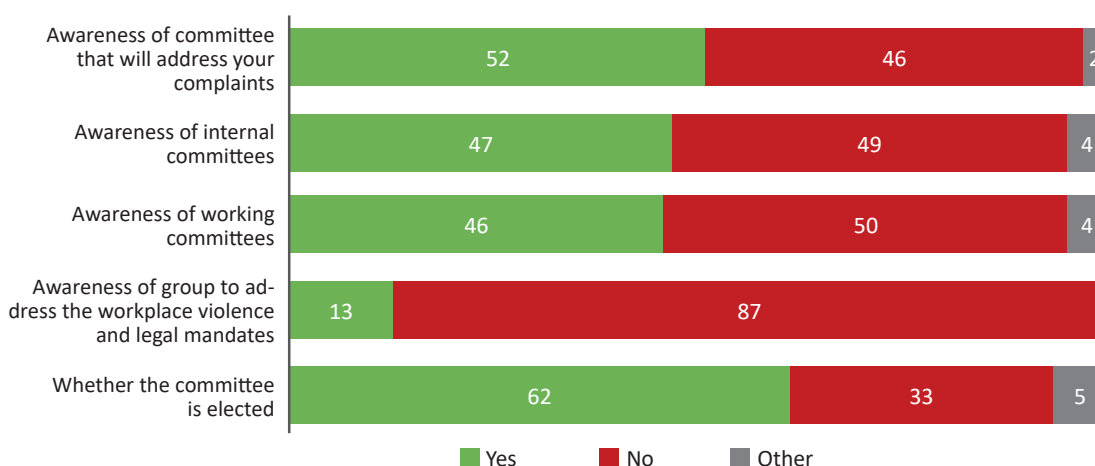
About 52 percent of the respondents were aware of committees where they could file their complaints, but only 47 percent were aware of the IC.

Looking at individual states (figure 33), Jharkhand respondents were the least aware of both the complaint committee (30 percent) and the IC (24 percent). From the data, there are two possible explanations for the higher rate of unawareness amongst Jharkhand respondents. One is the conditions of their workplaces in Tiruppur, since the majority of them were employed there (unlike respondents from Bihar and UP, who were predominantly employed in Delhi/NCR). The second reason could be the fact that these workers were considerably younger and less experienced than the respondents from Bihar and UP.

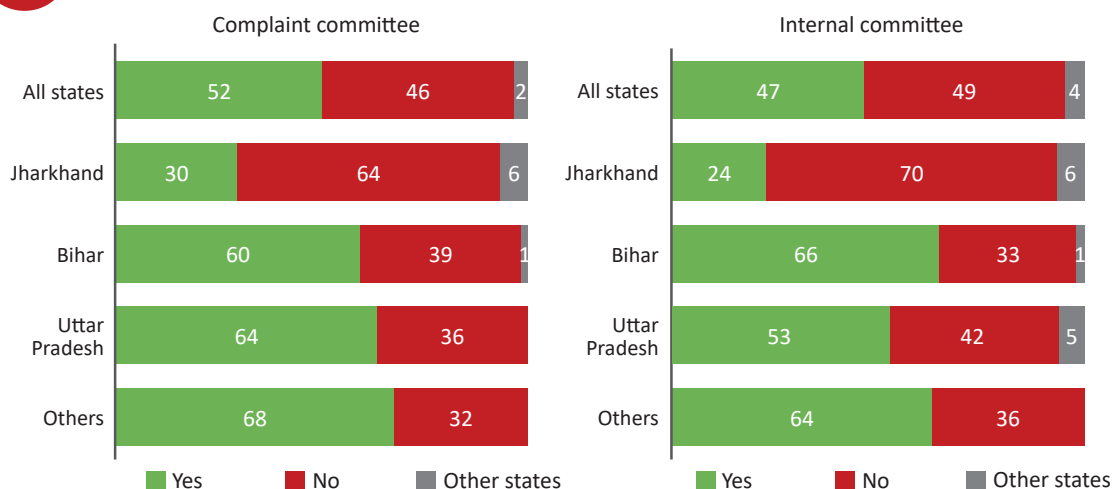
An abysmally low number of respondents were aware of ways to address workplace violence and legal issues. The workers had some awareness of the election process of the committees, which indicates that elections were conducted for the formation of these committees through a democratic process but not much attention was paid to their functioning. It seemed that factory management was also reluctant to provide proper trainings and information on the purpose of these committees.



Figure 32: Awareness of grievance redressal systems (in percent)



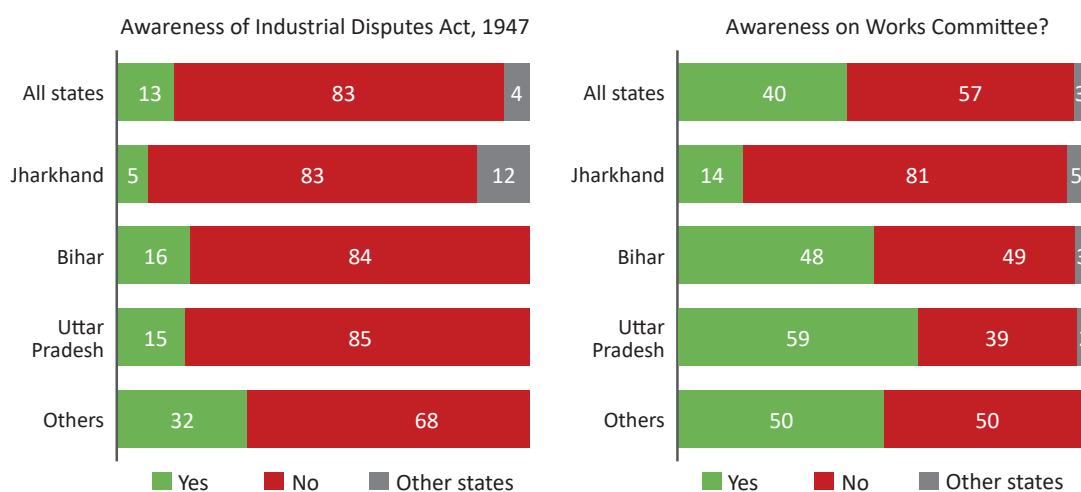
⁴⁹ It is mandatory for an IC to be formed in organizations with more than 10 employees for compliance with the PoSH Act. This committee was initially (in 2013) known as the Internal Complaints Committee but then changed to Internal Committee in 2016, for grievance redressal related to sexual harassment at the workplace. (For more information, see <https://muds.co.in/composition-and-duties-of-the-internal-complaints-committee/>.)


Figure 33: Awareness of complaints committee and IC in factory (in percent)


Overall, 46 percent of workers were not aware of the complaints committee⁵⁰ and only 47 percent of them were aware of the IC, which was to be formed in compliance with the PoSH Act of 2013. It is the responsibility of the employer/factory to provide awareness training to workers about the PoSH Act, the IC structure and its membership.

One union official in the NCR region claimed, “There is no factory that has a grievance mechanism that a worker can use. When workers reach a high level

of stress and cannot take it anymore, they speak to their supervisor. Then everything goes haywire. The supervisor could abuse, ridicule or fire the worker.” Moreover, power in terms of hierarchy and gender relations influences how complaints are dealt with. A labour contractor from Tiruppur explained that “There’s a ‘man’ problem in the garment sector, with the supervisors—they will harass the [female] workers. If a girl has a problem, she cannot tell the supervisor; if she wants leave for a day, he will question her.”


