

The reality behind the code

**Working conditions in garment factories
producing for Vendex KBB**

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Summary

From September 2000 to March 2001 SOMO, and partner Non-Governmental Organisations (NGO's) in India and Sri Lanka have investigated, on behalf of the Clean Clothes Campaign, working conditions in factories producing for Dutch garment retailers, which are part of the company Vendex KBB.

The aim of this research was to assess the relation between the policies of the Dutch retailers regarding working conditions in their supply chains and the actual working conditions in these supply chains. The lack of transparency on the implementation and monitoring of the code of conduct of the largest garment retailers in the Netherlands, Vendex KBB and it's concrete results in terms of improvements has contributed to the need for an independent study.

In total, twelve factories were investigated, through interviews with the management, as well as interviews with the workers. The interviews with the management were conducted by SOMO staff and the interviews with the workers were done by local research partners.

The study concludes that the current codes of conduct and monitoring systems of Vendex KBB and its subsidiaries are ineffective, and that many violations of minimal standards are still existent on a large scale. Numerous violations of basic labour rights, that are endorsed by Vendex KBB, have been found.

This study has focused on one major holding company in the Netherlands with a number of different daughter companies. However, while receiving company profiles of suppliers and conducting interviews with the suppliers, production for many other western brand names was found. Most of the suppliers that were investigated are producing for a large number of European and North American brands. This report can therefore be used by different campaigns in different countries.

The Clean Clothes Campaign calls on Vendex KBB to:

- implement their code of conduct in true spirit;
- to accept the principle of independent verification;
- and to build on a credible system for monitoring and verification of their code of conduct.

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1. Introduction

This report presents the results of research into the policies and practices of Dutch garment retailers, part of Vendex KBB. SOMO has conducted this research on behalf of the Clean Clothes Campaign (CCC), together with local organisations in production countries. The aim of this research is to analyse the current activities in the field of codes of conduct, monitoring and verification from Dutch garment retailers and compare this to the actual labour practices and conditions in their supply chains.

Why this research?

For many years, the CCC has been campaigning for the improvement of labour conditions in the garment and sportswear industry worldwide. One of the results is that many garment and sportswear retailers have adopted codes of conduct addressing the working conditions in their supply chains. These codes of conduct were criticized by campaigns for not including core labour standards defined by the International Labour Organisation (ILO) and most of all, for the lack of implementation. Companies have responded to this critique by increasingly accepting that the standard in their codes should refer to ILO Conventions, and by developing systems for monitoring compliance in their supply chains.

Different systems for implementation and monitoring of codes of conduct have been developed by various retailers. For example, the Dutch garment retailer C&A set up a daughter company (SOCAM) that monitors suppliers of C&A. Many other retailers have chosen to set up a system of 'internal monitoring', and have instructed their buyers to check on labour standards in the factories. Increasingly, retailers are using the services of 'social auditors'; private sector firms (such as accountants and quality controllers) that audit the factories supplying the retailer against the code of the retailer.

Despite such developments, the question remains to what extent they have resulted in actual improvement in the working conditions in production countries. The reason for this doubt is the lack of transparency of the system: the results of the audits are not disclosed to the public, nor are the exact monitoring methods and audit practices. Another reason for doubting the effectiveness of the measures is that worker's rights violations in the garment industry are still reported on a large scale.

The CCC is therefore questioning the effectiveness and reliability of the codes of conduct and monitoring systems that are put into place by the private sector. Evidence suggests that the commercial social auditors in many cases are not able to reveal the truth concerning working conditions in the factories.¹ Employees from the big auditing firms may not be qualified to interview workers from developing countries for labour rights violations in developing countries because they lack the trust from the workers. There is also the fear that the commercial auditors are not really independent of the firms that hire them.

SOMO assessed the relation between the policies and the practices of Dutch garment retailers. Vendex KBB, as one of the leading retailing companies with many different daughter companies and many stores in the Netherlands, was taken as a case study.

