



Bestseller – a good deal for all?

Lack of transparency and violations of workers' rights at two of Bestseller's suppliers in Cambodia and India

By CENTRAL Team, Pramita Ray, Cividep and Carin Leffler, Future In Our Hands





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Local data collection: CENTRAL Team and Cividep Team

Publication: 7/2017

Publisher: Framtiden i våre hender, Mariboegate 8, 0183 Oslo, Norway

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Cover image: ILO in Asia and the Pacific / CC 3.0 / Flickr

Center for Alliance of Labor & Human Rights (CENTRAL) is a Cambodian non-governmental organization funded by Bread for the World, TRAIID, UNISON and Action Aid. CENTRAL is working to empower Cambodian working people to demand transparent and accountable governance for labor and human rights through legal aid and other appropriate means. Read more at centralcambodia.org

Civil Initiatives for Development and Peace (Cividep) is an NGO based in Bangalore, which works to empower workers and communities and to ensure that businesses comply with human rights, labour rights, and environmental standards. With this objective Cividep educates workers, studies effects of corporate conduct, dialogues with various stakeholders, and advocates for policy change. Cividep’s workers’ rights initiatives have been in the garment, leather and electronics manufacturing as well as plantation sectors. Read more at cividep.org

Framtiden i våre hender (Future In Our Hands) is Norway’s largest environmental and solidarity organisation with some 25 000 members. We raise awareness on climate change, work to ensure a fair distribution of the world’s resources and support workers in their struggle for decent working conditions. Framtiden i våre hender hosts the Norwegian platform of Clean Clothes Campaign.¹ Read more at framtiden.no and framtiden.no/english/

We urge readers and others to quote and disseminate the information in this report. Please refer to CENTRAL, Cividep and Future In Our Hands as a source.

This report has been produced with the financial assistance of The Norwegian Agency for Development Cooperation (Norad). The contents of this document are the sole responsibility of Future In Our Hands and CENTRAL and can under no circumstances be regarded as reflecting the position of Norad.

¹ Clean Clothes Campaign (CCC) is an international alliance that works to improve conditions and support the empowerment of workers in the global garment industry. The Clean Clothes Campaign has national campaigns in 17 European countries, with a network of 250 organisations worldwide and an international office based in Amsterdam. Read more at cleanclothes.org



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Abbreviations

AC Arbitration Council
BFC Better Factories Cambodia
CBA Collective Bargaining Agreements
CCC Clean Clothes Campaign
CENTRAL Center for Alliance of Labor & Human Rights
FDC Fixed duration contracts («short-term contracts»)
GMAC Garment Manufacturers Association
ETI Ethical Trading Initiative
ILO International Labour Organization
IA IndustriALL Global Union
ITUC International Trade Union Confederation
MoLV Ministry of Labour and Vocational Training
NGO Non-governmental organisation
SIDA Swedish International development Agency
UDCs Unlimited duration contracts («permanent contracts»)



«Every year BESTSELLER brands have approximately 220 million products manufactured at more than 700 factories in Europe and Asia. We acknowledge that this great leverage also brings along a responsibility to ensure that our products are manufactured under the right conditions both for the workers involved in the production and for the environment.

BESTSELLER does not own any factories but we cooperate with suppliers who are willing to meet the commitments of BESTSELLER's Code of Conduct and Chemical Restrictions.
(...)

We continuously work to obtain transparency further back in our supply chain and to make positive changes wherever we have the possibility.»

From Bestseller's web page²

Sammendrag

India og Kambodsja leverer tekstiler, klær og sko til det norske, europeiske og globale markedet. Begge landene er såkalte lavkostland, og produserer billige klær og andre varer til forbrukere i land verden over. Kambodsjas tekstilindustri sysselsetter rundt 750 000 mennesker i mer enn 1000 fabrikker, og i 2015 eksporterte Kambodsjas tekstil- og skosektor varer for rundt 7 milliarder amerikanske dollar (USD). I India, et land med en befolkning på godt over en milliard mennesker, jobber rundt 40 millioner mennesker i tekstilindustrien. Landets tekstilsektor, som i dag bringer 108 milliarder USD i inntekter, forventes å øke til 22 milliarder USD frem mot 2021. Tekstilindustrien er med andre ord «big business», sysselsetter svært mange mennesker og sørger for store eksportinntekter.

Denne rapporten er et samarbeid mellom Center for Alliance of Labour and Human Rights (CENTRAL) i Kambodsja, Civil Initiatives for Development and Peace (Cividep) i India og Framtiden i våre hender i Norge. De tre organisasjonene arbeider for en rettferdig global fordeling av goder, basert på ivaretagelse av menneskerettigheter, respekt for faglige rettigheter og hensyn til lokalsamfunn.

Arbeidernes erfaringer

Rapporten bygger på dybdeintervjuer med 34 arbeidere ved to av Bestseller sine leverandører i henholdsvis Kambodsja og India. Den undersøker lønnsnivå og arbeidsforhold, blant annet kontraktsforhold, produksjonsmål, arbeidernes muligheter for ferie, sykefravær og barselpermisjon, hva

² <https://about.bestseller.com/contact/supplier>



de bruker lønna på, i hvilken grad lønna er nok til å dekke til ulike kostnader, hva arbeiderne selv mener de må tjene for å kunne leve et liv i verdighet og hva deres framtidsutsikter er.

Hemmeligholder produksjonen

Bestseller har i skrivende stund ikke åpne leverandørlistor. De følger ikke åpenhetslinjen til sine konkurrenter i nabolandene, Varner Gruppen i Norge og H&M i Sverige. Disse selskapene åpnet allerede tidlig i 2014 sine leverandørlistor for omverden, og har siden utbedret presentasjonen av dem. Det Varner Gruppen og H&M ser på som et naturlig ledd i sitt etikkarbeid, har foreløpig ikke blitt prioritert av Bestseller.

Manglende åpenhet rundt fabrikkene betyr at omverden i liten grad vet hvor produksjonen foregår, og hva slags lønn og arbeidsforhold tekstilarbeiderne har. Det betyr også at mulige kritikkverdige arbeidsforhold står i fare for ikke å komme frem i dagens lys. Hvis en fabrikk brenner, kollapse eller arbeidere blir utsatt for andre typer hendelser som fører til skade eller død, er det vanskeligere å få ansvarliggjort en kleskjede som ikke har åpne leverandørlistor, enn de som praktiserer åpenhet.

Det vi derimot vet, er at produksjonen av klær og andre varer som ender opp i Bestseller sine 10 000 butikker verden over, kommer fra rundt 730 fabrikker – og bringer klesgiganten 23 milliarder USD i årlige inntekter. Den danske eieren, Anders Holch Povlsen, har en personlig formue på rundt 6,3 milliarder USD, noe som kvalifiserer han til en plass på magasinet Forbes liste over de rikeste personene i verden. Bestseller markedsfører 11 merkevarer, blant annet «Vero Moda», «Only», «Jack and Jones», «Vila», «Name it» - alle velkjente navn for forbrukere i Skandinavia og andre land.



Cambodia's garment and footwear sector engages some 750 000 workers. Most of them are young women from rural areas. Photo: ILO, Creative commons



Bestsellers leverandør i Kambodsja - hva arbeiderne forteller

- **Lønnsnivå:** Nesten alle de som ble intervjuet får lønn basert på hvor mye de klarer å produsere, hvilket fører til et konstant press for å jobbe effektivt. Noen arbeidere forteller for eksempel at de prøver å drikke så lite vann som mulig for å ikke bruke tid på toalettbesøk. Hvis arbeiderne ikke klarer å produsere nok til å nå opp til den lovlig minstelønnen, skal fabrikkene i henhold til loven, likevel sikre at minstelønn utbetales. Dette skjer ikke nødvendigvis i praksis, siden arbeidernes lønn baseres på hvor mye de klarer å produsere, i kombinasjon med antallet dager de er på jobb. Hvis de er borte noen dager, er de i realiteten ikke garantert en minstelønn.
- **Gjennomsnittslønnen** til de 14 arbeiderne researchteamet snakket med, er på ca. 185 USD (1590 norske kroner), det vil si over minstelønnen på 153 USD (1316 norske kroner). Gjennomsnittslønnen til de arbeiderne som hadde tatt med seg lønnslipper til intervjuet, var høyere, ca. 225 USD (1935 norske kroner). Det må bemerkes at flere av disse lønningene var opptjent i perioder med en del overtidsarbeid grunnet store ordre.
- **Lønsslippene** inneholder svært mye informasjon og er presentert på en såpass komplisert måte, at arbeiderne ikke fullt ut forstår hvordan de skal leses. Selv erfarne fagforeningsfolk - som vi har vist lønsslippene til - har problemer med å forstå de ulike kategoriene og utregningene som ligger til grunn for lønnen som betales ut.
- Bruken av **produksjonsmål** - definert av ledelsen - synes ikke å være utbredt. Det hender likevel at dette forekommer, og hvis arbeiderne gjentatte ganger ikke oppnår produksjonsmålene står de i fare for ikke å få kontrakten fornyet.
- 8 av 14 arbeidere sier at de ikke har fått **kopi av sin arbeidskontrakt**. Andre sier at de ikke hadde fått mulighet for å lese igjennom kontrakten før de signerte eller ikke hadde forstått innholdet i den. En av arbeiderne kan ikke lese eller skrive.
- Bruk av **korttidskontrakter** er vanlig ved fabrikkene: Fire av arbeiderne som researchteamet intervjuet har faste kontrakter, resten går på korttidskontrakter med varighet på mellom 1-3 måneder. Korttidskontraktene er ulovlige fordi disse arbeiderne har vært ansatt i mer enn 2 år, og ifølge lovverket derfor har krav på fast ansettelse. Noen arbeidere tipper at så mye som 90 prosent av de ansatte ved fabrikkene har korttidskontrakter, noe som skaper sterk uforutsigbarhet og som effektivt regulerer arbeidernes atferd – frykten for ikke å få fornyet kontrakten, fører til at arbeiderne blir mer «samarbeidsvillige» overfor ledelsen.
- Arbeiderne får **«advarsler»** hvis de klager, kommer for seint eller ikke kan eller vil arbeide overtid i perioder med store ordre.
- Arbeidere på faste kontrakter sier at de **kan ta fri** i henhold til loven, men at det bare kan gjøres i perioder utenfor høysesongen med stor produksjon. Arbeiderne som er ansatt på korttidskontrakter får ikke fridager, med mindre de klarer å overbevise arbeidslederen sine om behovet. De blir trukket i lønn for tiden de får fri.
- Arbeidere på faste kontrakter får 90 dager **barselpermisjon** med 50 prosent lønn, noe som er i tråd med lovverket. De kvinnelige arbeiderne som er ansatt på korttidskontrakter kan ikke forvente det samme. De slutter å jobbe når de får barn - selv om kontraktstiden ikke har utløpt - men får ikke lønn i perioden fram til kontraktslutt. En del av arbeiderne som ble intervjuet hevdet også at gravide arbeidere ikke får fornyet sin arbeidskontrakt.
- Alle, unntatt en arbeider, sier at de grunnet lave lønninger, føler seg tvunget til å **jobbe overtid** for å få endene til å møtes. Når det er høysesong og stor produksjon, kan de i praksis heller ikke nekte overtidsarbeid (med unntak av om de er syke), selv ikke når dette dreier seg om nattskift eller arbeid på søndager eller helligdager. Hvis de nekter, vil de stå i fare for ikke å få fornyet arbeidskontrakten.
- Ifølge arbeiderne er det bare de **lovlige overtidstimerne** som føres på lønsslippet – overtidstimer utover det betales separat. Det betyr at det er svært vanskelig å få en oversikt over det totale antallet timer som en arbeider jobber hver måned.
- All respondentene, unntatt en, sier at de finnes en eller flere **fagforeninger** på fabrikkene, men at disse står fabrikkledelsen nær og ikke representerer arbeidernes interesser. Få av arbeiderne har tro på at de skal kunne etablere en fagforening på eget initiativ.