Figure 34: Awareness of the Industrial Disputes Act, 1947, and works committee (in percent)


⁵⁰ The complaints committee is formed for general HR-related complaints like attendance, wage cuts, leave, verbal abuse, etc.

Awareness of the Industrial Disputes Act,⁵¹ which was merged into the Industrial Relations Code 2020, was very low among the interviewed workers (13 percent). However, given the highly legal nature of this act, perhaps this was somewhat to be expected at the worker level.

Awareness of the works committee was noticeably higher,⁵² and this better response figure is not surprising as this is a body that is supposed to have close engagement with employees and workers. Nonetheless, only 40 percent of the workers were aware of the works committee, even though it is an important committee in the garment sector for workers to raise their grievances and access timely solutions. In addition to the lack of access to these redressal mechanisms, the fear around the consequences of using these mechanisms was also high.

Information on the channels available for raising issues was known to a fairly good number of respondents (figure 35). In multiple choice responses, women workers reported the availability and use of options to register complaints. More than 50 percent of the respondents said that complaint

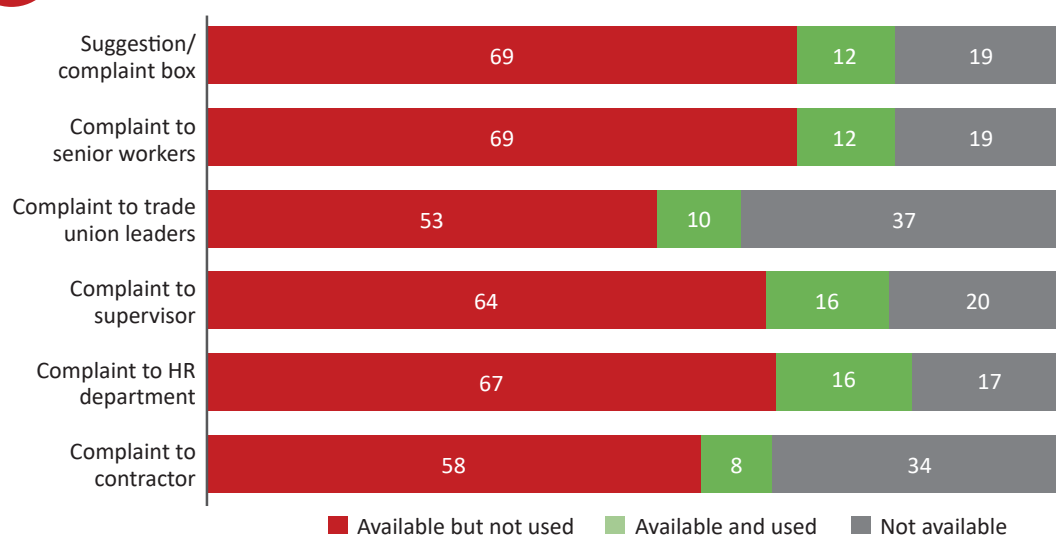


Community awareness programme on laws and access to remedies in Simdega, Jharkhand.

mechanisms were available but not used, and more than 19 percent reported unavailability of any complaint registration mechanism. 16 percent of the respondents said that they reached out to the HR department and their supervisors to register complaints. Only 12 percent of the respondents reported awareness of a complaint box as an available option for registering complaints, and the same percentage reported complaining to their seniors as an option. The relatively lower figures for raising issues with trade unions and contractors reflects the low contact or engagement that unions and contractors have with these stakeholders.



Figure 35: Available options to register complaints (in percent)



⁵¹ The Industrial Disputes Act defines "industrial dispute" as a dispute or difference between workmen and employers or between workmen and workmen, which is connected with employment or non-employment or the terms of employment or with the conditions of labour.

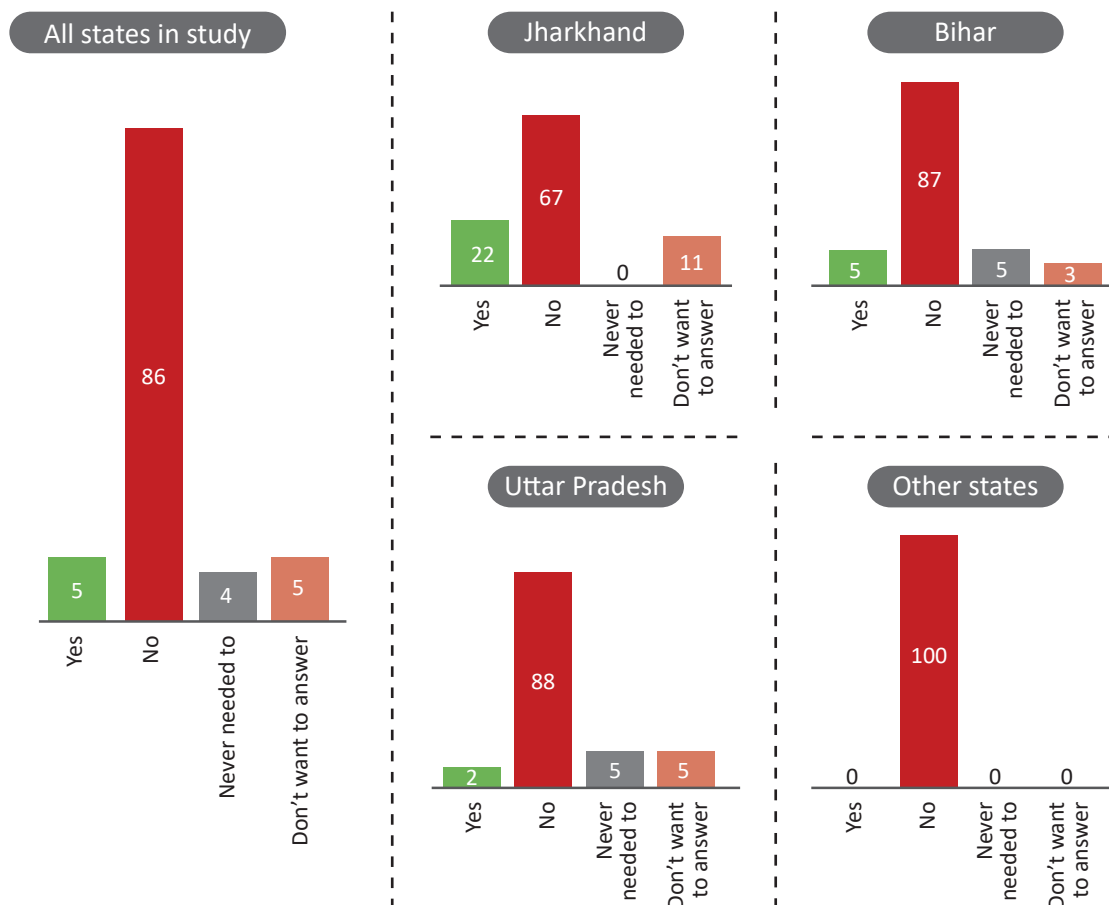
⁵² The works committee was introduced in the Industrial Disputes Act, 1947 with the aim promoting good relations between employers and employees, to comment upon matters of common interest or concern, and to try to resolve any differences of opinion in respect of such matters. Such a committee is required in any industrial establishment with 100 or more employees.