Vendex KBB is in the process of setting up a system for monitoring compliance to the code of conduct that was drafted in cooperation with German retailers (the AVE code, see Appendix B). Currently,

¹ "Monitoring the monitors: A Critique of PricewaterhouseCoopers (PwC) Labor Monitoring", Dara O'Rourke, Ph.D. Assistant Professor Dept. of Urban Studies and Planning, Massachusetts Institute of Technology, September 28th, 2000

different daughter companies have different codes, which are extremely weak and vague. In the future, the idea is that all the daughter companies adopt the AVE code and take part in the monitoring system. Vendex KBB has chosen to hire accountants to conduct the social audits in that future system. At the moment, internal monitoring is already taking place according to Vendex KBB.

The real progress in terms of the number of suppliers that were actually audited, the results of these audits, how they were conducted and what kind of corrective actions were taken, has not been disclosed. Thus, there is little known of the real progress Vendex KBB has made in terms of improving the working conditions and the development of the monitoring system.

The research project that was conducted by SOMO attempts to answer the following questions:

- What is the current state of policies of Vendex KBB (and its subsidiaries) on codes of conduct and buying practices?
- What is done to ensure observance of the ethical norms in the supply chain, e.g. monitoring and (independent) verification?
- In which way does the policy of Vendex KBB reflect the actual labour conditions in their supply chain, and how does this relate to the standards in their codes of conduct and the Fair Wear Foundation?
- What are the actual working conditions in the factories producing for Dutch labels and how do they relate to the standards that the retailers have committed themselves to?

Chapter Two of this report outlines the methodology used to answer these questions. Chapter Three will present the Dutch retailers that were subject of the research, and the ethical policies they claim to adhere to. Chapter Four will shortly outline the general situation in terms of working conditions in the regions where the field research took place. Chapter Five will present the findings of this research, and in Chapter Six conclusions are drawn and recommendations are made.

A large part of this report consists of Appendices, where more detailed information on each supplier can be found (Appendix A), The AVE code of conduct (Appendix B), the content of the CCC-model code (Appendix C) and a more detailed outline of the relevant labour laws and conditions in Sri Lanka (Appendix D)

2. Methodology

The main part of this research consisted of tracing suppliers that can be directly related to the Dutch retailers. Suppliers for the Dutch market were found in many different countries, such as Bangladesh, Turkey, India, Thailand, and Sri Lanka. These suppliers were found through:

- Information from export promotion councils, trade directories and the internet;
- Identification of private labels by the workers;
- Utilising the extensive contacts with activists and workers NGOs and trade unions in India and Sri Lanka.²
- The Data Base of the Sri Lankan Centre for the Welfare of Garment Workers that details export orientated companies producing for export;
- Through informal discussions with workers at meetings and – in Sri Lanka- in their boarding houses.

In-depth research into the actual working conditions was conducted in India and Sri Lanka. Information about the factory, the working conditions and the state of affairs concerning monitoring by the retailer was obtained through interviews with the management as well as interviews with the workers. However, it was not always possible to conduct both interviews with the management and with the workers from the same factory. In total, ten suppliers were interviewed in Delhi, Mumbai, Tirupur, and Colombo, six of them from the same factories where the worker interviews were conducted. The interviews with the workers were conducted by researchers from local partner organisations in India (Tirupur, Tamil Nadu) and Sri Lanka (Colombo).

Factory visit and interviews with the management

The interviews with management of the suppliers were mainly conducted to obtain a general profile of the company, and to assess the relationship between the Dutch retailers and the suppliers, with particular emphasis on issues of labour standards and monitoring of codes of conduct.

The questions concerning the basic characteristics of the company were to collect information on:

- the date of establishment of the company;
- the factories and their locations;
- the overall production and turnover;
- the type of garments produced;
- the clients;
- the number of workers;
- the type of workforce (division male/female)
- general working conditions;
- trade union situation in the factory and the region;
- sub-contracting.

² In Sri Lanka these are: Free Trade Zones Workers Union, The Industrial Transport and General Workers Union, The Women's Centre, The Centre for the Welfare of Garment Workers, the Joint Association of Workers and Workers Councils of the Free Trade Zones and the American Solidarity Centre. In the case of India, the organisations and researchers involved in this research prefer not to be named, because that may jeopardize their work situation and relation with the workers.