- Omtrent halvparten av de som ble intervjuet sier at de er **medlemmer av en fagforening**, men hevder at årsaken til dette er press fra fabrikkledelsen - og at fagforeningskontingenten blir trukket fra lønnen uansett. Dette er stikk i strid med det arbeidsloven sier, nemlig at en arbeidsgiver ikke må tvinge eller tilby goder for at en arbeider skal bli med i en fagforening eller gi opp sitt fagforeningsmedlemskap.
- Halvparten av de som ble intervjuet, forteller at de har kolleger som har blitt trakassert eller sagt opp fordi de hadde **tatt opp vanskelige forhold** ved fabrikken.
- Arbeiderne er, med få unntak, rimelig fornøyd med tilgangen til og renholdet av **toalettene** på fabrikken, med **lysforholdene** og med **luftkvaliteten** innendørs. Det finnes **drikkevann** på fabrikken, men noen av arbeiderne mener at det ikke er rent nok, så de tar med seg eget vann.
- Det ser ikke ut til at arbeidere kan få **sykemelding** i henhold til det loven krever. Avhengig av hvem som er arbeidsleder, kan de få fri 1-2 dager uten legeerklæring. Men nesten alle arbeiderne forteller at de uavhengig av en slik erklæring blir trukket i lønn uansett.
- Alle de som ble intervjuet forteller at det forekommer jevnlig **kontroller** ved fabrikken. Den dagen en kontroll skal gjennomføres blir lokalene og arbeidsstasjonene angivelig ryddet, og arbeiderne blir instruert i hvordan de skal svare hvis de blir tilsnakkert. Arbeiderne er, ifølge dem selv, redde for å miste jobben hvis de forteller om kritikkverdige forhold, og flere av dem sier at de har løyet når de har blitt spurt.
- **Gjennomsnittsinntekten til husholdningene** til de 14 arbeiderne er 389 USD (3347 NOK), mens gjennomsnittsansallet per husholdning er ca. 5 medlemmer. Det betyr at hvert familiemedlem har rundt 74 USD (636 NOK) å leve for per måned. I 8 av 14 tilfeller var tekstilarbeideren som stilte til intervju, den eneste i husholdningen som hadde en tilnærmet stabil inntekt.
- Fem av arbeiderne forteller at de har **banklån**, i gjennomsnitt 3300 USD (25814 NOK), hvilket som regel tilsvare mer enn den samlede lønnen for ett år. Fem av de andre arbeidere har lånt penger fra slektninger, naboer og venner. Noen ganger er de også nødt å gå til pengeutlånere, som låner ut penger til 20 prosent rente.
- Nesten alle arbeiderne nevner ulike **kostnader de synes er særlig vanskelige å få dekket** med nåværende lønn: utgifter til legebesøk og medisiner, utdanning for barna, tilbakebetaling av lån, samt utgifter til sosiale forpliktelser som bryllup og begravelser.
- Halvparten av respondentene mener at en lønn som kunne ha gitt dem et liv i verdighet måtte være langt høyere enn den de tjener i dag – i gjennomsnitt rundt 285 USD (2452 NOK) per måned.
- Alle arbeidere, unntatt en, gir klart uttrykk for at de **ikke er tilfreds** med forholdene på arbeidsplassen, men at de fortsetter å jobbe der likevel grunnet nærheten til hjemmet. Alle, unntatt to – en mann og en ung, ugift kvinne – har liten tro på at de kommer til å **stige i gradene** på fabrikken, og dermed få høyere lønn og status.

Bestsellers leverandør i India - hva arbeiderne forteller

- **Lønnsnivå:** De fleste arbeiderne har en lønn på mellom 6000 INR (ca. 793 NOK) og 8000 INR (ca. 1057 NOK). Noen arbeidere tjener derfor mindre enn den nasjonale minstelønn i tekstilsektoren.
- Arbeiderne er pålagt **produksjonsmål**, avhengig av hvilken type klær de produserer, men må i gjennomsnitt produsere 60-70 enheter per time. En av de kvinnelige arbeiderne sier at det er vanskelig å klare produksjonsmålet hvis hun bruker tid til å gå på toalettet, og at hvis hun ikke klarer å oppnå dette målet, vil hun bli irettesatt av arbeidsledelsen.
- 17 av 20 arbeidere sier at de har en **arbeidskontrakt**. Alle arbeiderne researchteamet intervjuet har **fast arbeid**.
- Synet på muligheten for å **ta fri med betaling**, varierer kraftig blant respondentene: omtrent halvparten fri med betaling 12-14 dager per år, slik loven pålegger, mens fire av dem mener at de ikke kan ta fri. Fire av arbeidene vet ikke hvilke rettigheter de har på området.
- Nesten alle arbeiderne sier at det ikke er mulig for dem å være **borte fra jobb grunnet sykdom**, med mindre dette blir dekket økonomisk av den offentlige sykeforsikringen, som krever en sykemelding som kan være vanskelig å få.
- Kvinnelige arbeidere kan angivelig nyte godt av 3 måneders betalt **barselpermisjon**, noe som er i tråd med lovverket.



- Det forventes at arbeiderne arbeider **overtid** når store ordre som må produseres raskt, kommer inn. De fleste respondentene sier at det ikke er mulig å nekte overtidsarbeid, men det er også noen arbeidere som sier at de selv ønsker å jobbe overtid for å tjene litt ekstra.
- Hvis en arbeider kommer 15-30 minutter **for seint til arbeid**, risikerer de å få skjenn. Hvis dette skjer tre dager på rad, trekker angivelig også ledelsen dem for en halv dagslønn.
- Ingen av arbeiderne researchteamet snakket med er, ifølge dem selv, **medlem i en fagforening**. Det er etter det vi forstår heller ingen fagforening som representerer arbeiderne ved fabrikken. En kvinnelig arbeider forteller at ledelsen gir beskjed til arbeidere at de ikke kan være fagforeningsmedlem så lange de er ansatt ved fabrikken
- På spørsmål om arbeiderne **ønsker å bli fagforeningsmedlem**, svarer noen at de vil bli det for å lære mer om sine rettigheter på arbeidsplassen. Flere svarer at de ikke ønsker å bli medlem, enten fordi de er redde for å miste jobben eller sier seg ikke ha tid til å engasjere seg.
- Arbeiderne er rimelig fornøyd med tilgangen til og renholdet av **toalettene** på fabrikken. De er også tilfreds med **lysforholdene** og med **luftkvaliteten** innendørs. Det finnes rent, filtrert **drikkevann** på fabrikken.
- Flesteparten av arbeiderne som ble intervjuet sier at det skjer jevnlige **kontroller** ved fabrikken. Kontrollene forberedes ved at arbeiderne blir beordret til å holde gulvet og arbeidsbenkene rene for støv og stoffbiter, og det blir satt ut søppelkasser ved hver arbeidsstasjon. Arbeiderne sier at de må ha på seg ID-kortet sitt, masker og hansker. De blir bedt om kun å snakke hvis de blir spurt, samt om å snakke positivt om fabrikken. De sier imidlertid at det er sjelden at de blir tilsnakket av representanter for kjøperne.
- **Inntekten til husholdningene** til de 20 arbeiderne har et stort spenn: 10,000–18,000 INR (1322 – 2380 NOK) per måned. Gjennomsnittet ligger dog mellom 15,000-17,000 INR (1983 – 2247 NOK). Summen som hvert familiemedlem har til rådighet varierer: Fattige husholdninger kan kun bruke 1875-2500 INR (248 - 330 NOK) per person, mens andre husholdninger har 4000-5000 INR (529-661 NOK) disponibelt per familiemedlem.
- Alle respondentene sier at det **vanskelig få dekket ulike kostnader** med nåværende lønn. Det som oppleves som mest tyngende er utgifter til husleie, mat og barnas utdanning, men også kostnader relatert til helse, vann, gass/elektrisitet og generell husholdning blir nevnt.
- Arbeiderne sier at de (i gjennomsnitt) trenger 18,000 INR (2382 NOK) i lønn for å kunne dekke sin og familiens behov uten altfor mange bekymringer. Det er omtrent det dobbelte av hva mesteparten av dem tjener i dag.
- Ingen av de spurte arbeiderne har tro på at de kommer å **stige i gradene** på fabrikken. En kvinnelig arbeider sa derimot at hun har blitt gått fra å være «hjelper», til å bli en som syr knapper i klær.
- Flesteparten av respondentene har ingen klar formening om **hvor lenge de ser for seg å arbeide i tekstilindustrien**. Noen sier at de vil fortsette å jobbe på en fabrikk så lenge de orker. Tre arbeidere, hvorav to menn, tipper at de kommer å arbeide i fem år til før de slutter.

I sum forteller arbeiderne om til dels svært kritikkverdige arbeidsforhold ved to av Bestseller sine leverandører i Kambodsja og India. Dette er forhold som ikke bare medfører brudd på kambodsjansk og indisk lov, men som dessuten er i strid med ILOs kjernekonvensjoner, med FNs retningslinjer for ansvarlig næringsliv, OECDs retningslinjer for flernasjonale selskaper og Bestseller sine egne retningslinjer.

Organisasjonene bak denne rapporten retter en stor takk til alle arbeidere som, til tross for risikoen med å snakke høyt om problemene ved arbeidsplassene, brukte sin tid på å dele sine erfaringer fra jobben og privatlivet og sine tanker om fremtiden.



Objectives of the study

The aim of the current research was to gain insight into the working conditions and wage levels of two suppliers to the Danish company Bestseller A/S (from now «Bestseller») – one in Cambodia and one in India.

The report aims to provide essential insights into Bestseller as a multinational; its turnover, which producer countries it sources from, its main markets, as well as some of the promises the Danish company has made regarding supply chain management. A final aim of the report is to encourage Bestseller to start acting in a transparent way regarding the company's suppliers.

Despite intense calls for the company to disclose its suppliers list, Bestseller has for long rejected to follow the recommendations and instead argued that consumers, media organisations and NGOs need put faith in the multinational doing its utmost to ensure decent working conditions in the supply chain. Thereby Bestseller has exposed itself to growing criticism and been portrayed as laggard. Other Nordic companies H&M, Varner Group, KappAhl and Lindex, as well as European brands such as C&A, adidas and Levi's have since long disclosed the name and location of their suppliers, thereby making it possible for trade unions and other organisations to gain insights into the working conditions at factories where their goods are produced.

Trade unions and labour rights NGOs are deeply concerned about working conditions and wages in garment producing countries, among them Cambodia and India. Despite long working days, wages are low and working conditions inhumane, it is alleged. Recent reports document that garment brands and their suppliers barely ensure the legal minimum standards mandated by national labour legislation. The suppression of freedom of association in many factories undermines dialogue with workers' representatives for a structured improvement in wages and working conditions. Although the concept of a living wage which ensures a decent living is increasingly considered to be a human right - even by some garment companies - this recognition in principle has hardly led to actual changes ensuring living wages in practice.

With this in mind, Future in Our Hands (FIOH), Norway, Center for Alliance of Labor & Human Rights (CENTRAL) and Civil Initiatives for Development and Peace (Cividep), all civil society organisations, were interested in finding out about the working conditions at some of Bestseller's suppliers.

Bestseller is not only a multinational brand with production and outlets in many countries. It is also a company which is marketing itself as a very ethical: Its corporate web page is packed with grandiose words on how it commits to the principles of sustainable production and respect for human rights in the supply chain and promises for the future.

Is it possible to fully trust a company which keeps its supply chain a secret, while at the same time portraying themselves as truly dedicated to ethical standards? We felt the need to challenge the apparently impossible combination of secrecy and commitment to workers' rights by talking to workers that every day produce garments that bring wealth and expansion to the Danish multinational.

With the assistance of local organisations we were able to localize two of Bestseller's suppliers. According to the multinational, all suppliers need to sign Bestseller's Code of Conduct and pass it on to their business



partners.³ The Code of Conduct holds legal requirements as well as ethical standards. But what actually characterizes the working conditions at Bestsellers' suppliers? How much do the workers earn? Do they have a permanent employment contract? Can they organize themselves and fight for improved condition at the workplace without the risk of reprisals? Do female workers get maternity leave when needed? Can workers refuse overtime? What do they think of their future?

The research provided a test on how well the suppliers performed in meeting the Bestseller's own "Sustainability Commitment", the Cambodian and Indian Labour Law and ILO's Core Conventions.

The field studies was carried out between December 2016 and February 2017 and the report was finalised end of March, 2017.

³ "BESTSELLER's Code of Conduct describes the ethics and behaviour we want to promote throughout our supply chain and must be signed by our suppliers and handed down in their supply chains."
<http://about.bestseller.com/sustainability/policies-and-guidelines>



Methodology

Cambodia

14 current or previous garment workers at the supplier in Cambodia, currently producing for Bestseller and other major brands, aged between 19 and 45, took part in the indepth interviews aimed at shedding light on the working conditions at the factory. Some of these workers had been terminated or suspended within the last six months before the interviews, allegedly due to lack of orders or the workers' refusal to change from permanent to short term contracts.