CASE 6**LACK OF
GRIEVANCE
REDRESSAL
PLATFORM**

Meena Devi (name changed), aged 23, is from Sadma, Ormanjhi, in Ranchi, Jharkhand. She is a married woman with two children. Her husband works as an ambulance helper. A textile company opened near her village, and Meena had an interview with the company HR and was selected by them. She worked there as a helper and was paid Rs. 7,000 per month in wages. However, she reported that she had been facing many problems as the amount she receives was too low to support her children's education and other basic needs. Also, she reported that when she was late, the company supervisor abused her and the gate of the company was closed, not allowing her entry. No leave was granted to her for emergencies, and she stated that she took two days' leave during a festival, for which she was expelled from the company. She had no knowledge of or access to any grievance redressal committee; the management did not provide her with any information on this. Following a period of unemployment, she managed to find a similar position in another company, with an increase in wages and a better environment. She is now happy and is also able to support her family better.



Figure 36: Complaints registered against sexual harassment at the workplace (n=662, in percent)



What was the mode used to register complaint?

Mode of Complaint	All States	Jharkhand	Bihar	Uttar Pradesh	Others
Suggestion box	13	0	33	0	0
Senior workers/co-workers	13	100	0	0	0
HR department	12	0	33	0	0
Internal committee	12	0	33	0	0
Other	50	0	0	100	0

Figure 36 captures the extent of reporting about sexual harassment by the respondents. Eighty-six percent of respondents indicated “No” in the questionnaire, meaning that they did not report such incidents. If we place this graph within the findings of figure 26, wherein a maximum of 7 percent of the same set of respondents said that they had encountered any form of sexual harassment, it can be inferred that a large majority of them neither suffered sexual harassment nor reported it. In addition, another 4 percent of respondents said that they had never needed to file a report. It is quite apparent that there is an

overlap between “No” and “Never needed to” on account of the ambiguity in the two questions.

More than 22 percent of the cases that had been reported were registered by Jharkhand women workers, mostly in Tiruppur, followed by migrants from Bihar (5 percent), whereas no cases were registered by women migrants from other states. A variety of complaint mechanisms were used to register complaints, including the suggestion/complaint box, senior workers, co-workers, the HR department, the IC, and complaining to contractors, labour rights organisations, CSOs, relatives, unions, women’s collectives and welfare officers.



Community awareness programme on laws and access to remedies in Tiruppur, Tamil Nadu.



Figure 37: Reasons for not complaining against harassment at the workplace (multiple choice, n=662, in percent)

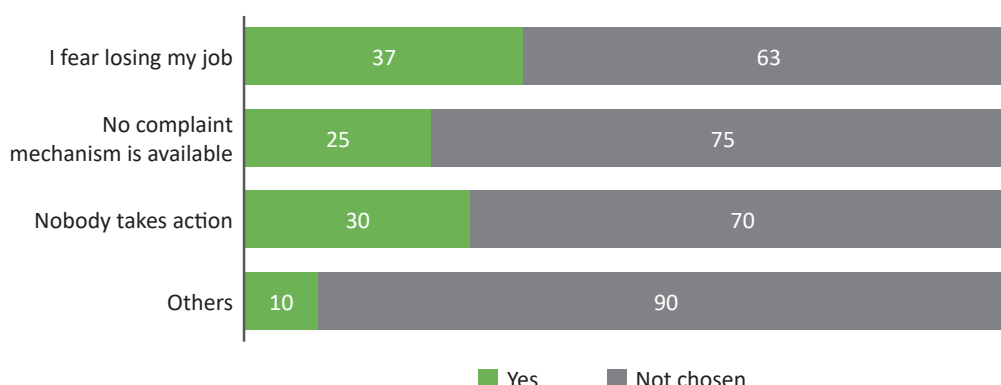


Figure 37 shows that almost 37 percent of respondents feared that registering a complaint through any grievance system which would reach the factory management could lead to them losing their jobs. In addition, 25 percent of the workers responded that no complaint mechanism was available in their factories. Further, 30 percent felt that despite filing a complaint, no action would be taken to resolve their issues. This lack of will to approach redressal committees or use the suggestion boxes is seen clearly through the response of one of the interviewed workers, who said, “If we find something not right about the work, we just leave and try to look for another job.”

During the FGDs, upon further probing, the workers revealed that the language barrier was a major challenge in voicing their complaints. Committees largely consist of locals and rarely have representatives from the migrant workers’ communities. This lack of representation makes it more challenging for migrant workers to voice their complaints. Leaving the job for another alternative is an easy option for them, rather than grappling with the hurdles they face in approaching the complaints committee.

A qualitative data analysis clearly shows that though grievance committees are established in some factories, most of them are defunct and, in some cases, migrant workers are not even aware of these committees. Representatives from NGOs like SAVE also said that grievance committees are frequently non-functional.

FGDs with workers revealed that factory management did not pay attention to the functioning of these committees and that workers were not made aware of the roles and functions of the committee members, if any. A union representative and a subject matter expert on BHR and supply chain sustainability said that the grievance redressal systems are non-functional in most factories and that in some cases they are not even established.

Organisations like Change Alliance, SAVE, the Phia Foundation, Swasti and READ have begun initiatives to establish, strengthen and make these committees functional through various training programs at the factory level. During a KII with a union representative, she said that the introduction of a safe circle approach⁵³ and linking this approach with grievance redressal bodies has helped in addressing issues of sexual harassment and other workers’ rights violations on factory floors.

⁵³ Global Labor Justice and Asia Floor Wage Alliance, End Gender Based Violence and Harassment, 2019.

4

PLACING THE FINDINGS IN THE CONTEXT OF BHR IN INDIA

A community awareness session on laws and grievance redressal mechanisms through posters at Erode, Tamil Nadu.

BHR is a vital theme of this baseline assessment study. It is pertinent to note that it was exactly 10 years ago, in June 2011, that the UNGPs came into being. Since then, the UNGPs have become the global standard for BHR.

In India, the philosophy of responsible business has been based on the principle of business being accountable to all its stakeholders. Officially, it was first embedded in the National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business (NVGs), released in 2011, the same year as the UNGPs.

In keeping with the developments on responsible business, and in alignment with the UNGPs, the NVGs were revised as the National Guidelines for Responsible Business Conduct (NGRBC) in 2019⁵⁴. The NGRBC provides a clear articulation of the expectations of businesses with regard to their responsibilities to respect human rights in consonance with the provisions of Pillar 2 of the UNGPs. In the context of this report, attention is drawn to Principles 3 and 5 of the NGRBC, dealing with the well-being of employees and human rights respectively.

In 2012, the Securities and Exchange Board of India (SEBI), the Indian stock exchange regulator, mandated the production of a yearly Business Responsibility Report (BRR) for the top 500 listed companies by market capitalisation later expanded to cover the top 1000 listed companies (April 2020).⁵⁵ SEBI requires these companies to appoint one woman director on the board, in order to enhance gender diversity.

In 2020, an expert committee⁵⁶ developed the framework for a new Business Responsibility and Sustainability Report (BRSR), a successor to the BRR. Some of the committee's key recommendations, applicable from the financial year 2023–24, are worth noting here. In the first instance, there is a recommendation to extend the BRSR mandate to unlisted companies, including small and medium enterprises (SMEs) in a phased manner, accompanied by training and capacity building. This is entirely consistent with the NGRBC commentary on the extension of its principles to value and supply chains and medium and small enterprises. In the second instance, there is a recommendation⁵⁷ to develop sector-specific

⁵⁴ India, Ministry of Corporate Affairs, National Guidelines on Responsible Business Conduct, 2019.