The other type of questions aims to assess to what extent the initiatives from the retailers in the North have influenced the situation in the factories and perception of the suppliers regarding codes of conduct and monitoring:

- the production to the Dutch market: since when, the volume, which clients;
- the kind of relationship with the Dutch retailer;
- the time of the relationship with the Dutch retailers;
- how the retailer thinks about the relationship;
- what kind of demands are placed on the supplier by the buyer in terms of delivery times, quality control, pricing, -inhouse- production, social standards;
- to what extent there have been checks by the buyer on social standards;
- whether codes of conduct has changed the working conditions;

Interviews with the workers

The research initiated with the assumption that interviewing the management of the factories is not enough to obtain all the information on the working conditions. A general idea of the situation in the factory in terms of lighting, heat and so on can be obtained by direct observations, but information about the more sensitive issues such as wages, working hours and discrimination, interviews with the workers is deemed essential. Therefore, workers of the factories producing for the Dutch labels were interviewed by researchers that have gained the trust from the workers.

- Workers were interviewed both formally and informally by activists and researchers trained to conduct interviews.
- In Sri Lanka, activists and workers attending training and awareness training programmes were also trained in the use of the database, and information and label gathering and how these can be used as a campaign tool. Discussions on advantages and disadvantages also followed. Thus, arenas of this report were generated.

The questionnaire that was used to interview the workers is based on questionnaires used by the Clean Clothes Campaign during past research and was adjusted to the local circumstances. The questionnaire aims to cover the standards laid down in the CCC-model code, and includes questions on:

- wages;
- the relation between the actual wage and a living wage (what is considered a living wage by the workers);
- working hours;
- the right to organize and collective bargaining;
- Discrimination;
- Child labour;
- Forced labour;
- Health and safety;
- workers knowledge of the existence of codes of conduct and their meaning;
- workers knowledge on monitoring and the methods used.

Confidentiality

The names of the factories will not be disclosed in this report. It would not be in workers interests for these individual factories to be identified. Sufficient levels of organisation of workers do not exist in any of them to deal with possible repercussions. The report aims at generating pressure on Dutch retailers

to urge them to comply with international labour standards, the relevant labour laws and their codes of conduct, throughout their supply chain. The information should not be used to penalize the contracting factories thus victimizing the workers. The number of factories investigated suggests that the violations of fundamental labour rights are not an isolated phenomenon.

3. The retailer and its policies

This study has focused on one major holding company in the Netherlands with a number of different daughter companies. However, while receiving company profiles of suppliers and conducting interviews with the suppliers, production for many other western brand names was found. Most of the suppliers that were investigated are producing for a large number of European and North American brands. This report can therefore be used by different campaigns in different countries.

3.1 Vendex KBB

Vendex KBB is the leading non-food retailer in the Netherlands. The Group also has a large amount of retailing stores in Belgium, Luxembourg, Germany, France and the United States. The Group was founded in 1999 through the merger of Vendex N.V. and N.V. Koninklijke Bijenkorf Beheer KBB.

The Group is active with department stores and specialty stores. Vendex KBB comprises a total of twenty-seven retail formats with in total 54 thousand employees, approx. 2600 outlets in six countries and total net sales of more than 10 billion guilders (3,78 billion USD).

The operating companies belonging to these formats are organized into six business units according to market affinity. The retail formats operate independently and have their own identity. The three department store formats - Vroom & Dreesmann, Hema and Bijenkorf - are each independent business units, accountable for their results, having their own market position, customer approach and image. The specialty stores are grouped in three business units under the headings Hard Goods, Fashion and DIY (Do-It –Yourself).

Garments and sportswear is sold by the three department stores, and the business unit Fashion, which consists of the following companies:

- Hunkemöller; body fashion, lingerie and swimwear;
- M&S Mode; women's apparel;
- Prénatal; baby clothing and accessories, maternity garments;
- Claudia Strater; high-fashion women's apparel;
- America Today; American label garment, footwear and accessories for young people;
- Perry Sport; sportswear, sport shoes and outdoor equipment;
- Scapino; footwear, clothing, sport.