The interviews, based on 38 questions, gave the workers rich opportunities to share their experiences about the working conditions and wages at the factory, as well as their families' economic situation, (expenses and needs) their prospects and hopes for the future, expected engagement in the garment sector and possible other profession. In addition to the 14 workers, the researchers talked with three previous workers that were terminated some years ago after a conflict at the factory. These workers did not reply to the questionnaire but their input served as background information.

Interviews were conducted during February 2017 by the Center for Alliance of Labor & Human Rights (CENTRAL).

Groups of potential interviewees were identified through local networks of trade unions, non-governmental organisations and organizers. After identifying these groups, interviewees were selected at random, based on workers' acceptance to participate. The research team experienced that most workers invited to participate in the interviews were too afraid to do so as they feared repercussions from the factory management if identified. Interviews were conducted in the local language Khmer, and translated to English simultaneously. They took place during the workers' spare time, outside factory premises on two locations identified as safe by the participants and with no employer representative present. Interviewees were informed of the purpose of the interviews and how the information obtained would be used and all of them participated at their own will.

All but one of the workers who were interviewed were women, which roughly reflects the proportion of women in the Cambodian garment industry: they make up 90 to 92 percent of the industry's estimated 750,000 workers.

A relatively high proportion of the interviewees were engaged on unlimited duration contracts (UDCs) which often last no more than three months at a time. This might have affected the findings, as other workers employed on fixed duration contracts (FDCs) enjoy a more protected and thus more privileged position. However, it would have been very difficult to identify more workers with FDCs, as they were highly concerned about the possible repercussions to their employment relation in case the employer would find out about their contribution to the research.

Calculating the exact wage of workers poses some challenges as the wages are composed of a number of items; minimum wage, piece rate, overtime compensation, Sunday and holidays extras, and in some cases also seniority bonus, allowances for attendance and transport, as well as severance pay (relevant for workers with FDCs). Some of the workers were not able to provide a wage slip to the research team, and were instead asked to recall how much they earned last month. Others brought a recent wage slip. However, workers, and even local labour rights experts had difficulties in understanding the way some of these items had been calculated and documented. It must be noted that overtime beyond the legal limit of two hours per day does not seem to be recorded on the payslips, hence they are not calculated as part of the overall average salary. The amount of work and overtime are subject to big variations throughout the year.



India

Twenty garment workers engaged at one of Bestseller’s suppliers in India were interviewed. The factory is located in the Bangalore area and the research team was using the same questionnaire as in Cambodia. Respondents were aged between 20 and 43, and included 16 women and four men. This ratio is typical of the garment industry in India, in which 80 percent of the workforce is female. Researchers employed the random selection method to pick respondents from among the workers they were able to meet and who were willing to talk.

Interviews were conducted in the local language Kannada, and later translated into English. They took place after work hours outside factory premises, in workers’ homes or at other safe locations away from employers’ scrutiny. As in the case of interviews with workers in Cambodia, the interviewees in India participated of their own will. They were informed of the purpose of the interviews and how the information obtained would be used.

All interviews were conducted between December 2016 and January 2017 by Munnade, a community-based organization working with garment workers. Respondents were identified by Munnade and the Garment Labour Union (GLU), followed by random selection based on researchers’ access to workers. Lastly, Cividep summarized the findings for the report.

Payslips from some of the workers were used to ascertain and verify the wage break-up and take-home wage after deductions.

The factory names and all the data from workers has been made anonymous to protect the workers’ privacy and to prevent any repercussions upon them. The consent of all respondents was sought before interviews were conducted and the purpose of the research clearly communicated. Interviewers had undergone training on qualitative research methods and interviewing skills.

The authors of this report recognize that it is based on qualitative methodology; on interviews with a relatively small share of the overall workforce at the two factories supplying Bestseller. CENTRAL and Cividep note that the findings of the report correlate well with how they observe working conditions in the garment sector where they are active.

The currency exchange rate is as per March 2017⁴:
USD 100 = NOK 858 or EUR 94
INR 1000 = NOK 132 or EUR 14,50 or USD 15,40

⁴ <http://www.xe.com/currencyconverter/>



Transparency

Transparency – a broad term

The commonly used concept of transparency covers a wide range of actions companies may take to, step by step, disclose their policies and practices on preventing human rights violations in their supply chain and mitigating any adverse impacts of such violations. Such actions include the disclosure of social audit reports, how violations of workers' rights are remedied, which stakeholders the brand engages with throughout the supply chain (local, national and global context), the disclosure of terms and conditions of big orders to the trade unions in order to strengthen their position in wage negotiations, transparency about wage levels, grievance mechanisms, training of workers and management at the suppliers – and the disclosure of the brands' supplier lists. The following discussion on transparency will be limited to the latter.

An emerging trend

There is a growing demand for greater transparency in the supply chain of brands from trade unions, non-governmental organizations, politicians and consumers. For years, organisations supporting workers' demands for improved working conditions have put pressure on key companies to disclose the names of the factories from which they source clothes and other goods.

Repeated calls for greater transparency were first met with outright rejections. The brands used any thinkable excuses for not being transparent. The main argument was that this would harm their competitiveness through the "cooption" of their suppliers by other brands. The report "Doors slightly ajar"⁵ (2010) effectively showed that this and similar arguments were, and still are invalid. The same report revealed that companies which disclosed their suppliers instead reported positive experiences from doing so.

A mounting pressure against non-transparent brands, mainly through research, public campaigns and media outlets revealing harsh working conditions at garment factories, slowly changed the highly secretive climate. Nike, one of the forerunners, disclosed their supplier list (first tier) in 2005 and one by one other brands made their suppliers publicly accessible. In early 2013 some Nordic clothing companies, among them H&M and Varner Group lifted the veil and in the next couple of years they were followed by all the main Nordic brands. These companies recognise that reprehensible working conditions may occur, and at the same time they signal a willingness to end indecent treatment of workers.

However, as the second largest company after H&M, Bestseller has so far showed little willingness to disclose their suppliers, thereby taking a radically different position than some of its competitors.

⁵ "Med døren på gløtt. Om merkevarereselskapenes manglende åpenhet", Framtiden i våre hender, Report 2/2011: <https://www.framtiden.no/rapporter/etikk-og-naeringsliv/549-med-doren-pa-glott-om-merkevarereselskapenes-manglende-åpenhet/file.html>



Why transparency on suppliers?

There are many strong arguments why the garment industry should be transparent about where their goods are produced:

According to the framework United Nations Guiding Principles on Business and Human Rights (UNGP)⁶, companies need to know, and be able to demonstrate, that they do not contribute to violations of human rights - directly or indirectly - through their business operations.

Transparency contributes to holding brands accountable. While recognizing the contractual relationship to the suppliers the retailers, at least ideally, accept the obligation to ensure decent working conditions and wage levels for the workers in their supply chain in line with the ILO Core Conventions⁷ and UNGP.

Greater transparency increases the likelihood that brands introduce measures to avoid producing their garments at “worst-case-factories” which would otherwise smudge the brand itself. Increased transparency probably also means that companies need to “clean their own backyard” by improving working conditions and/or abandoning suppliers that cannot meet minimum requirements.

Consumer expectations: Increasing numbers of consumers can be labelled “aware & care”. They search for reliable information about the clothes they consider buying and want to make sure garments are produced under decent and humane working conditions. A company which is secretive about their suppliers will most likely earn a lower goodwill score among consumers than those brands being transparent and willing to be subjected to scrutiny.

The disclosure of supplier lists means trade unions, NGOs and journalists can test whether a brand's claims on supply chain ethics hold truth. Previous research aimed at highlighting the harsh conditions for Indian workers producing garments for H&M and the Varner Group, and electronics for Samsung and Dell, is one example of this.⁸

Greater transparency signifies that trade unions and human rights organisations in production countries gain information on which buyers are sourcing from which factories. If poor working conditions are revealed and reported, organisations supporting workers' rights may contact the buyers directly and call for improved standards and the respect of freedom of association.

Precise information on which suppliers a brand uses makes it easier hold the buyers accountable in case of health and safety disasters or other acute situations. The prime example is the collapse of Rana Plaza, a building housing five garment production units, in Bangladesh 2013. At least 1134 workers died, and thousands were injured. Had the transparency been greater at the time of the tragedy, the buyers could have been identified and held accountable far more quickly, bringing more timely compensation and justice to the injured and families of those killed in the tragedy. As a result, the very resource demanding two-year struggle to compensate for loss remedy to the injured and the deceased's families, aimed to ease the suffer and pain, could have been executed in a much shorter time.

Following the argument above, transparency means working conditions can be improved at greater speed with the support of brands. Provided brands know they source from the same factories, they are instantly put in a position to make joint calls for changes that ultimately benefit the workers. Apart from the ethical aspects of such action, the such a strategy would limit the reputational risk of being associated with inhuman treatment of workers.

⁶ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁷ http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-islamabad/documents/policy/wcms_143046.pdf

⁸ “Mind the gap. How the global brands are not doing enough to ensure a dignified life for workers in the garment and electronics industry in India”, Framtiden I våre hender and Cividep, Report 2/2015: <https://www.framtiden.no/rapporter/rapporter-2015/749-mind-the-gap-arbeidsforhold-i-kles-og-elektronikkbransjen/file.html>



Supplier lists and transparency – requirements

In order to enhance transparency and build trust in the eyes of workers, consumers, organisations, investors and public institutions a brand should meet the minimum requirements:

- Disclose the name and address of all suppliers and sub-contractors.
- Make available at the brand's web page the list of factories and other entities
- Update the list at least four times a year

A more elaborate overview should also include information on

- Ownership (single owner or parent company)
- Unit number (if relevant)
- The brand's share of production (in percentage)
- The total number of employees
- Share of women and men employed



Bestseller

Corporate structure

Bestseller is a Danish clothing company established in 1975 and fully owned by Anders Holch Povlsen. As one of the biggest garment companies in the world it has approximately 10,000 stores in more than 43 countries located in Europe, Canada, Middle East, India and China, where it has a 10 percent market share.⁹ Bestseller has a yearly revenue of approximately 23 billion USD. Aged 44, Mr Povlsen has a fortune of nearly 6,3 billion USD and is listed by Forbes as as one of the riches individuals in the world.¹⁰ Bestseller is marketing 11 brands, among them «Vero Moda», «Only», «Jack and Jones», «Vila», «Name it» - all well known in the Nordic market and elsewhere.

According to Bestseller's Sustainability Report¹¹, the multinational sources its garments and other merchandise from 31 countries. Furthermore, production is distributed amongst 831 factories which in turn are owned by 425 suppliers. However, 20 percent of the overall volume is sourced from five main suppliers, but due to lack of transparency the identity and location of these factories remain unknown. 29 percent of the production takes place in China, another 29 percent in Bangladesh, making these their most important production countries. Cambodia, Myanmar and Pakistan together make up 20 percent of the total production volume and Indian suppliers deliver 8 percent. In 2016 an astonishing 250 million items were produced for Bestseller.

Bestseller was accepted as Foundation Stage Member of Ethical Trading Initiative, an UK based "... alliance of companies, trade unions and NGOs that promotes respect for workers' rights around the globe"¹² in March 2016.

Bestseller and transparency

"The discussion of transparency is a kind of pseudo discussion. I have no problems in acknowledging that the easiest for us would be to disclose our supplier list. However, I would state that the main issue is how companies work with their suppliers. We have our own people in the field, we have external auditors, we provide reports and our suppliers are all informed of the Accord of Fire and Building Safety in Bangladesh."
Mogens Werge til Politiken, May 2016¹³

While other major Nordic clothing brands like Sweden's H&M and the Norwegian Varner Group since long have made their supplier lists public, Bestseller still does not want reveal theirs. Major efforts aiming to promote more transparency in the garment and footwear industry – fronted by national and global trade unions, NGOs like Future In Our Hands and the Clean Clothes Campaign network – have so far not made Bestseller change its policy to keep its suppliers a secret.

What reasons does Bestseller give for not disclosing their suppliers? The main argument has been that revealing the suppliers would weaken its market position and might lead to other brands "snatching" its suppliers and fabrics. This is a classic excuse used by some brands aiming to avoid disclosure.