⁵⁵ India CSR, "SEBI Makes BRSR applicable to the top 100 listed companies", March 2021.

⁵⁶ Report of the Committee On Business Responsibility Reporting, 2020: The Committee comprised SEBI, MCA, the three professional institutes, and two eminent professionals who had worked on developing the NGRBCs.

⁵⁷ India, Ministry of Corporate Affairs, Report of the Committee on Business Responsibility Reporting, page 30–33, 2020.



Community awareness programme on laws and access to remedies in Kapashera, Delhi.

reporting supplements, in order to better understand the sustainability and human rights risks associated with any particular sector. In the context of the present baseline assessment, a case in point is the specific guidelines focused on the garment sector, which employs a vast number of women migrant workers.

An analysis of the impact of the BRR on the operations and social impact of business has not been formally studied, as the BRR is focussed on disclosure and reporting of a company's existing status on the nine principles of responsible business conduct covered in the BRR. A number of companies in the garment sector come under the ambit of the requirement to publish a BRR, but there is no distinct data accessible that is focused on garment sector companies. Although our assessment is focused on RMG factories, the situation is equally bad and perhaps worse for women working in spinning mills⁵⁸ and as home-based workers.⁵⁹

Accordingly, it may be reasonably argued that human rights are firmly in place in the institutional framework addressing responsible business conduct (RBC) in India. The Confederation of Indian Industry (CII)⁶⁰ has issued a comprehensive business and

human rights advisory and guidelines for its member companies, and an increasing number of leading companies are formulating their own strategies for managing their human rights impacts.

There are two further developments that are important to consider in situating the key findings of this study vis-à-vis the BHR agenda. The first is that the Ministry of Corporate Affairs has publicly committed itself to developing a NAP for BHR⁶¹, and the second is the emerging role of the National Human Rights Commission (NHRC), with particular reference to access to effective remedy for victims of direct or indirect human rights violations by businesses.

At the time of writing this baseline assessment report, over two dozen countries have already released NAPs,⁶² with an equal number in the process of doing so, including several in Asia region. The NAP is as much a process as an output, and the extensive consultations that took place last year during the earliest stages of the COVID-19 pandemic were encouraging, in that there was wide acceptance among stakeholders for adopting the framework of the three pillars of the UNGPs as the basis for identifying national priorities for inclusion.

⁵⁸ SOMO, "International companies linked to forced labour in Indian spinning mills", 27 May 2021. Available at <https://www.somo.nl/international-companies-linked-to-forced-labour-in-indian-spinning-mills/>.

⁵⁹ Tainted Garments, The Exploitation of Women And Girls in India's Home- Based Garment Sector by Siddharth Kara, Blum Center for Developing Economies University of California, Berkely January 2019 <https://media.business-humanrights.org/media/documents/files/documents/tainted-garments.pdf>, Accessed on 15 August 2021

⁶⁰ Confederation of Indian Industry (CII), CII Advisory on Business and Human Rights. Available at <https://www.cii.in/CII-Advisory.aspx>.

⁶¹ India, Ministry of Corporate Affairs, India's National Action Plan on Business & Human Rights, public feedback on NAP, 2020. Available at https://www.mca.gov.in/Ministry/pdf/NationalPlanBusinessHumanRight_13022019.pdf.

⁶² India, Ministry of Corporate Affairs, National Action Plan on Business and Human Rights, Zero Draft NAP, 2018. Available at https://www.mca.gov.in/Ministry/pdf/ZeroDraft_11032020.pdf.

In the context of the present study, this is precisely the opportunity for all key stakeholders to contribute inputs by advocating for the inclusion of the human rights that are most at risk of systemic violation by businesses, especially in their supply chains, and by recommending appropriate remedial actions. This includes social inclusion, the responsibilities of business to respect human rights at the workplace, and ensuring a well-functioning grievance redressal mechanism.

The baseline assessment structure has identified aspects of women migrant workers in their workplace in the garment sector, including the recruitment process, wages, compensation and social security, workplace and living conditions, GBV and safety, and access to grievance redressal mechanisms. This contributes to identifying specific human rights and their domains of impact and forms the basis for further advocacy and implementation in a BHR framework. This is supported by stakeholder consensus that the NAP should contain specific responsibilities for implementation wherever possible.

The second noteworthy development alluded to earlier is the potential role of the NHRC in furthering the BHR agenda, with a particular focus on access to remedy for victims of human rights violations by businesses. The NHRC, like other national human rights institutions across the world, has taken cognizance of the BHR agenda and in 2018 constituted a separate Core Group on Business, Environment and Human Rights, parallel to other core groups for categories of vulnerable and/or marginalised groups or persons, including women, with special reference to the prevention of sexual harassment at the workplace, violence against women such as acid attacks, stalking, voyeurism, etc. These have also been incorporated into the Indian Penal Code (IPC), 1860 as distinct offences. The National Commission for Women has been specifically set up to focus on issues affecting women and children, bonded labour, elderly persons, etc.⁶³

The NHRC as well as the state-level human rights mechanisms are well positioned to serve as useful non-judicial mechanisms to hear and redress the human rights-related complaints of workers and communities. Such approaches may assist in addressing the gaps in awareness of women

workers and the functioning of committees and other in-house structures within the business meant for redressal. As an example, the NHRC has issued a wide range of advisories to various ministries and public authorities regarding women workers' rights and safety. This baseline report can serve as part of the references in its recommendations.

This is where the current baseline assessment's approach of reaching out to all the key stakeholders of the garment sector assumes significance. It has identified a wide range of actual and potential adverse human rights impacts across the spectrum of business processes of the garment industry that have worsened due to the impacts of the COVID-19 pandemic. It is worth noting that while adjudicating upon a challenge brought before the Supreme Court by two labour unions (against the Gujarat government's notifications rolling back the provisions of the Factories Act), Justice D.Y. Chandrachud,⁶⁴ writing for the three-judge bench, noted that the provisions of the Factories Act could only be rolled back in cases of a true "public emergency", and that whilst the COVID-19 pandemic was definitely a public health crisis, it did not qualify to justify the removal of key provisions and protections of the Factories Act. Even more significantly, the Supreme Court securely placed labour laws within the ambit of the constitutionally guaranteed rights, including Article 21 (the right to life) and Article 23 (the right against forced labour), thereby elevating labour laws to the status of basic human rights. It is this type of progressive intervention by the highest court of justice in the country that should provide relief and hope in the ongoing endeavour to promote respect for all human rights by all businesses.

These developments, coupled with the growing international demand for human rights due diligence (HRDD) in global supply chains, especially for labour and workplace rights of the most vulnerable categories of persons or groups, provide some clear linkages to the context of the findings from this baseline assessment study. The methodology and scope of this assessment contribute to a better understanding of the challenges of human rights impact assessment and will be a valuable contribution to future efforts to develop generic and garment sector-specific HRDD.

⁶³ India, National Human Rights Commission, Constitution of Core Group on Business, Environment and Business Human Rights, 29 June 2018. Available at https://nhrc.nic.in/sites/default/files/Documents_core_grp_business_env_HR_29062018.pdf.