NET SALES PER BUSINESS UNIT³

Net sales		
<i>(x € million)</i>	2000/01	1999/00
Department Stores	2,149	2,109
Vroom & Dreesmann	893	882
Hema	872	850
Bijenkorf	384	377
Specialty Stores Europe	2,212	1,841
Hard Goods	1,072	830
Fashion	476	444
Do-It-Yourself	664	567
Total Retail Europe	4,361	3,950

Vendex KBB Subsidiaries

The research has focused on some of the largest and well-known garment selling subsidiaries of Vendex KBB, such as De Bijenkorf, HEMA, Vroom & Dreesman, Hunkemöller, Prénatal and M&S Mode.

De Bijenkorf

De Bijenkorf is the most prestigious department store and carries a very large assortment of international products and own brands. The department stores are situated at prime locations in the six largest towns of the Netherlands.

Since 1996 Bijenkorf has been collaborating with four similar department stores in Europe. The alliance goes under the name of European Brand Organization (EBO) and was created with a view, among other things, to the joint development of products with an internationally familiar brand reputation. Halfway through the reporting year the first articles were introduced in the field of men's and women's fashion under the brand name BSCS Europe.

Apart from external brands sold in the Bijenkorf, the department store sells many clothes under private labels. Some of the most well-known private labels include: Bijenkorf Basic, Bijenkorf Collection, BSCS Europe, Easyway, Proloog Jeans, Bakito, Scenario, Greenhills, Proloog, Julien Le Roy.

Vroom & Dreesmann

Vroom & Dreesmann is a department store in the middle range of the market, with 68 outlets, all of which are in the Netherlands. The number of employees is approximately 9000. The percentage of private labels is much higher than the Bijenkorf, only a few brand names other than the private labels are sold here. Some of the most well-known labels include; Vroom & Dreesmann Classics, Casuals Vroom & Dreesmann, Javelin, Yes or No (children and youth), Westbound and TMF The Music Factory.

³ Source: www.vendexkbb.nl

HEMA

Hema sells almost exclusively articles under its own name. The assortment consists of products that are commonly and frequently used in every household and at the low price end. There are large Hema's for the town centres and smaller stores for regional and district centres. Hema also trades in Belgium. The total number of outlets is 270, with 6.352 employees. The clothing sold by Hema consists mainly of basics, such as socks, underwear, t-shirts, men's shirts, basic jeans and sweaters.

Hunkemöller

Hunkemöller is a store that is specialised in women's underwear and lingerie. They sell mainly under their own name, with the labels. The website of Vendex KBB states that 'the entire production process from design to sale is in Hunkemöller's own hands'. This means Hunkemöller should have a strong relationship with its suppliers and must be able to influence the conditions under which the production takes place. They produce mainly their own private labels, such as Hunkemöller Lingerie, Hunkemöller Body Basics.

Hunkemöller is a market leader in the Netherlands, Belgium and Luxembourg, and is expanding strongly in Germany. Hunkemöller has a total of 236 outlets. There are 119 in the Netherlands, of which 34 are exploited by affiliates. In Belgium and Luxembourg the format has 66 outlets and in Germany 51.

Prénatal

Prénatal is the specialized store for young (expectant) mothers. Since forty years it is the largest chain of baby clothes retailers in the Netherlands. The Prénatal collection consists for a large proportion of own brands. The chain consists of 81 outlets, of which 24 are in franchise.

M&S Mode

M&S Mode is the largest and most international fashion chain of the Vendex KBB group, with outlets in five countries. There are altogether 338 outlets with an average sales area of 2,200 sq.ft. M&S Mode has 128 outlets in the Netherlands, 58 in Belgium, 3 in Luxembourg, 71 in Germany, and 78 in France. The intention is to open 15 to 20 outlets per year in the latter two countries. Under the slogan 'M&S makes fashion affordable' the format is profiled as a discount boutique for women above 35. The low prices and a discount format are combined with the up-to-date fashion image and ambience of a boutique.

The website of M&S states the following: 'the collection is developed, produced and quality-controlled in house. This vertical integration of the production process provides an unconditional guarantee of quality and is reflected in the 'not good, money back' rule in the stores. In order to respond swiftly to current trends, approximately half the collection is manufactured in Europe via the company's own workshops.' The research on suppliers of Vendex KBB showed that a large part of their production takes place in Sri Lanka as well.