⁹ <http://www.aftenposten.no/okonomi/Klesbaronene-90908b.html>

¹⁰ <https://www.forbes.com/billionaires/list/2/#version:static>

¹¹ <http://ipaper.bestseller.com/CorporateCommunication/CorporateSustainability/sustainability-report-20162017/?Page=1>

¹² <http://www.ethicaltrade.org/>

¹³ <https://www.danwatch.dk/nyhed/dansk-modegigant-om-fabrikker-i-bangladesh-du-kan-helt-sikkert-finde-ting-at-kritisere/>



However, having followed the debate closely for more than a decade the authors of this report cannot find one single example of a brand that has disclosed its suppliers and then later stated that the move had hurt the business. On the contrary, some brands say greater transparency has brought advantages, like for instance the Norwegian outdoor brand Stormberg¹⁴ and H&M¹⁵.

Besides the alleged fear of weakened competitiveness, Bestseller seems reluctant to the very idea that supply chain transparency is important with regards to ensuring workers’ rights or safety. Instead, the Danish multinational wants customers to trust its garments are produced under ethical and socially sustainable conditions, as expressed by Morgens Werge, Director of CSR in Bestseller to Danwatch in May 2016:

“What is most important, is that people trust us and that we actually do what we can to solve problems and do it in the way we find most appropriate, in regards to business but of course also in terms of risk management. People should trust that we are constantly checking the problems.”¹⁶

However, an inspection at one of Bestsellers *state of the art* factories in 2014, Auko-TEX in Bangladesh, one of the very few factories that Bestseller has acknowledged its contractual relationship to, found serious violations on workers’ safety. Even though the factory management did fix the detected problems within reasonable time, this does not change the fact that the issues were found in the first place. A legitimate concern is therefore what conditions one can expect to find in factories which are *not* disclosed or defined as *state of the art*. It is also worth mentioning that the Danish Minister of Development and Trade visited Auko-TEX in 2015. “Impressing”, he stated several times during his visit to the factory. Not until later did it become clear that the Minister was not informed about the safety issues detected prior to the visit.

However, towards the end of last year Bestseller signaled a slightly more open attitude to the issue of transparency, although its representative would not give any promise of a full supplier list disclosure. The CSR Director of Bestseller, Mogens Werge, told the Danish newspaper Politiken in November 2016:

“At some moment, we might have to ask ourselves if the battle is lost already.”¹⁷

Werge also claimed that some NGOs has the tendency to simplify the issue of disclosed supplier lists saying that it is “...far more complicated”:

“I do not see transparency as a goal in itself, as do Clean Clothes Campaign and Mellefolkeligt Samvirke¹⁸. In my opinion, transparency is a way of achieving for instance better working conditions for garment workers. However, it is just one way, among many.”

As per March 2017, when this report was finalized, Bestseller had not given any promises in public that the company’s supplier lists would be disclosed.

¹⁴ <http://www.minmote.no/#!/artikkel/23438061/norgesfavoritt-nekter-aa-si-hvor-klaerne-blir-laget>

¹⁵ See e.g. <http://politiken.dk/udland/art5717960/Danmarks-st%C3%B8rste-t%C3%B8jfirma-overvejer-at-b%C3%B8je-sig-for-h%C3%A5rdt-pres-fra-ngorsquoer>

¹⁶ <https://www.danwatch.dk/nyhed/dansk-modegigant-om-fabrikker-i-bangladesh-du-kan-helt-sikkert-finde-ting-at-kritisere/>

¹⁷ <http://politiken.dk/udland/art5717960/Danmarks-st%C3%B8rste-t%C3%B8jfirma-overvejer-at-b%C3%B8je-sig-for-h%C3%A5rdt-pres-fra-ngorsquoer>

¹⁸ Mellefolkeligt Samvirke is a Danish NGO representing Clean Cothes Campaign and ActionAid in the country, read more: <https://www.ms.dk/en/who-we-are>



Cambodia

The context

Cambodia’s garment and footwear sector engages some 750 000 workers in more than 1000 factories.¹⁹ Around 90 percent of the workers are women, many of them young migrants from rural areas.²⁰ The sector has grown considerably over the past two decades, starting from 80 million USD in exports in 1996 to become a 6.8 billion USD export industry in 2015, a recent publication from International Labour Organization²¹ shows. And the industry is still on the rise: In 2016, the country’s exports of garment and footwear (of which garments currently make up roughly 80 per cent of the total exports) rose 18 percent.²²

As wages and operation costs surge in China, many manufacturers are looking to relocate or diversify their labour-intensive production to areas where labour costs are lower, including Cambodia, which now ranks ninth among the world’s leading clothing suppliers. The EU is the largest market for Cambodian garment exports, accounting for about 40 percent of the total, followed by the US (30%), Canada (9%) and Japan (4%). Large multinational brands that buy from Cambodia include adidas, Gap, Marks & Spencer, H&M, Bestseller and Uniqlo.

An abundant supply of cheap labour has led to increased production and exports of garment from Cambodia and contributed to employment and economic growth in the last decade. According to the World Bank, Cambodia and Vietnam have become increasingly important in the global apparel market because Chinese investors have been attracted by lower wages and the proximity to China.²³

Cambodia enjoy trade benefits from all Generalised System of Preferences (GSP) schemes maintained by developed countries. Classified as a least developed country (LDC), Cambodia is entitled to additional preferences, under which more of its products are subject to low-to-nil import tariffs. A majority of exports (approximately 90 percent) from Cambodia were shipped under GSP and MFN schemes, which allow many Cambodian products to enter markets with reduced tariffs or duty-free.²⁴

According to the Hong Kong Trade Development Council²⁵ the majority of the Cambodian garment and footwear factories are located in Phnom Penh and the surrounding provinces including Kandal, Kampong Speu, Kampong Cham, Kampong Chhnang, Kampot and Sihanoukville.

Garment workers’ wages

A minimum wage standard was first established in Cambodia in 1997, and the Ministry of Labour and Vocational Training has the authority to set determine the minimum wage – which per January 1st 2017 is 153 USD/month. Workers are also entitled to 7 USD/month for transport or housing allowances. In

¹⁹ http://news.xinhuanet.com/english/2016-02/01/c_135063970.htm

²⁰ “Work Faster or Get Out. Labor Rights Abuses in Cambodia’s Garment Industry”. Human Rights Watch, 2015.

<https://www.hrw.org/report/2015/03/11/work-faster-or-get-out/labor-rights-abuses-cambodiasgarment-industry>.

²¹ http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_541288.pdf

²² <http://news.apparelresources.com/trade-data-news/cambodias-exports-up-18-per-cent/>

²³ <https://openknowledge.worldbank.org/bitstream/handle/10986/23961/9781464808135.pdf?sequence=2&isAllowed=y>

²⁴ <http://news.apparelresources.com/trade-data-news/cambodias-exports-up-18-per-cent/>

²⁵ <http://hkmb.hktdc.com/en/1X0A9EN7/hktdc-research/Cambodia-Manufacturing-Relocation-Opportunities-1>



addition, workers can earn an attendance bonus of 10 USD if they complete a full work month of six days per week, eight hours per day without absence. However, the attendance bonus is not guaranteed and often deducted at various rates when a worker is absent or late without permission, or sick without a doctor's certificate which is expensive to obtain. This is still far below the target of around 200 USD/month total demanded during the initial phases in the wage negotiations in 2016 – a demand backed by unions and human rights organisations at an international level.

Workers have gained some hard-fought improvements over the past few years, however. In 2010 the minimum wage was 50 USD/month and it has increased every year since. However, prices on basic necessities is increasing at the same speed, nullifying a rise in the purchasing power. As well, the annual negotiations for higher wages has come at a high cost, as there has been strong resistance from both employers and the Government.



Wage demonstrations in December 2013 and January 2014, where hundreds of thousands of workers took to the streets, were met with widespread violence and arrests – five people were killed, one young man disappeared, 39 were injured and 23 detained.

Police blocks garment workers' wage protests in Phnom Penh, Cambodia 2013.
Photo: Luc Forsyth, Creative commons

Because of low wages, workers look for other opportunities to earn more seeking to cover their most basic expenses every month. The attendance bonus creates a constant pressure on them to punch the clock every day, affecting their health, social needs and the welfare of their families. Low wages are also the main reason why workers accept to do overtime – even when they are sick. The overtime meal coverage is 0.50 USD per day, but in reality it is very hard to find nutritious food for this scarce amount, meaning workers also eat poorly while doing long hours.

Unions and organised struggle

It has been estimated that some 60 percent of the garment industry workforce is organised, and there are about 78 union federations representing workers in the garment industry. Although these numbers might seem high, it is important to note that many of the unions are inactive and that the ruling party actively



seeks to control the major unions to support their agenda. There are several crucial hurdles to safely and efficiently union activities – the most important being the following:

- Retaliation against trade union leaders, members and potential members
- Factory level unions lack leverage to effectively negotiate for Collective Bargaining Agreements
- High level of foreign ownership of factories and widespread sub-contracting dissolving responsibility
- Unions loyal to political parties and to factory management undermine independent trade unions
- Bribes for auditors and corruption on officials concealing bad working conditions and low wage levels
- The widespread use of fixed-duration contracts (FDCs)
- The Trade Union Law

The Trade Union Law

In April 2016, the Cambodian Parliament passed a new Trade Union Law, which regulates how unions are formed, operated and dissolved. The law is controversial, and there are already signs that it is making it even harder to fight for better conditions. ITUC, the International Trade Union Confederation, labelled the draft law “Anti-Union,” claiming that the law “would among other things impose new limits on the right to strike, facilitate government intervention in internal union affairs and permit third parties to seek the dissolution of trade unions - while at the same time imposing only miniscule penalties on employers for unfair labour practices.²⁶” Several unions, both at the national and international level, tried to influence the law during the drafting process, but their efforts produced only minor changes.

Fixed-Duration Contracts

The use of fixed-duration contracts (FDCs, also called short-term contracts) has been on the rise in Cambodia’s garment sector for some years, and it is estimated that some 80 percent of the country’s exporting garment factories employ most of their work force on FDCs that often lasts no more than three months.²⁷ Workers employed on FDCs face several challenges: Many of them abstain from trade union membership and union activities in fear of not having their contracts renewed. They find it hard to oppose illegal or unsustainable work practices, such as excessive overtime, sexual harassment, high production targets and deduction from wages as a disciplinary measure. Workers also run the risk of losing seniority benefits as such extras are exclusively given to workers with more than one year of employment. Many female workers on FDCs experience loss of maternity leave benefits when the employer chooses not to renew the contract prior to delivery, only to rehire the worker once the child is born. In the absence of permanent employment workers find it hard to make plans beyond the contract period, leaving them in a highly vulnerable situation.

Faintings

In recent years, awareness about the phenomenon of faintings in the Cambodian garment industry has been on the rise. In 2010, Cambodian authorities started publishing statistics of fainting spells, and public

²⁶ <http://www.ituc-csi.org/cambodia-ituc-deplores-new-anti>

²⁷ “A Short-term solution”, FairAction, 2015. http://fairaction.se/wp-content/uploads/2015/09/A-Short-Term-Solution_Fair-Action.pdf



records show that a total number of 7795 workers fainted at work between 2010 and 2015²⁸. Given the above mentioned challenges, there are good reasons for believing that this number is far from exaggerated, and it compounds a picture of a sector characterised by long hours and extensive work pressure due to high production targets, high temperatures and poor ventilation at the workplace, and a lack of sufficient nutrition.

«We continuously work to obtain transparency further back in our supply chain and to make positive changes wherever we have the possibility.»

From Bestseller's web page on Supply Chain Management²⁹

Research on Bestseller's Cambodian supplier

Workers' profile

Respondents were evenly spread between the age of 19 and 45. All but one were female. Half of the interviewees were married, the rest either divorced or unmarried. Almost all lived close to where the factory is located.

Education levels among the current (14) interviewees were low. One worker said she received no formal education at all, seven had only passed 6th or 7th grade, three had passed 9th grade and only two the 10th or 11th standard (high school) examinations.

Most workers joined the factory in 2013, which according to the law gives them the right to a unlimited duration (permanent) contract.

Most of the workers were sewing garment or doing terminations (labels and buttons), while the others were working in the laundry or ironing section or doing quality checks.