⁶⁴ Supreme Court of India, Civil Original Jurisdiction Writ Petition (Civil) No. 708 of 2020. Available at https://main.sci.gov.in/supremecourt/2020/11439/11439_2020_34_1501_24245_Judgement_01-Oct-2020.pdf.



5

RECOMMENDATIONS AND CONCLUSION

Community awareness programme on laws and access to remedies in Tiruppur, Tamil Nadu.

The current baseline assessment has been a fact-finding exercise to build greater awareness and create access to remedies for women as rights holders. The women who were part of this research were current or former workers in the garment sector, which qualified as the right platform for a number of reasons. The suppliers (factories) in the garment sector employ a large number of women migrants from highly vulnerable sections of society. The sector has a history of BHR issues and has been struggling to find a balance between business interest and rights. Finally, the sector faced the brunt of COVID-19, leading to cancellation of orders, shutdown of factories, and wide-scale layoffs.

The findings from the study come as a wake-up call to garment suppliers, brands that determine the business, and the government, which is certainly accountable for not only the right policies but also their implementation. Various studies have already shown the plight of women workers in the sector but little has been done to improve their situation. While their conditions were already deplorable, COVID-19's impact on the sector and its workers has worsened their situation. Factory workers, largely women, already struggling to make ends meet, have been the worst affected. It would not be remiss to say that these women have been let down collectively by all stakeholders.

The current project of UNDP takes a clear-eyed approach to sensitising the stakeholders towards

the problems faced by women in the garment sector. In other words, the project aims to reach out directly to the stakeholders instead of acting as yet another guidance initiative. The baseline study, therefore, explores the issue through a 360-degree approach. The project will attempt to use these baseline findings to engage closely with stakeholders to develop ownership and a sense of accountability towards a sustained, collective effort in bridging the gap between plans and concrete actions.

Key summary of the findings

The baseline study comprised a quantitative survey with 662 women migrant workers, predominantly from the states of Jharkhand, UP and Bihar (with a small percentage of migrant workers from West Bengal, Assam and Odisha) working in Tiruppur and Erode (Tamil Nadu) and in Delhi, Gurugram and Faridabad (the NCR), and a qualitative survey comprising 21 FGDs with women migrant workers and 22 KIIs with brands, factories/suppliers, CSOs, women's collectives, unions, government officials and industry federations. We also developed 10 case studies.

Listed below are the key findings obtained through the qualitative survey, using FGDs with women migrant workers and KIIs with representatives from factories, brands, unions, NGOs, government and subject matter experts.

Women migrant workers

• Recruitment practices and wages

- ◆ Lack of livelihood opportunities in origin states, lack of written contracts, low basic wages, low overtime payments, lack of benefits, lack of leave, unfair wage deductions, job losses, borrowing and debt during adversities

• Working conditions

- ◆ Long and tedious working hours, harassment, abuse, discrimination, men lacking sensitivity towards issues of women
- ◆ Lack of adequate medical facilities, toilets, drinking water, insufficient breaks, safety training

• Social protection and social security measures

- ◆ Social security and children and family
 - Unavailability of functional crèches, maternity leave, facilitation for education and school
- ◆ Dignity, freedom and mobility
 - Restrictions on movement, freedom of association and negotiation, lack of personal life

• Awareness and access to grievance redressal mechanisms

- ◆ Non-functional committees (such as worker's committee, safety committee and IC) and lack of awareness about and low confidence in grievance systems and processes to register complaints

Worker representatives

Workers and worker organisations/women's collectives expressed during these interviews that there are many issues impacting the lives of migrant workers in garment factories. Starting from recruitment practices, working conditions, non-payment of wages and excessive working hours to freedom of movement and freedom of association, workers were not entitled to their rights. Most importantly, workers were not aware of their wages and employment benefits. In addition, the pandemic exposed the vulnerabilities of workers and further worsened their situation. Women migrant workers did not receive wages for months during lockdown, and had to compromise on their health and face harassment, discrimination and a lack of access to social security and social protection, leading to a crisis. Most migrant workers have faced acute poverty, including a food and ration crisis.

Civil society organisations

CSOs reported that one of the worst-hit groups during the pandemic was garment migrant workers. Many lost their jobs, and almost all workers did not receive wages for two to three months, creating one of the worst crises that CSOs have seen in their lifetime. Many migrant workers were at the point of starvation, and only the distribution of rations and food packets by some CSOs ensured that these workers did not starve. Migrant workers faced tremendous difficulty during the lockdown in terms of food and medical help. According to the CSOs, this sector is dominated by women migrant workers, and the work environment is unconducive for them and lacks dignity. Gender-based harassment and freedom of movement of women workers are significant issues.

Factories and suppliers

Representatives from factories said that recruitment of migrant workers primarily happened directly. The factory HR department took care of recruitment and employment through written contracts that helped reduce the role of exploitative agents and contractors. In some cases, indirect recruitment through agencies took place. The pandemic left factory management with no option but to stop production for the first three months, starting from the end of March 2020. According to factory managers, there was no support from brands during this time. Some factories reported discounts demanded by brands on orders, cancellation of orders, and losing millions of rupees for delivered orders since some of their buyers have filed for bankruptcy and did not pay their dues. Wages of workers were not paid for three months, and faced with financial crisis, they requested access to their provident fund money. The number of workers in the factory reduced eventually due to restrictions on the number of people who can work under workplace COVID-19 norms and due to reduced orders from buyers. Factories ensured the usage of masks and the practice of social distancing on factory floors during the pandemic. Workers were only entitled to regular ESI and had no medical insurance for COVID-19. One of the major challenges faced by the factory management with migrant workers was proper and engaging communication with them.

Apparel brands

Brands reported that the period of the pandemic was one of the most challenging times for the entire industry. The profit margins of the apparel brands were impacted, which had a percolating effect and

impacted suppliers, and the worst hit were the workers. The already marginalised workers became more marginalised. Some brands said that there was no order cancellation, but that payments were delayed. Brands tried their best to maintain constant and continuous communication with suppliers, holding senior management meetings and regular follow-up on the COVID-19 situation. Measures like tracking wages and benefits given to workers during pandemic, COVID helpline numbers, reviewing wage discrepancy records and health and safety audits were a few of the steps taken by brands who were interviewed. Brands said that they did not receive much support from the government.

Government

The industry is declining due to the pandemic and the trend of workers migrating has decreased hugely, almost 50 percent over the course of a year during the pandemic. Recruitment primarily happens through relatives and agents, and hence these are not fair recruitment processes. There are no written contracts for women migrant workers. In some cases, gram panchayat members were engaged in creating awareness among their communities and villages. Lists of all migrant workers were collected and given to the relevant government departments, but overall, this role was not as active as it should have been. There are no active systems to address grievances of migrant workers and no measures are taken for their safe return. According to the government, CSOs played an important role in creating isolation centres and distributing dry rations. Most of the time, access to social security from the government was a tedious process for workers. CSOs helped in this process too.

Overall, it was evident during the baseline survey that the women migrant workers' understanding of their workplace rights was limited to getting paid in accordance with their oral and written contracts, and they had not been sensitised by their employers about their basic rights provided under the Constitution or the stipulated labour and factory laws. It is also hard to overlook the fact that their rights have been inadvertently undermined in part by the state as well, due to insufficient engagement of State with employers and other key stakeholders on the issue of BHR.

Garment sector brands and suppliers were both unable to develop support mechanisms for their workers or take responsibility for their well-being, even though these workers have been the backbone of their business for decades.