Conditions of employment

14 workers were interviewed about the recent or current working conditions at the factory. Some of these workers had been terminated or temporary suspended within the last few months before the interviews, allegedly due to lack of orders or the worker's refusal to change from permanent to short term contracts.

In addition, the researchers interviewed three ex-workers whose contracts were terminated some years ago after a conflict at the factory.

Contracts: Of the 13 current workers, four have unlimited duration contracts (UDCs) and nine were continuously working on fixed duration contracts (FDCs) lasting between one and three months: five had 3-month contracts, three had 2-month contracts and one was hired on 1-month contract. However, the proportion of FDCs workers at the factory is probably much higher than this: Some of the workers interviewed by the research team estimated that only 10 percent of the workers have permanent

²⁸ CENTRAL, based on public figures. For 2014: <http://www.fashiontimes.com/articles/22962/20150817/400-cambodian-garment-workers-experienceunexplained-mass-faintings-one-week.htm>

For 2015: <http://www.khmertimeskh.com/news/19766/fainting-tollnears-2-000-in-2015/>

²⁹ <http://about.bestseller.com/sustainability/sustainability-in-bestseller>



employment. The workers with UDCs were recruited in 2013, and according to them, all workers recruited after that have been given FDCs that are renewed only if the management is content with their job performance.

Based on Article 73 of the Labour Law (1997), workers with two years’ seniority have the right to permanent employment.³⁰ Looking at the length of the employment relationship of workers interviewed, all the short-term contracts appear illegal.

Several workers said the company had tried to move all its staff over to FDCs. One of the workers had had a permanent contract, but was dismissed. According to her, the company offered to take her back if she accepted to sign a FDC, telling her they wanted to change all permanent contracts into FDCs. Another interviewee recalled a similar case some years ago: A colleague of her also used to have a permanent contract, but was dismissed together with some other workers, allegedly because of “lack of work”.³¹ Later this female worker was offered to get her job back on the condition of accepting a FDC.

It seems as if FDC workers were very afraid that the factory management would find out about them talking to the research team. This could be the reason why the proportion of workers with permanent contracts seemed to be relatively higher among the interviewees than among employees in general.

Eight out of the 14 workers interviewed said they had never been given a copy of their contract, and several others said they had not been able to read or understand the contents of their contracts upon signing.

They workers said warnings are given for late-coming, for refusing overtime and for complaints over working conditions.



Photo: ILO, Creative commons

Production targets and piece rate:

Only a few of the workers say they are given production targets. Still, in cases where this happens not completing the amount of pieces could mean that their FDC will not be renewed.

Only three out of 14 workers interviewed told the research team they had a reasonably stable monthly salary, albeit low. For the rest, wages are calculated on the basis of a piece rate, which means their wages depend on how much they can produce. This creates a constant

³⁰ <http://www.ilo.org/dyn/travail/docs/701/Labour%20Law.pdf>

³¹ According to Labour Law, dismissal of permanent workers due to economic reasons must be undertaken through a process of consultation with the workers’ representatives and the Labour Inspection. To the research team it was not clear if the required process had been adhered to in this case.



pressure to work intensively and do overtime. Some workers said they try to avoid drinking water in order to limit their visits to the bathroom.

The factory is supposed to top up the piece rate in cases where workers would otherwise not reach the legal minimum wage level³², but according to some of the interviewees, this would in practice only happen for a limited period of time. Workers who cannot produce enough would run the risk of not having their contracts renewed. Some workers also complained about a lowering of piece rates to compensate for rises in the national minimum wage.

Annual leave: The three workers hired on permanent contracts said they have 19 days of annual leave per year, which is in line with the requirements of the Labour Law. However, workers say that the annual leave must be timed to periods of low production.

The majority of workers interviewed, who work on FDCs, allegedly do not get annual leave. However, some of them say they can negotiate to get a few days off, but their wages are then deducted accordingly. They also said that getting approved leave depends on the supervisor.

Public holidays: Several workers also complained that company sometimes moves public holidays without consulting workers if it is a busy period.

Maternity leave: 90 days of maternity leave is granted at 50 percent pay, as required by the law. However, workers said this only applies to the minority of workers that have UDCs. The workers on FDCs might get maternity leave, however unpaid, until the end of contract. In practice this simply means that they stop working, and lose their salary before the end of their contract period. Several workers also claim that pregnant workers will not have their FDCs renewed.

According to one of the workers, a colleague was forced to work overtime in laundry where she was exposed to unhealthy chemicals, against her doctor's recommendations. She had two miscarriages. The interviewee could not say for sure if there was any direct connection between the miscarriages and the exposure to chemicals.

Working hours

In the Cambodian garment sector, standard working time means that workers do 6 days per week, 8 hours each day. A full month means 26 days, or 208 hours.

Overtime: Overtime, i.e. work beyond normal working hours is, according to the Cambodian Labour Law, only allowed for exception and urgent work, and should be limited to 2 hours per day. The Law states that all overtime must be voluntary and that the employer is not allowed to penalize employees who choose not to do overtime.

³² The International Labour Organization and Better Factories Cambodia Guide, revised 2014: The minimum wage for piece-rate employees in the garment, textile and footwear industries, working regular hours (48 hours per week), is USD 100 per month. If their pay based on piece rates is less than this, the employer must still pay USD 100 per month. If their pay based on piece rates is more than USD 100, the employer must pay the higher amount. *NOTE that the USD 100 mentioned is currently USD 153.*



All but one worker interviewed say they are in practice forced to work overtime: either because it cannot be refused without consequences, or because they need to do overtime to be able to earn above the minimum wage. The possibility to refuse overtime depends on the supervisor, as some of them allow this occasionally, particularly if the worker is sick or has an emergency. However, one worker told she was forced to work overtime when pregnant. Several others said a warning (or non-renewal of contract) is given if workers refuse overtime several times. In addition, workers say it is not possible to refuse legal overtime (2 hours per day) when required by the management. As well, most workers say that even night shifts, or work on Sundays and holidays, often required by the employer in the high season, cannot be refused.

Allegedly, only the legal overtime is included in the pay slip. Night shifts are paid between USD 16-20 (depending on piece rate), and the worker get the following day off, with 50 percent pay.

Arriving late to work: Workers told that even if they are only 1-2 minutes late for work, or do this repeatedly, they get a warning that can imply non-renewal of contract. The clock of the punching machine is not accurate, which is why some workers said they must arrive 15 minutes before the shift starts. This extra time is not accounted for, and hence not compensated.

Freedom of association

Unions: All workers say there are no independent unions in the factory and that workers who tried to organize a union of their own choice were dismissed.

13 out of 14 workers say there is one or several unions in the factory. Only one of them was able to mention a union by name. 9 of the 14 interviewees claim that the union(s) are yellow unions (also termed by them as “factory union”, “company union” and “ghost union”) or that “the union and the management are the same”. Another three workers felt that the union is “...not representing workers”.

All but one worker were unable to identify any benefits brought on by the union(s). The others said: “nothing”, “no benefit”, “no”, “never saw unions working for workers” and “not happy with them”. The single worker said: “Yes, when piece rate increases”.

Very few workers interviewed thought it would be possible to organize an independent union in the factory. One of the workers interviewed mentioned that a colleague of hers tried to set up a union at the factory but did not succeed.

Membership: Seven workers interviewed were aware of their union membership. However, all but one of them reported they joined the union because union fees are deducted from their salary regardless, or because the team leader had given their name automatically. This is an illegal practice as, according to the labour law, employers may not force or offer incentives for an employee to be a member of a union or to give up their membership.

In addition, it became clear through the interviews that a few workers did not know that union fees are deducted from the salary even though it is visible on their wage slip. One worker said she had not raised this issue with management, because she considers the union and management to be “the same”. This is an illegal practice based on Articles 129 and 281 of the Labor Law, which states that employers are forbidden to deduct union dues from the wage of their workers and to pay the dues for them unless the worker has given a written authorization.



The workers were asked: “Would you like to be a union member? Why or why not?” Only the workers who were *not* members of a trade union did reply to this question. These workers said they would like to become union members, but only on certain conditions: “I would, but only if it is a real union that represents workers. If I started to work at another factory, I would seek to start a union there”. Other workers said that they would like to join a union if it “...would work for worker’s interests” and “... if it is a good union I’d become a member because there are many violations”.

Eight of the interviewees claimed that either they or their former or current colleagues had been harassed, threatened or dismissed due to their trade union involvement or for rising concerns regarding health and security issues at the factory. One worker claimed that on several occasions, workers who tried to form a union were summoned by superiors at the factory who offered them money to refrain from such activity.

Three of the workers the research team spoke with said they had been dismissed in connection to previous workers’ protests against bad working conditions.

Workplace environment

Workers said they are free to use the toilet without restriction, but a few mentioned a supervisor going after workers who stay more than 5 minutes at the bathroom. Some mentioned they limit the amount of water they drink during the day to avoid going to the toilet because of the piece rate and need to earn as much as possible.

Light & air conditions seem to vary a lot depending on the location of the worker. The factory consists of several departments, and cooling system is said to be efficient only in some parts.

Access to safe drinking water seems to vary. Some workers said they have access to drinking water regularly, provided by the factory, but they complain that the water is not clean. Some of the workers instead bring their own water.

All workers reported having observed faintings within the last year. However, they said that such incidents are maybe limited to a couple a month.

Health

Sick leave: Allegedly, sick leave is not provided in accordance with the law³³ and the possibility for absence during sickness or other emergencies allegedly depends on the supervisor. Some might accept 1-2 days without providing a medical certificate. All but two workers reported that daily wage is lost during sick leave, even when a medical certificate is provided. This means there is a pressure to return to work too early, as workers cannot afford losing wages.

³³The Labour Law does not require paid sick leave, however, following the policy of the Ministry in charge of Labour, employers should consider providing paid sick leave as follows: 100 percent of wages during the first month of sick leave, 60 percent of wages during the second and third months and unpaid leave from the fourth until the sixth month. The Arbitration Council has found that where employees are certified sick by an authorized and legally recognized doctor then the employer must pay the USD 10 attendance bonus in proportion to the number of days worked that month.



Based on Arbitration Council jurisprudence³⁴ the employer must maintain wages for workers who take sick leave with doctor certificates.

Audits, Monitoring, Code of Conduct

All workers reported of audits of the factory, by both Cambodians and foreigners. One mentioned visits by the ILO. Most workers told that it is only Cambodian visitors (that some workers identified as representatives from the Ministry of Labour) talk to workers. Allegedly, foreigners do not address the workers but only come “to look”, which supports the workers’ impression they only come for quality audits.

All workers reported how everything is prepared and cleaned before the auditors arrive. They all reported they received instructions from supervisors and management prior to audits, and are told not to report any grievances. Three workers had been consulted by auditors and all workers interviewed knew of other workers being consulted by auditors inside the factory, but most mentioned that this relates only to Cambodian auditors, probably from the Labour Inspection. Most workers believed no one would dare to tell the truth about working conditions to auditors, but would follow the management’s instructions, because of fear of losing their job. Several of the interviewees told examples of lying to auditors.

Almost all workers had no knowledge of any Codes of Conduct posted inside the factory. Only one worker said her friend told her «... there is a Code of conduct», but unable to read she did not know what the posted document was about. Another worker said “Yes, but have not read it”.

Wages, Expenses, Debts and Quality of life

Wages: As mentioned above, a standard working time means that workers do 6 days per week, 8 hours each day. A full month means 26 days, or 208 hours.

Average total monthly wages (for the last months worked) for the 14 interviewed workers was USD 185. Six workers provided recent pay slips to the research team, and the average total wage of these six slips was of USD 224. This amount is considerably higher, because some of the payslips were from busier months when workers were doing more overtime. If overtime payment and end-of contract-severance (paid to FDC workers at the end of each contract) is excluded, the average total monthly wages of these six pay slips was of USD 196.

Based on the interviews, it is clear that many workers are not fully aware of how their wages are calculated. Even local experts on labour issues and the Labour Law faced trouble to figure out the different categories and calculations used in the pay slips.

Minimum wage: The national minimum wage as of the 1st of January 2017 is USD 153, for a standard working month of 26 days. In addition to this (or of the pay per pieces produced, in the case of workers with piece rate), the total wages include compensation for possible overtime and work on public holidays/Sundays and several bonuses/allowances that need to be added according to the law (for seniority, attendance and transportation) as well as the end-of the contract severance.