Fundamentally, workers have been treated as merely a factor of production—as labour—and little else by brands, buyers and factories. It is also true that there are considerable gaps in the regulatory instruments, mechanisms of interaction between regulators and businesses, and engagement of businesses with workers. The garment sector has always called attention to its claims of providing jobs to millions of women. This is indeed true. Yet, paradoxically, these women are deprived of their basic rights at their workplaces, including and not limited to concerns of personal safety and dignity.

COVID-19 has further established that the garment sector is ill-prepared to provide any meaningful support to women migrant workers during times of need. BHR assumes urgent significance in defining proper policies and measures for the fair treatment of workers with shared accountability amongst all key stakeholders, including government, manufacturers, brands and buyers.

Recommendations

The recommendations have been formulated from two perspectives: (a) a set of guidelines for key stakeholders ; and (b) an approach based on the evolving NAP landscape in India.

a) Garment sector guidelines for the well-being of workers, in particular women migrant workers

Government

1. Strengthen the capacity and reach of nodal departments, and in particular the Inspector of Factories, to enforce compliance with laws and regulations stipulated for factories while giving due consideration to government efforts to strengthen the garment sector's performance and ease of doing business.
2. State labour departments can take the lead and promote ownership amongst factories of the issues related to welfare of women migrant workers by organizing a quarterly meeting of factories, factory inspectors, representatives from all nodal departments concerned with women and factories, the state women's commission, representatives of the ILO, and brands. Minutes of meetings must be drawn up with action points, and mechanisms must be agreed upon between parties for follow-up actions.
3. Demand an annual report from factories on compliance of applicable laws and specific information related to women employees, including wages, treatment, complaints, basic facilities, health issues and harassment.

4. Work with other governments and leverage international platforms to ensure that sourcing and procurement practices of brands take into account human rights issues while engaging with factories in India and other countries, thus enabling countries with a better human rights track record to have a competitive edge.

Factories

1. Constitute and strengthen ICs ensuring inclusive representation and the presence of experts to understand and address the issues concerning women in an open, safe and unbiased environment. The outcome of the meeting must be shared openly with all staff, including brands the factory is associated with.
2. Promote active engagement with other factories, in the form of a coalition, to represent issues concerning profit margins, legal compliances, work order processing and need for investments for welfare of women workers, and make joint representation to brands and buyers.
3. Revisit productivity improvements through innovative and incentivising approaches, instead of resorting to coercion and exploitative practices, including any form of unhealthy competition between women workers.
4. Create policies and practices for zero tolerance to non-compliance with laws of the land applicable to factories and employment.
5. Ensure that the top management conducts town halls, at least once a quarter, to directly address the issues and grievances of women migrant workers.

Brands

Both Indian and multinational brands (including retailers and buyers) have adopted a number of voluntary initiatives focused on sustainability and Corporate Social Responsibility (CSR), including social audits of their factories, covering aspects of human rights applicable to workplaces. However, such audits must explicitly demand evidence of full adherence to laws applicable to the factories. It has been noticed that social audits or codes of conduct are geared towards building the image of the brands as socially conscious, but they fail to actually hold the factories accountable for their human rights practices. In addition, brands pay less attention to human rights issues and environmental impacts in comparison to profit maximisation.

Human impacts in the supply chains of the garment sector are a serious matter and have led to serious

life-endangering incidents. It is time for brands to take more concrete steps and realize that they have at least equally, if not largely, contributed to the problem by making factories and countries compete on low costs and unrealistic timelines.

1. The single biggest differentiator would be more enlightened purchasing and sourcing practices of brands, giving balanced priorities to pricing, productivity and human rights. Brands need a strong resolve in addressing this prime concern in their supply chains.
2. Brands across the board, including in India, need to come together with decisive action to allow for sufficient margins for factories to pay decent wages, be fully compliant with laws and ensure that they are not compelled to take short cuts merely for survival.
3. It follows that brands must engage with their factories to ensure that they invest in people and facilities that lead to improved practices at the workplace, from both human rights and safety perspectives. Brands must also ensure that this aspect is integrated into the social audits of their factories.
4. Make it a part of all contracts and orders that violations of human rights, unfair treatment, harassment, inadequate facilities and non-compliance with laws will lead to cancellation of orders as well as notifying the factory as non-compliant with all other brands as well.
5. Make a provision for a grievance mechanism or point of contact, directly accessible to any worker or employee, for raising social impact or human rights issues.
6. Develop a recognition platform for factories with best performance in human rights.
7. Incentivise, monetarily, companies that show positive outcomes on employee welfare, especially for the women workers.
8. Work with governments in their own base countries to develop tax and pricing structures that help in protecting the margins of brands without them having to resort to rampant undercutting of critical costs in the supply chain.

Civil society organisations

The biggest role of CSOs is to ensure that all the key stakeholders (government, buyers, industry federations and suppliers) agree on full compliance of laws by factories and ensure an evolved workplace that respects human rights and health and safety standards. The adherence

of factory management to regulations will depend on the kind of intervention by CSOs, who are in a position to take up awareness, advocacy, research and documentation.

1. Gaps in all aspects relating to the living and working conditions of migrant workers will have to be effectively highlighted by CSOs, who need to take up these issues with governments, policymakers and factory management, so that appropriate and timely measures are taken.
2. At present, there are potentially quite a few key interventions that can be considered by CSOs. These relate to the hiring of workers, strengthening complaint mechanisms, linking workers with social security benefits, nurturing women-friendly working conditions, adherence to all requirements of the Factories Act, the Contract Labour Act, etc.
3. Engage with factory management on the latest developments and initiatives taken in other countries regarding the human rights of women workers and the implementation of related policies.

b) NAP mandate

It is the State that is ultimately responsible for the protection of the rights of its citizens. Towards this end, the NAP does appear to be the right conduit to pressing the button on human rights issues. An overarching and explicit purpose of this project is also to contribute to the NAP's priorities in addressing issues of human rights violation involving businesses.

The recommendations from the findings of the baseline assessment are categorised as follows:

- Protect (Pillar 1: The state duty to protect human rights),
- Respect (Pillar 2: The corporate responsibility to respect human rights)
- Remedy (Pillar 3: The need for greater access to effective remedy)

Further, the recommendations are divided into four major themes based on the findings of the baseline assessment.

1. Recruitment practices

2. Social protection and social security measures
3. Working conditions
4. Safe migration and safe working environment for women

Pillar 1: The State duty to protect human rights (Protect)

Recruitment practices

1. Ensure that forced migration does not happen from villages and that economic conditions are not so pitiable that people are forced to abandon their lands and families for survival.
2. Migration should be voluntary and driven by aspirations rather than being distressed. Women migrant workers should be linked to alternate employment opportunities in the form of MGNREGS and other livelihood schemes in their origin states. The required work days under MGNREGA should be available with proper payment mechanisms.
3. The Inter-State Migrant Workers Act, 1979, which now comes under the Occupational Safety, Health and Working Condition Code 2020,⁶⁵ should be implemented and be functional with a special focus on addressing issues of trafficking and women's recruitment.
4. Mandate recruitment only through verified centres like Pradhan Mantri Kaushal Vikas Yojana (PMKVY) and Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDU-GKY) with standardised processes for verification of documentation (Aadhaar card, ration card) etc. There should be deployment of women officers and supervisors to verify migrant workers' recruitment process.
5. Make arrangements for travel and short-term accommodation for migrants in destination states. Transit homes with safety and security for women migrant workers can be helpful here.
6. Signing of bilateral/multilateral agreements between the responsible nodal bodies of the states is a way to mitigate the informal nature of recruitment between states.
7. Registration of women migrant workers in both source and destination states is important.

⁶⁵ The 2020 Bill provides that women will be entitled to be employed in all establishments for all types of work. It also provides that in case they are required to work in hazardous or dangerous operations, the government may require the employer to provide adequate safeguards prior to their employment.

8. Make it mandatory for third-party employers, including contractors and recruitment agents, to register with the government.
9. The state has a role in building a bridge between factories and workers, in training and skill building of workers for better equipping them to understand and meet the skills requirements of factories.
6. State and local authorities should check for forced labour indicators and freedom of movement and right to return. They should also maintain tracking of migrant workers for the initial three to six months in destination states to ensure smooth transition.

Social protection and social security measures

1. Ensure that workers get their social security benefits and that factories comply with the Factories Act (including the new Occupational Safety, Health and Working Conditions Code, 2020) and other legislations relating to employment of contract workers, etc.
2. Run awareness-raising campaigns for women migrant workers on social protection schemes.
3. Collaborate with CSOs who are in a strong position to deliver services on behalf of the stakeholders in the form of awareness, sensitisation, linking with social protection schemes and support.
4. Practice registration of migrant workers in their origin states and facilitate their safe migration with relevant documents to claim their rights.
5. Create provision for temporary ration or identity card to access public distribution system services in destination states. There must be social security coordination through bilateral/multilateral agreements between states of origin and destination for smooth functioning and accessibility of these measures. Enforcement of legislation and implementation of the same are important steps.
1. The respective state labour department needs to ensure that all factories/companies are brought under the ambit of labour laws and state social security and protection schemes, and should ensure that women workers are able to access these schemes.
2. The state should ensure that women's rights and benefits are protected and that there is no exploitation, either explicit or implicit, in factories by establishing a proper monitoring mechanism.
3. There should be proper and timely verification of all the labour codes, including the health and safety of workers, ensuring minimum wages, no harassment and abuse, addressing excessive working hours and non-payment of wages, forced labour, freedom of association and collective bargaining, ensuring access to social protection and security.
4. There should be healthy and safe living and working conditions, mandatory provision of hygienic toilet facilities, food and drinking water facilities, and proper breaks. The state must ensure that migrant workers have access to housing and accommodation and other social security schemes.
5. Seek annual reports from garment factories regarding legal norms followed for workers.



Workers working in a garment manufacturing factory at Gurugram Haryana (NCR).

6. Strengthen implementation of the prevention of sexual harassment (PoSH) at workplace Act 2013 and Internal Committees (ICs) for prevention, prohibition and redressal.

Safe migration and safe working environment for women

1. The state should take up greater engagement through policy interventions, as well as training and capacity building through its institutions to align factories with the broader national and international human rights and gender equality initiatives
2. The state must ensure that factories establish functional childcare/day care facility within the factory premises preferably nearby.
3. The state should make provision for hiring Hindi speaking teachers and approve Hindi as a subject in government schools (besides local languages of the state).
4. The state should develop standard procedures for recruitment and proper treatment of migrant workers in terms of dignity and freedom.

Pillar 2: The corporate responsibility to respect human rights (Respect)

Recruitment practices

1. Fair, ethical and legal recruitment practices should be followed. The agents/contractors and placement agencies who are recruiting on behalf of companies/factories should be verified by the company/factory management about their authenticity while recruiting women migrant workers. Company staff responsible for women migrant workers should preferably be women.
2. Standardised employment contracts should be used by companies. This should be a formal contract including details of work hours, wages, benefits, social security, grievance handling related to harassment, abuse and trafficking, and employment benefits).
3. Suppliers should monitor whether the women migrant workers have been registered under the state.
4. Suppliers must maintain open communication and strong networking with state authorities and labour departments, and if they notice illegal activities, they must report these to the state authorities.

5. Women, and in particular migrant women, are at a disproportionate risk of facing abuses in recruitment and placement, and hence creating more awareness and disseminating information through Information Education and Communication (IEC) kits is essential at both origin and destination locations.

Social protection and social security measures

1. Buyers and suppliers should ensure that women migrant workers and their families have access to basic social security guarantees in the state where they reside, as well as in their home state.
2. Collaborate with CSOs for awareness generation and linking women workers to social protections schemes.
3. Suppliers should support women workers to provide access to government schemes and programmes.

Workplace conditions

1. Factories employing contractual labour need to have more oversight of the working of contractors, so that they pay workers on time, at required rates, with all social security provisions in place.
2. Ensure payment of wages with paid leaves for COVID-positive patients and provide health insurance and strengthen ESI hospital services. Introduce free testing and vaccination in factories with either government support or the support of brands and suppliers.
3. Provide maternity benefits, including leave, payment of wages, breastfeeding breaks for working mothers, and proper, healthy and hygienic childcare crèches in the factory premises.
4. Strengthen ICs and grievance committees through strong stakeholder engagement.
5. Promote women workers to supervisory and senior roles through training and skills development.
6. Encourage women workers to engage with unions and women's collectives

Safe migration and safe working environments for women

1. Ensure that women workers are recruited only through safe and reliable migration sources and agencies.

2. Provide safe transportation facilities for women from homes to workplaces.
3. Provide proper hostel and accommodation facilities.
4. Factory management needs to focus on training and awareness programmes on PoSH guidelines every year, which should be mandatory for every employee (both women and men).
5. Posters and other information material should be readily available in the workplace to provide information on PoSH and the IC, with details of members and the process of complaints and punishment.
6. ICs should have representation from credible and strong CSOs from diverse groups and with an understanding of diverse cultures and languages, to encourage and build trust among women migrant workers.

Pillar 3: The need for greater access to effective remedy (Remedy)

Recruitment practices

1. States that employ migrant workers should establish linkages with sourcing state governments and sign agreements to ensure safe migration. There should be a provision for the women's cell and the migrant cell to work in tandem with the origin state of the migrant worker to address issues of harassment and abuse and ensure safe workplaces.

2. Inspection of recruitment violations related to GBV should be reported and addressed by state agencies.
3. State should encourage factories to adopt ethical and legal recruitment practices through a social dialogue platform.

Social protection and social security measures

1. Help desk and helpline numbers should be set up in every state for migrant workers, with information on all the relevant schemes and social security measures.
2. Social audits should be conducted by buyers on workplace security and access to benefits for health and employment-related schemes.
3. Industry associations members should establish and maintain national social protection platforms/floors comprising basic social security guarantees to ensure that all migrant workers avail those services and schemes.

Workplace conditions

1. Grievance redressal systems should be strengthened by hiring social and gender inclusion experts.
2. Social audits should be conducted by third parties on safety and working conditions in the supply chain.



Awareness programme for workers on laws, grievance redressal mechanisms and labour helpline in Ranchi garment factory, Jharkhand.

Safe migration and safe working environments for women

1. Grievance helplines should be set up at the state level with women volunteers to support women employees.
2. Suppliers should strengthen ICs as per the PoSH Act for prevention, prohibition and redressal.
3. Surveys/audits/assessments should be conducted by ICs on awareness of guidelines against sexual harassment at the workplace.
4. Industry associations need to get together and highlight areas where industry can work in close collaboration to ensure better conditions for workers, make it easier for factories to implement policies and work out joint collaborative arrangements for training and placement of workers, including providing them with decent and dignified living arrangements and access to minimum support facilities.