Based on the payslips provided by workers, salaries without these additional components varied between USD 104 and USD 195. This variation is mainly due to two factors: variation in amount of pieces produced

³⁴ Case no. 196/15 - Long Lead (Cambodia) Co., Ltd.



and days worked. Some workers are able to earn higher salaries because of the piece rate, but this requires very hard work and overtime. Some workers earned considerably less, because the basic wage is calculated according to the days actually worked, which means that a worker who fails to work the full month of 26 days (for example for sickness) does not receive the full monthly salary, USD 153.³⁵

In the interviews, workers claimed that if a worker's piece rate pay would result in wages below the minimum wage (USD 153), the company will top it up, as required in the Labour Law. However, based on the payslips provided by some workers, this depends on the number of days worked: If the worker has been absent for one or more days, the pay is allegedly *not* topped up to the level of monthly minimum wage (USD 153), but *only* to the proportion of the minimum wage that would correspond to the number of days worked. In addition, some workers said the «topping up» will be limited to only a couple of months and if the worker continuously produces too little, the contract will not be renewed.

This probably means that workers are, in practice, paid only for the hours they actually work and what they produce, and not ensured a monthly minimum wage. In months with few orders, the factory can suspend workers and avoid paying for these days. According to the law, suspensions must be approved by the Ministry of Labour. It was not clear from the interviews if the factory had gotten the required authorization. Several workers also told that cleaners do not receive a monthly minimum wage but were paid on a daily basis.

On the other hand, workers claim that benefits of the rise of minimum wage in Cambodia, from USD 140 in 2016 to USD 153 in 2017, were undermined by the company lowering piece rates and bonuses to compensate for this rise.

Hours worked: The average monthly hours recorded in the workers' payslips ranged between 136 and 242 hours in the 6 pay slips provided.

Overtime: The overtime recorded in the pay slips presented by the workers seemed to be within the legal limits. However, according to workers, overtime on Sundays, holidays and beyond the legal maximum of 2 hours per day is not recorded in the pay slips, but paid separately. This means that it is not possible to verify the actual hours worked. Normal working hours should not be more than 8 hours a day, or 48 hours a week.³⁶ Overtime is only allowed for exceptional and urgent work and must be paid at 150 percent of the basic minimum rate.³⁷

Workers' understanding of the overtime pay varied, and several workers claimed that overtime was paid only at piece rate plus meal allowance (of USD 0,75-1). However, according to some of the pay slips, workers were paid 150 percent of the basic hourly salary. This suggests that workers struggle to understand how their salaries are calculated, leaving them in a vulnerable position. Night shifts seem to

³⁵ The International Labour Organization and Better Factories Cambodia Guide: The law does not require paid sick leave, however, following the policy of the Ministry in charge of Labour, employers should consider providing paid sick leave as follows: 100 percent of wages during the first month of sick leave, 60 percent of wages during the second and third months and unpaid leave from the fourth until the sixth month.

<http://staging.ilo.org/public/libdoc/ilo/2005/375759.pdf>

³⁶ Labour Law, Article 137

³⁷ Labour Law, Article 139



be paid between USD 16-20 (depending on piece rate), and workers get the following day off, with 50 percent pay.

Sundays: The Labour Law says that employees must get at least one full day off per week.³⁸ This should normally be a Sunday and overtime on Sundays must be paid at 200 percent of the basic minimum rate.

Workers interviewed said they are often required to work on Sundays, especially during the busy period, but according to them, this is not reflected in the salary.

Public holidays:

The Ministry of Labour issues a Prakas each year setting out paid public holidays in Cambodia. Employers must pay employees ordinary wage for public holidays, when they take time off. Based on information on the payslips provided by the workers, this seems to be the practice at the factory.

According to the law, employers who run businesses that cannot stop operating on public holidays may ask employees to work on these days. This work must be voluntary and an employer must pay employees their regular wage plus 100 percent for working on a public holiday.³⁹ This means that they get one extra day's pay on top of their normal pay. Workers interviewed told about being required to work during public holidays, especially in the busy season.

Seniority bonus:

The seniority bonuses were paid at between USD 2 and USD 4/month as required by law, including to workers on short term contracts.

The Labour Law says that workers are entitled to a seniority bonus of USD 2/month in their second year of employment, rising to a maximum of USD 11 in their eleventh and subsequent years of employment.⁴⁰

Attendance bonus:

According to the workers' payslips, attendance bonus is paid for annual leave days. However, some of the workers interviewed, told the bonus is cut for workers absent on other days.

According to the law, those who "work regularly on each day which must be worked in a month" are entitled to a bonus of at least USD 10/month.⁴¹ This attendance bonus must be paid also if employees take authorized leave (e.g. for annual leave or public holidays). Further, the Arbitration Council has found that when employees take sick leave approved by an authorized and legally recognized medical practitioner, the attendance bonus must be paid in proportion to the days worked.

Transport bonus:

According to the six payslips, workers were paid USD 8/month, which is actually USD 1 more than required by the law.

³⁸ The Labour Law, Articles 146-148

³⁹ Labour Law, Articles 161, 162 and 164, Prakas 10/99, AC Awards 14/10 (2), 57/12 (5) and Prakas 317/13

⁴⁰ Notices 017/00 and 041/11 and AC Awards 89/12 and 176/12

⁴¹ Labour Law, Article 10, Notices 017/00, 745/06 and 230/12, and AC Awards 04/03, 26/03, 03/04 62/04, 63/04, 10/12, 132/12



The law says that if employers do not provide workers with transportation or housing, they must pay workers at least USD 7/month as a transportation and housing allowance.⁴²



Cambodian garment factory workers ride a "romork", a vehicle made out of motorcycle and small truck parts, to get home. Photo: World Bank, Creative commons

Household income and Expenses

Among the 14 current workers, the average household income was USD 389. The average family size was 5.3 persons, which leaves on average approximately USD 74 per person per month.

In eight cases out of 14, the workers interviewed was the only person in the household having a regular salary – in the remaining cases the family budget was comprised of unstable income. On average, the interviewed workers' salary was 49 percent of the total household income.

Five workers told they had bank loans, on average USD 3300. In addition, five workers enjoy temporary loans from relatives, neighbours or a moneylender, and the interests can be up to 20 percent a month.

⁴² Notice 230/12



Living Wage

All but three workers mentioned various costs the household income was insufficient to cover properly, particularly loan payments, medical costs, children's education and social expenses. The latter might be looked upon as non-necessary costs, but in Cambodia there is a high social obligation to participate in weddings and funerals which, for poor people, is a monetary burden.

Seven workers estimated that a wage sufficient to provide a decent living needed to be considerably higher than what they earn today, on average USD 285/month. The majority estimated their families need between 400 and 500 USD/month to live on. Some workers seemed puzzled by the question and were vague about their estimations, or simply considered their salary sufficient to cover basic needs.

Prospects

Workers were asked about their satisfaction with their workplace. All except one said they were unhappy, and that the reason to stay at the factory was its proximity to their homes. Several expressed they have no other option, yet six workers said they want to quit as soon as possible.

Feedback on the question "Do you think you will get promoted at the factory?" revealed that the workers see little hope in improving their position at the workplace: Only two workers said they think promotion is possible, one of whom was the only male worker interviewed, the other a young unmarried woman.

The question "If you could choose freely what would be your profession?" seemed slightly difficult reply to by the workers, as several of them could not imagine other options. At the end, the most common alternative, as mentioned by eight workers, is to be vendors or to run a small business.



One of our most important tasks is to ensure good conditions for the people involved in the manufacturing of our products. We must ensure that human rights are respected and that the workplaces are safe and healthy. For many years, our audit programme have helped ensure this, but we continuously meet new challenges that we need to take into consideration.

From Bestseller's Sustainability Strategy «20by20»⁴³

India

The context

Indian Apparel is the largest segment of the Indian Textile and Clothing Industry as it accounts 60-65 percent of the total Industry. Furthermore, it is one of the largest sources of foreign exchange flow into the country. As per the data published by the Indian Ministry of Textiles, in its annual report 2015-16, India is ranked as 6th largest exporter of apparel in the world after China, Bangladesh, Vietnam, Germany and Italy.⁴⁴

India's textiles industry contributes about 14 percent to industrial production, 5 percent to GDP and 11 percent to the country's export earnings. It employs over 40 million people directly and 60 million indirectly. The USD 108 billion industry is expected to reach USD 223 billion by 2021.⁴⁵

The Indian garment industry is primarily an exporter of cotton products (woven and knit tops, skirts, men's bottoms, and embellished and embroidered apparel) according to the World Bank.⁴⁶

Bangalore is one of the five ready-made garment (RMG) production hubs in India, accounting for 20 percent of the country's garment production and 8 percent of exports in the sector.⁴⁷ This is also the area where Bestseller's supplier is located.

Factories are concentrated in the Peenya Industrial Area, and the Mysore Road and Hosur Road areas. The industry employs approximately 500,000 workers, 80 percent of whom are women. In all, there are over 1200 garment factories of varying sizes in and around the city. The smallest factories may employ less than 100 workers, while the largest employ a few thousand.

Working conditions in the garment industry are poor, as wages barely manage to meet the legal minimum wage, or are only slightly above it. They fail to meet living wage standards, as the cost of living is

⁴³ <http://about.bestseller.com/sustainability/workers>

⁴⁴ <http://www.careratings.com/upload/NewsFiles/SplAnalysis/Indian%20Apparel%20Sector.pdf>

⁴⁵ <http://asia.nikkei.com/Politics-Economy/Economy/India-hopes-to-overtake-Bangladesh-Vietnam-in-garment-exports>

⁴⁶ <https://openknowledge.worldbank.org/bitstream/handle/10986/23961/9781464808135.pdf?sequence=2&isAllowed=y>

⁴⁷ Dr. M.Surat Kumari & Minajigi Ravikumar Bassanna, *Readymade Garment Industry in Bangalore City – A study with special reference to problems associated with Production.*

<https://www.acmeintellects.org/images/AIJRMSST/Jan2015/19-1-15.pdf>



Bangalore is high. Leading international apparel brands like H&M, C&A, M&S, GAP, Inditex, Levi’s and Tommy Hilfiger that source merchandise from the factories are involved in a race to the bottom, seeking for low manufacturing cost to maximize profits. This affects suppliers’ ability to pay decent wages to their employees.

Sexual harassment and abuse of women workers is rampant. Unreasonable production targets and shop-floor harassment by supervisors compound problems. All these factors ensure that attrition rates are high - workers rarely remain at a factory longer than two to five years.

Trade Unions

Independent factory-level unions and collective bargaining are almost entirely absent in the Bangalore garment sector. Most trade unions in India are affiliated to the 12 labour federations, most of which are embedded within one of India’s many political parties.⁴⁸ Union membership in the sector is uniformly low. Unionization is hampered by the resistance of employers and suppliers, and workers are wary of harassment and victimization. The problem is compounded by a floating workforce, i.e., frequent movement of workers between factories. Interest in organizing is relatively low among traditional labour unions, which consider membership potential and stability to be limited in the garment industry. However, unions such as the Garment Labour Union (GLU), the Garment and Textile Workers’ Union (GATWU) and the Karnataka Garment Workers Union (KGWU) are active in tackling problems faced by workers and in improving working conditions and wages.

Large-scale Protests by Garment Workers in 2016

In April 2016, there were widespread protests by garment workers in the city against the central government’s plans to amend the Employee Provident Fund (EPF) provisions.⁴⁹ According to some estimates, as many as 10,000 workers or more participated in the agitation⁵⁰. The new rules imposed curbs on workers’ ability to withdraw money from their Provident Fund accounts, and made withdrawal taxable. In the absence of substantial savings and social security, workers are dependent on their PF corpus to pay for medical emergencies, weddings and for building homes. Protests turned violent in some instances, and agitations continued long after tensions had simmered down. Almost immediately, the government decided to drop its plans to amend EPF rules. This was a resounding victory for garment workers’ rights, as well as an indication of larger unity in the absence of formal organizing.

Research on Bestseller’s Indian supplier

Worker profiles

Respondents were typically between 20 and 43 years of age. Sixteen of those interviewed were women, while the other four were men. All 20 workers interviewed were married. Most workers are short-distance migrants from various parts of rural Karnataka and semi-urban centres in the state, who have settled in Bangalore to work and raise families.