Conclusion

It has been 10 years since the OECD published its updated guidelines for multinational enterprises, with an entire section on human rights, and 10 years since India followed up with its own National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business around the same principles (four of the nine principles were about employees and community well-being). Although a little overdue, OECD also came out with *OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector* in May 2017, which has a wide mandate in covering issues in the supply chain. In terms of real impact on human lives, it has been eight years since the Rana Plaza building collapsed in Dhaka, Bangladesh, killing 1,132 people, only to see more incidents of a similar nature in the ensuing years. Unfortunately, neither guidelines nor past experience have made enough impact on the ground.

Well-meaning international conventions such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, as well as the ILO Core Labour Standards—freedom of association, the right to collective bargaining and the elimination

of forced labour, abolition of child labour and of discrimination in employment and occupation—have led to extensive studies, great intellectual output and progressive work. They have also led to the creation of a number of legal and well-meaning institutional frameworks. However, This is part of our overall statement in respect of subject matter.

Interestingly, the United Nations Commission on Human Rights (UNCHR) was established in 1946 (replaced by the United Nations Human Rights Council in 2006). There was even a sub-commission created in 1998 for transnational corporations, with distinct guidelines that were supposed to guide their responses. Much like the other such instruments, this too seems to have had limited impact on business practices and global supply chains.

The NAP holds great promise for making up for the lack of a unifying theme for addressing business human rights. There is an apprehension that this might become an extension of corporate social responsibility which, at least in the Indian context, has so far proved to be limited to community development initiatives of varying scales and impacts. It is important that the NAP does not become an instrument to enlarge the scope of current CSR policies of companies in India. Instead the plan will work best if the NAP stands as an instrument of significance on its own, and the State can generate actions amongst its nodal bodies to implement the plans as well as take actions against the erring parties. The enforcement of current laws and emphatic engagement with businesses on the NAP will be critical to the success of achieving its goals.

However, little will work if we do not get all key stakeholders, and in particular the brands and factories, to agree on a zero-tolerance policy towards violations of business human rights. It is ironic that most of the advanced countries, where the brands are headquartered, have had working NAPs in place for years, with little to show for them in terms of outcomes. It is important that the current project drives home the point that human rights matter to businesses and that they can directly influence decisions to give a better life to millions of workers in their supply chains.

ANNEXURE I

Awareness programme for women workers on laws and access to remedies at a garment factory in Ranchi, Jharkhand.

Target population

The quantitative survey was conducted with women migrant workers both from factories and communities who have worked/working in garment factories over last two to three years, so that they can respond accurately on their experience of workplace-related questions given in the survey tool.

Table 1: Quantitative interviews with women migrant workers

S. No.	Location	Target	Achieved
1	Jharkhand	200	228
2	UP	200	202
3	Bihar	200	210
4	Other states (West Bengal, Odisha and Assam)	0	22
	Total	600	662

Table 2: Break-up of telephonic and face-to-face surveys

Respondents	Telephonic	Face-to-face		Incomplete	Total
		Community	Factory		
Number of respondents	102	360	200	111	773

Table 3: Qualitative survey – KIIs, FGDs and case studies

S. No.	Qualitative interviews	Target	Achieved
1	KIIs	18	22
2	FGDs	18	21
3	Case studies	10	10

Table 4: Break-up of qualitative survey respondents

Interviews	Women workers				Brands	Unions	Factory	NGO/ Community leader	GO	Subject experts	Total
	NCR	TN	Jharkhand	Total							
KIIs	-	-	-	-	2	4	3	5	4	4	22
FGDs	12	6	3	21	-	-	-	-	-	-	-
Case study	3	3	4	10	-	-	-	-	-	-	-



ANNEXURE II

Awareness programme for workers on laws, grievance redressal mechanisms and labour helpline at a garment factory in Ranchi, Jharkhand.

Areas of enquiry and indicator framework for the baseline assessment

Table 5: Areas of enquiry and indicator framework

Areas of enquiry	Indicators
1. Recruitment practices and process	<ul style="list-style-type: none">• Mapping the stakeholders involved in the recruitment of labour (both formal and informal), including identifying the role of labour contractors and recruiters• Clear understanding of their roles in the identification of labourers, their recruitment, training, placement, supervision and wage collection, and wage setting mechanisms• Exploring the practices of fair employment contracts• Awareness of recruitment practices and processes with women migrant workers
2. Working conditions	<ul style="list-style-type: none">• Safety• Working hours• Washroom facilities• Water and canteen facilities• Lunch and tea breaks• Overall working environment• Training provided
3. Socio-economic and living conditions	<ul style="list-style-type: none">• Accommodation• Family• Access to safe drinking water• Toilet facilities• Direct expenses• Satisfaction levels

Areas of enquiry	Indicators
4. Wages, compensation and benefits	<ul style="list-style-type: none"> • Job profile • Skill profile • Nature of job • Wages/salary and payment terms • Overtime and bonus terms • Leave policy • Terms of employment • Other social security benefits • Wage negotiations and awareness of minimum wage
5. Grievance mechanisms	<ul style="list-style-type: none"> • Common grievances • Existing grievance mechanism and its usage • Reasons for not using grievance mechanism • Expectations from the management • Establishment, functioning and accessibility of governing bodies
6. GBV and sexual harassment	<ul style="list-style-type: none"> • Meaning and awareness • Existing harassment at the workplace • Awareness of prevention of sexual harassment legislation • Implementation of PoSH Act; any other forms of GBV and harassment • Establishment of grievance committees in factories
7. Impact of COVID-19 and relaxation of labour laws	<ul style="list-style-type: none"> • Changes in employment terms, working conditions, income/wage terms, leave policy and overtime • Impact on livelihood, health and wellbeing • Economic status prior to COVID-19 outbreak and expected change in economic status • Recovery scenario • Current state of mind – how the workers and their families are feeling, social isolation fears and threats, change in family and social relations • Capacity of women migrant workers to cope with the current crisis
8. Social protection and support	<ul style="list-style-type: none"> • Awareness and access to social protection schemes • Sufficiency of supports announced by the government in the short and medium terms
9. Policies and practices at the sector level	<ul style="list-style-type: none"> • Contribution to ethical recruitment practices and safe migration • Policy framework and policy implementation scenario • Awareness, commitment and practices of implementing human rights and workers' rights in the garment industry • Regulatory mechanisms for implementing pro-worker policies and grievance redressal mechanisms • Economic and market challenges in implementing pro-worker policies

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ABOUT CHANGE ALLIANCE

Change Alliance Private Limited (CAPL) is a socially driven organisation providing consultancy and advisory services with a mission to create social impact. Established in 2013, we have delivered more than 40 projects for private sector, corporate foundations, government and not-for-profit organisations. We have a footprint in majority of states in India through one or more of our interventions or assignments. Our portfolio comprises of programme design, management, implementation, impact evaluation, research, policy advisory, strategic consultancy, monitoring & evaluation and end-to-end management of corporate social responsibility programmes.

CAPL is a committed stakeholder in development with a vision to bring a positive change in the communities, especially the marginalised, disadvantaged and socially excluded groups, by contributing to inclusive growth and sustainable development for a better tomorrow for all.



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