⁴⁸ Hammer 2010 in Ashok Kumar, *Interwoven threads: Building a labour countermovement in Bangalore’s export-oriented garment industry*, 2014. <http://www.academia.edu/7354187/>

⁴⁹ The Employees Provident Fund and Miscellaneous Provisions Act, 1952 is intended for making provisions for the future of industrial workers after their retirement and for their dependents in case of death. The Act provides for the institution of provident funds, pension funds and deposit linked insurance fund for the employees in the factories and other establishments. As per the Act, the contribution payable to the schemes by the employee is set at 12 percent of his basic pay and dearness allowance.

⁵⁰ <http://timesofindia.indiatimes.com/city/bengaluru/Garment-workers-strike-jams-Hosur-Road-for-7-hours/articleshow/51887204.cms>



Education levels among the interviewees were low, with only 8 having passed the state 10th standard (high school) examinations. While two had attended pre-university college (11th and 12th grades), several had only studied till the 5th to 8th standards. Three workers in their 30s and 40s said they received no formal education at all.

Seven of the interviewees was quite recently employed by the factory, and all of them have been working for a maximum of one year at the time of the interviews. Ten workers had been employed between 2 and 6 years, while the remaining three had been at the factory for more than 10 years.

Seven respondents were tailors, while the rest worked as quality checkers, Kaja button (machine) operators, helpers, trimmers, washers, cutters, and in layering and ironing.

Conditions of employment

Contracts: 17 of the 20 workers said they have an appointment letter, written in the local language, Kannada, and in some cases, also in English. The remaining three workers said that they did not have an appointment letter.

All 20 workers interviewed are permanent employees.



Photo: Tom Harle, Creative commons

Production and piece rate: Workers were producing shirts, pants and others items at the time of the interviews. Targets are usually around 60-70 pieces per hour, or even higher at 80-100 pieces per hour. A couple of workers said that their hourly targets were lower, at only 40 or 50 pieces per hour. These are variations in hourly targets probably depend on the type of garment being produced.

Working hours

Arriving late at work: If workers are 15-30 minutes late for work in the morning, they are made to sign permission slips. Many of those interviewed said they are scolded if they come late. Three days of late-coming invites deduction of half a day's salary and

rebuke from the management. A worker said that her ID card would be confiscated if she were to come late. According to some workers, if someone is late for 6 days in a month, their attendance bonus is deducted at the end of it. However, two other workers were of the opinion that nothing would happen to a worker if she/he were to arrive late to work.

Freedom of Association

The Trade Union Act, 1926 does not make it mandatory for companies to recognize factory based trade unions.⁵¹ However, employers are not allowed to stop workers from joining or forming trade unions either inside or outside the factory and any punishment or victimization for the sole reason that workers have joined a trade union should be treated as an 'unfair labor practice' under the Industrial Disputes Act, 1947.⁵² Further, as per the Act, any attempt of the employer to interfere with, restrain from or coerce workmen in the exercise of their rights to organize, form, join or assist a trade union, or to engage in

⁵¹ <http://www.helpline.law.com/employment-criminal-and-labour/TDUA/trade-unions-act-1926.html>

⁵² Rule 1 and 1 (a) of Vth schedule of Industrial Disputes Act, 1947



concerted activities for the purposes of collective bargaining or other mutual aid or protection, is deemed an unfair labor practice.

Unions: From the interviews, there seems to be a total absence of trade union membership among the 20 respondents, and freedom of association appears to be non-existent at the factory. Workers were either not aware whether the factory had a trade union, or unequivocally stated that no union existed. One woman told the research team that the management had informed workers they could not join a union while engaged as staff by the factory.

Membership: On being asked whether they would like to join a union, a few replied they want to join in order to learn more about workers' rights. Several others said that they were not interested and did not want to become union members. Six workers, including two men, said that they were afraid of joining a union, because they would be fired from their jobs if they did. Two women said that they did not have time to join a union, with one woman noting that her husband would scold her if he came to know she had done such a thing. Her experience is widespread among female garment workers: not only must women face constraints to unionisation at the workplace, i.e., from factory management, but must also experience barriers within the patriarchal context of the home.

Workers either said that there had been no cases of workers being harassed or dismissed for joining a union, or that they were not aware of such cases. Their replies are not surprising as the repression of union activity seems to regulate the relationship between the factory management and workers.

According to one of the workers interviewed, there are committees in place at the factory. These include a sexual harassment committee, a canteen committee, a health and safety committee, and an executive committee. She did not mention if these were active.

Workplace Environment

Workers portray the workplace environment as fairly satisfactory. In line with the requirements of the law⁵³, clean filtered drinking water is available at the factory. Workers are able to use toilets whenever they want, but some of them said that they must return quickly to the work station if they want to avoid being scolded. Repeated trips to the restroom also invite rebuke from supervisors. One woman complained that it was not possible to meet targets if they visited the restroom, which in turn would evoke a negative reaction from supervisors.

The factory is well lit and ventilated, according to workers. If so, there are reasons to believe that the factory meets the legal requirements for these conditions.⁵⁴

Most respondents said that they had not heard of colleagues fainting at the factory floor. However, six workers had heard of such instances. One said that a problem had arisen six months before, but did not go into further details. Another worker mentioned an incident in which a female worker had not come back to the factory after fainting on the factory floor.

Health

Sick leave: The law states that all employees covered under the Employees State Insurance (ESI) Act are entitled to sick leave, which can only be claimed with the submission of a medical certificate from the ESI dispensary/clinic. Female workers are entitled to three months of paid maternity leave, during which time their salaries are paid by the factory or ESI. However, this important health insurance and social welfare measure often fails to benefit workers due to bureaucratic delays and inefficiency, as well as prohibitive distances between the dispensary and the place of work or residence.⁵⁵

⁵³ The Factories Act, 1948, Section 18, <https://indiankanoon.org/doc/920715/>

⁵⁴ The Factories Act, 1948, Section 13 and 17, <https://indiankanoon.org/doc/920715/>

⁵⁵ Future In Our Hands & Cividep: Mind the Gap: How the global brands are not doing enough to ensure a dignified life for workers in the garment and electronics industry in India (2014) <http://www.framtiden.no/rappporter/rappporter-2015/749-mind-the-gap-arbeidsforhold-i-kles-ogelektronikkbransjen/file.html>



Photo: NYU Stern BHR, Creative commons

Almost all respondents said that they could not take leave during illness unless it is covered by the ESI, which means that they need to visit an ESI (state health) facility to avail of sick leave (up to 14 days in a year) and must produce a doctor's letter for the same. Several noted that they were rebuked if they asked for leave not covered by the scheme. Hence, the ESI provision seems to be a precondition for taking rest and getting treated by a doctor when a worker is ill.

Maternity leave: Female workers at the factory seem to enjoy three months of paid maternity leave, which is in line with the law.⁵⁶ However, three respondents said they were not aware of this benefit.

Holiday leave: According to the law, workers are eligible for 14 days of paid leave per year. Application for leave should not normally be refused by the employer, as the provision for leave laid down in the Factories Act, 1948 is meant to meet contingencies of workers, such as sickness.⁵⁷

Seven workers said that they are able to take 14 days of paid leave per year, while a couple of others claimed to have only

12 paid days off. Four workers said that they were not able to take leave, while one woman stated that money would be deducted from her salary if she took leave without permission. Four of those interviewed did not know what their leave entitlements were.

Audits, Monitoring, Code of Conduct

Seven out of 20 workers say they do not know whether there are any audits performed at the factory. Yet, most workers claim there are monthly or bi-monthly visits by buyers. The latter usually come and check pieces in the batch, and workers are required to keep the work floor and work tables impeccably clean. On regular days, scraps and cotton dust litter the floor, but on the days of these visits, dustbins are provided at all work tables for the disposal of scrap material and cotton dust generated during production. Mats are spread out under each work table on the advice of the supervisors. Workers are asked to maintain discipline at all times on the day of a buyer visit.

⁵⁶ The Factories Act, 1948, Section 79 (b), <https://indiankanoon.org/doc/920715/>

⁵⁷ Section 79 to 84, Factories Act 1948 that provides for annual leave with wag, see e.g: every worker 'who has worked for a period of 240 days or more in a factory during a calendar year, will get annual leave of 1 day for every 20 days worked in the subsequent year (...) and a 'total of 12 sick leaves should be allotted to an employee per year'.



The visits are announced beforehand by the management. 15 out of 20 workers said they are told to wear their ID cards, masks, gloves and slippers, and to maintain strict work timings throughout the day. They are told to work safely and attentively, and to not speak unless spoken to. They must speak well of the factory and its regulations if they are questioned by buyers. However, most workers said that brand representatives do not speak to workers. On the day of a visit, workers are allowed to leave the factory earlier than usual.

The factory posts a code of conduct on boards around the shop floor, in both Kannada and English. While many workers mentioned seeing the notice, almost half of them were not aware of its existence.

Wages, Expenses and Quality of life

Wages: In general, workers say that quality of life is poor due to low wages. Most workers receive monthly net salaries of INR 6000 to INR 8000 after deductions for their ESI and EPF contributions. Only two workers receive significantly more than this after deductions, at INR 11000 and INR 9662 respectively. Of these, one is a man. Monthly PF contributions are usually around INR 800 - 960, while monthly ESI deductions range between INR 115 and 140.

Most of the workers interviewed are tailors. Depending on their skill level, the applicable monthly minimum wage for tailors in Bangalore (which falls within Zone I)⁵⁸ is between INR 7474.40 and INR 7994.40 in 2016-2017, as set by the Government of Karnataka⁵⁹ based on the Minimum Wages Act 1948⁶⁰. While some of the workers interviewed receive a wage in line with legal requirements, others receive wages below minimum wage level.

Overtime: The Factories Act, 1948, Section 59 (1), states that «... Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages».⁶¹

The same Act, Section 51, prohibits the employer from enforcing overtime on workers: «No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.» (see also Section 54).

Allegedly, overtime work is asked of some workers when there is a large or particularly urgent order to be completed. A worker complained that leave is not granted when a large order is due. While only one worker explicitly stated that she was forced to work overtime by the management, most others said that they could not refuse. One woman said that she chose to do overtime because of the extra money she could earn. Most workers said that they were paid for overtime, with two noting that remuneration was at double the hourly rate. Three workers said that overtime work was not compensated by the factory.

Workers were not asked explicitly about how many hours of overtime work they had done recently. However, the researchers got the impression that overtime was not substantial, and was included in the net wage quoted.

⁵⁸ Minimum wages in Karnataka are divided between three zones. Zone I: Greater Bangalore metropolitan area, all City corporations and Agglomeration Areas in the State (City Corporations), Zone II: All District headquarters not covered in Zone I, Zone III: All other areas which are not covered in Zone I & Zone II.

⁵⁹ Including Variable Dearness Allowance, see <http://labour.kar.nic.in/labour/2016-17%20Minimum%20wages%20rates.pdf>

⁶⁰ The Minimum Wages Act 1948, <https://indiankanoon.org/doc/142278/>

⁶¹ The Factories Act, 1948, <https://indiankanoon.org/doc/920715/>



Household income and expenses: Monthly household incomes range between INR 10,000 and INR 18,000, with INR 15,000 – INR 17,000 being the most common range within which monthly family incomes fall. Two families have an income of INR 30,000 or slightly more per month, since each has three earning members. However, one of these two households is a large family, and has to divide the earnings between 8 members. Five respondents did not reply to the question on how big the monthly income of their household was. The families of those interviewed have between 2 and 8 members, but 3 to 4 is the most common size. On dividing the total household income by the number of household members, we find substantial differences between how much can be spent on each person monthly: while poorer households cannot, on average, spend more than INR 1875-2500, seven households could spend INR 4000-5000, while only one family could spend as much as INR 10,000 on each member.



All 20 workers unequivocally stated that it was difficult to meet living expenses in Bangalore on their salaries. Bangalore is among the urban centres with the highest costs of living in the country. Rent is high, ranging between INR 4500 and INR 12,000 to cover even the most basic living space for a family. Monthly, electricity charges amount to INR 150-400, cable TV costs INR 250 per month, while cooking gas costs around INR 500 for a middle-sized family.

A garment worker lights the incense in a temple. Photo: Cividep

Monthly provisions for a family of 8 cost INR 6000, with milk and vegetables costing a family of 5 to 8 between INR 2000 and 3000 per month. Family health expenses amount to INR 500-1000 monthly, despite ESI benefits.

Living wage:

Workers said that they would need to earn INR 15,000-20,000 per month to meet all their expenses comfortably. INR 18,000 was commonly quoted as an ideal amount. This is more than double - in some cases, three times as much - of what most workers currently earn at the factory.

Prospects

Almost all respondents think they will not be promoted. One said that she is “not interested” in promotion, another, that she «did not have the skills to do any other work». Only one worker said that she had been promoted, from a helper's position to that of a Kaja button operator.

Most respondents did not have a clear idea of how long they would continue to work in the garment industry. Others said that they would continue to work as long as they were able, or that they would leave when they feel it is too difficult to continue the work. Three workers, including two men, assumed they would remain in the industry for approximately 5 years.



From the very limited sample of interviewees chosen for the research, women seemed to view their situations with less confidence, and with less expectation of being able to choose an occupation outside the garment industry than the men. They also had fewer expectations of their career within the garment factory. While two of the four men said that they wanted good work and good salaries either outside the factory or within it, most women said that they were content to keep working in their present positions as helpers, checkers or tailors. Five female workers said that they wanted a better salary that would constitute a proper living wage and allow them to meet the costs of living comfortably.

From the interviews, the impression of the research team – based also on previous talks with women employed in the garment industry – is that many women do not feel entitled to ask for a good salary without justifying it with the need to meet living expenses, i.e., a family's survival needs. The majority do not think of earnings in terms of their own independent financial aspirations, but merely as a way to make ends meet – seemingly an extension of their caregiving role within the family.



- «(...) BESTSELLER's Human Rights Policy and initiatives are based on the UN Guiding Principles on Business and Human Rights. This means that we in BESTSELLER will do our best to:
- Identify, prevent and mitigate any risks of human rights in all our operations and business relationships
 - Consider any negative impact we may cause or contribute to through our supply chain practices, as well as the negative impact we may cause or contribute to within our own business
 - Remediate any direct or indirect negative impact that our business operations have on human rights
 - Promote the respect for human rights among our employees, partners, suppliers and other business relations
 - Report on and account for our work with human rights once a year.»

Extract from Bestseller's Human Right's Policy⁶²

Ways forward

The findings presented in this report, based on interviews with workers, indicate that Bestseller still has a long way to go before working conditions at the two selected factories can be termed decent and humane. In addition, the current policy of keeping the suppliers' names and locations a secret further undermines the public trust of Bestseller as an ethically responsible company.

Calls for greater traceability and transparency come not only from consumer and organisations worldwide. These are a necessity which serves as a tool for revealing appalling working conditions and promoting human dignity in the supply chain. Any brand keeping its suppliers a secret must count on being challenged over and over again with the question: What kind of working conditions are you trying to conceal? Unless the brand can give a satisfactory answer it will lose out on the trust much needed from consumers, workers' rights organisations and investors.

To meet the growing expectations on accountability and transparency, Bestseller must with no further delay

- Disclose the name and address of all suppliers and sub-contractors.
- Make available at the brand's web page the list of factories and other entities
- Update the list at least four times a year

Once this is done, Bestseller should also include information about the ownership structure of the supplier, unit number, its share of production, total number of employees and the share of women and men employed.

Although greater transparency is an important precondition for tackling working conditions that violate both the law and ethical standards, it cannot be viewed as a quick fix. Transparency is not equivalent to full accountability, let alone the implementation of decent working conditions in the myriad of factories in China, Bangladesh, India and Turkey, just to mention a few.

Bestseller must speed up its engagement on several issues dealt with in this report. However, some

⁶² https://about.bestseller.com/media/1323/human-rights-policy_march-2014.pdf



core problems at the factories concerned urgently need to be resolved:

• **Contracts**

Based on Article 73 of the Cambodian Labour Law (1997), workers with two years’ seniority have the right to permanent employment.⁶³ Looking at the length of the employment relationship of workers interviewed at Bestseller’s Cambodian supplier, all the short-term contracts of the workers appear to be illegal.

Bestseller should immediately, in cooperations with independent trade unions, identify the prevalence of FDCs - legal or illegal - at their suppliers. The brand should announce a zero tolerance policy for illegal contracts and monitor the rapid implementation of permanent contracts for workers engaged beyond two years at the same facility. Clear timelines for contract conversion need to be set and communicated to workers’ representatives. Only by taking this step will workers at the Cambodian supplier enjoy a minimum of predictability regarding their employment. The same policy and practice should be implemented at all of Bestseller’s suppliers as the continuation of illegal contracts is violating the Cambodian Labour Law. As well, Bestseller should declare its non-tolerance policy to attempts by the factory management to silence or put pressure on workers, using the threat of non-renewal of short term contracts.

Bestseller’s current Code of Conduct says nothing about workers’ contracts apart from the following sentence “A signed working contract must be available for all employees, which is provided by the supplier in a language that is understandable to the employee.”⁶⁴

The multinational brand must immediately, as a minimum, adjust its Code to Ethical Trading Initiative’s Code⁶⁵, which states that:

“To every extent possible work performed must be on the basis of recognised employment relationship established through national law and practice. Obligations to employees under labour or social security laws and regulations arising from the regular employment relationship shall not be avoided through the use of labour-only contracting, sub- contracting, or home-working arrangements, or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment, nor shall any such obligations be avoided through the excessive use of fixed-term contracts of employment.”⁶⁶

Bestseller should initiate incentives for its suppliers to take steps beyond those required by law to limit the use of fixed-term contracts of employment. In the future the brand should aim to sign contracts only with suppliers willing to avoid fixed-term contracts completely.

• **Freedom of Association**

According to workers interviewed at Bestseller’s two suppliers in Cambodia and India, there seems to be serious hurdles to freedom of association. Workers interviewed complain about the lack of “true” unions

⁶³ <http://www.ilo.org/dyn/travail/docs/701/Labour%20Law.pdf>

⁶⁴ https://about.bestseller.com/media/1583/code-of-conduct-march-2016-eng_updated-060716.pdf

⁶⁵ Bestseller was accepted as Foundation Stage Member of Ethical Trading Initiative in March 2016.

⁶⁶ <http://www.ethicaltrade.org/eti-base-code/8-regular-employment-provided>



working in the interest of the employees and some of them tell about the deduction of union membership fees against their will, which is an illegal practice.

Bestseller should communicate explicitly to its suppliers in Cambodia, India and elsewhere that the brand, also on this issue, has zero tolerance to any obstacles blocking the formation of independent unions, or blocking workers from joining a union of their own choice, or any other legal union activity. Bestseller must make clear it does not accept the practice whereby suppliers deduct membership fees from workers’ salaries, unless this is done with workers’ explicit consent. Mandatory, automatic deductions often happen to nurture «yellow» unions set up by the suppliers themselves. Bestseller should closely monitor their suppliers and react strongly against any attempts to crack down on legal union activity, i.e. discrimination of workers, dismissals or forced resignations. Only then Bestseller’s actions will speak louder than words:

“The supplier will recognise ILO conventions and the Universal Declaration of Human Rights on freedom of association, freedom of opinion and expression, the right to organise and collective bargaining. Suppliers will allow these rights, will not interfere with workers’ unions, and will not prevent workers from joining these unions. Workers shall not face prejudice due to union membership or active participation in workers’ committees. Worker representatives shall have access to carry out their function in the workplace. (...)

Extract from Bestseller’s Code of Conduct⁶⁷

• The call for a living wage

Almost all workers at the two factories subject of this research say they cannot cover their basic needs with their present wages. Bare necessities such as food, house rent, electricity/gas, medical costs and children’s education were mentioned as costs hard to cover. Most workers say that a living wage, that will ensure them a decent living standard, is considerably higher than what they earn today.

One of Bestseller’s goal in its Sustainability Strategy is: «We have processes in place that enable our suppliers to pay a fair living wage» (goal no. 8).⁶⁸ The brand does not explain what it means by «a fair living wage».

Regardless, workers need a living wage, i.e. a wage that can be earned within a standard working week, that covers the basic needs of worker and her/his family and provides some discretionary income.⁶⁹

Better planning of orders and more stable purchasing practices are identified as one of several elements to achieve this. Bestseller needs to ensure stable orders to the suppliers covered in this report, as well as to other suppliers, in order to secure enough work for their employees. To the authors’ knowledge, Bestseller has not indicated what it believes should constitute an absolute minimum salary - a fair living wage benchmark - in their Cambodian and Indian supply chains, but is strongly recommended to do so. By putting a figure on living wage, the labour cost can be calculated and embedded into pricing breakdowns which Bestseller in turn could use to ensure suppliers are getting a price for their products which is high enough to pay their workers a living wage. Similar commitment from other companies could open up space in wage negotiations between workers and factory owners, making a living wage more attainable.

Bestseller must take practical measures to ensure that freedom of association and the right to organise

⁶⁷ https://about.bestseller.com/media/1583/code-of-conduct-march-2016-eng_updated-060716.pdf

⁶⁸ <https://about.bestseller.com/sustainability/20by20-strategy>

⁶⁹ «Tailored Wages. Are the big brands paying the people who makes their clothes enough to live on?»

Clean Clothes Campaign and The Asia Floor Wage Alliance, 2014.

<http://www.cleanclothes.org/livingwage/tailoredwages/tailored-wage-report-pdf>



and collectively bargain are respected inside all workplaces in order to allow trade unions to negotiate wages at a workplace level. If workers earn a living wage they would feel less forced to take on overtime work, and they could take annual leave instead of working on Sundays and public holidays to supplement low wages.

Bestseller should act transparently and report on the concrete outcome of their efforts to provide a fair living wage for workers throughout the supply chain.

In its Sustainability Strategy Bestseller has made several commitments under their various sustainability initiatives. The organisations behind this report look forward to seeing those commitments becoming a reality.



For further reading on labour issues:

In English:

FairAction and Future In Our Hands: Invisible workers - Syrian refugees in Turkish garment factories (2017). <https://cleanclothes.org/resources/national-cccs/invisible-workers-syrian-refugees-in-turkish-garment-factories/view>

SOMO: «Branded Childhood. How garment brands contribute to low wages, long working hours, school dropout and child labour in Bangladesh» (2017). <https://www.somo.nl/branded-childhood/>

Future In Our Hands and CENTRAL: When best is not good enough. Violations of workers' rights at four of H&M «best-in-class» suppliers in Cambodia (2016). <https://www.framtiden.no/rapporter/rapporter-2016/800-when-best-is-far-from-good-enough/file.html>

Labour Behind the Label: Do We Buy It? A supply chain investigation into living wage commitments from M&S and H&M (2016). <http://labourbehindthelabel.org/report-do-we-buy-it-a-supply-chain-investigation-into-living-wage-commitments-from-ms-and-hm/>

Human Rights Watch: Work Faster or Get Out. Labor Rights Abuses in Cambodia's Garment Industry (2015). <https://www.hrw.org/report/2015/03/11/work-faster-or-get-out/labor-rights-abuses-cambodias-garment-industry>

FairAction: A Short-term solution. A study of the use of fixed-duration contracts in the Cambodian garment industry (2015). http://fairaction.se/wp-content/uploads/2015/09/A-Short-Term-Solution_Fair-Action.pdf

Future In Our Hands & Cividep: Mind the Gap: How the global brands are not doing enough to ensure a dignified life for workers in the garment and electronics industry in India (2014) <http://www.framtiden.no/rapporter/rapporter-2015/749-mind-the-gap-arbeidsforhold-i-kles-og-elektronikkbransjen/file.html>

Clean Clothes Campaign and The Asia Floor Wage Alliance: Tailored Wages. Are the big brands paying the people who makes their clothes enough to live on? (2014). <http://www.cleanclothes.org/livingwage/tailoredwages/tailored-wage-report-pdf>

Guiding Principles on Business and Human Rights (2011): United Nations Human Rights Office of the High Commissioner http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

In Norwegian:

Framtiden i våre hender: Dårlig råd med nål og tråd (2015)

<http://www.framtiden.no/201512156915/rapporter/etikk-og-naringsliv/darlig-rad-med-nal-og-trad.html>

Framtiden i våre hender: Bomullens pris: En innføring i verdikjeden og utfordringer i bomullsproduksjonen (2014)

<http://www.framtiden.no/rapporter/rapporter-2014/711-fivh-2014-bomullens-pris/file.html>

Framtiden i våre hender: Med døren på gløtt? Om merkevareresselskapenes manglende åpenhet (2011).

<http://www.framtiden.no/rapporter/etikk-og-naeringsliv/549-med-doren-pa-glott-om-merkevareresselskapenes-manglende-apenhet/file.html>