3.2 The codes of conduct

Vendex KBB's codes of conduct

Vendex KBB has drawn up a code of conduct in July 1999. This statement consist of a number of general behavioural norms that Vendex KBB deems important to live up to in all its activities. They concentrate on the relationship between the company and its shareholders, employees, costumers and suppliers. There is one section that deals specifically with child labour, and it is mentioned here that it will not be tolerated that products sold by Vendex KBB are made by children. Their first reference is to national law, but when there is no national law on child labour they refer to article 2 from ILO Convention 138. In this policy document there is no further reference to other core labour standards, nor any control-mechanism to ensure observance of these general business principles.

Apart from this document, the different subsidiaries that are part of the research have drawn up guidelines, principles and codes of conduct, all of which remain extremely vague, without reference to ILO-Conventions, including only a clear prohibition of child labour.

The value of these statements is decreasing as Vendex KBB as a holding is now working towards a monitoring system at European level, together with other large clothing retailers.⁴

The AVE Code of Conduct

Vendex KBB has been working together for several years via its department store Vroom&Dreesmann with a number of German retailers, mainly Karstadt (and Quelle, Hertie and Neckermann), in the intercontinental group of department stores. In 1999 they decided to cooperate in the field of sourcing and quality control. Now all the sourcing is centralised at the buying office in Hong Kong. Vendex KBB and its German partners drew up a code of conduct for the procurement of goods, and this code was thereafter adopted by the German branch-organisation AVE (See appendix B) This code is now also discussed at the European level with EuroCommerce. At the European level, they are now working towards a common, centrally controlled system for monitoring compliance with the code. Vendex KBB takes part in the support group that is working on this.

The AVE code states to be in accordance with ILO Conventions, and covers the following standards:

- no forced labour;
- health and safety in accordance to the law;
- no child labour;
- prohibition of workplace practices, conditions and working hours which violate human rights and labour law;
- Assurance of fair remuneration adequate to local conditions and the level of development, allowing a minimum level of satisfaction of basic material needs;
- Prohibition of discrimination;
- The right to form associations and collective bargaining.

The AVE code thus covers the four core labour standards (on forced labour, child labour, discrimination and the right to organize and collective bargaining) as well as some additional standards on working hours, health and safety, and the notion of a living wage. In terms of content, the code is almost similar to the CCC-model code (See Appendix C).

⁴ Interview Vendex KBB, 02-05-2000 with Mr. G.G. M. van Wesemael (Director Consumer Interests and Environment)

A particularly 'strong' element of the AVE code is the notion of a living wage as opposed to a minimum wage. Wages should be 'fair' and allow for a minimum level of satisfaction of basic material needs. With this wording, the AVE seems to recognize that wages that do not meet the basic needs of workers are one of the reasons for the persistence of the fundamental labour rights violations such as child labour. In most garment producing countries, the minimum wage is not sufficient to meet basic material needs and cannot be qualified as 'fair'.

Although the AVE code has not yet been adopted as the code of conduct for all of Vendex KBB's subsidiaries, and the mechanisms for implementation and monitoring are not yet fully implemented, this is code that Vendex KBB plans to work with in the near future. The daughter companies have some sort of autonomy in their sourcing policies, but it seems more than likely that they will all accept this code in the end, instead of developing their own norm. This code was therefore used as the reference in the research, next to the CCC-model code.

The proposed common European control system is still in development. However, Vendex KBB claims that inspections on social issues are already taking place now, by internal auditors. They are the buyers from the buying offices. However, there is no information on the results of these social audits, where and when they have taken place, and what kind of audit protocol was followed. In the future system, Vendex KBB intends to hire accountant firms that are currently active in social auditing (such as PriceWaterhouse Coopers and KPMG) to audit their suppliers.

The German retailing company Karstadt is acting as the sourcing agent for Vendex KBB in the Far East. Karstadt has regional offices throughout Asia. The head office of Karstadt is located in the capital of India New Delhi, but there is also a buying office in Tirupur itself. According to Karstadt, the number of suppliers in India that produce for Vendex KBB is around 50 to 60.⁵ Sourcing from India accounts to about 20 mln USD per year. Not all the private label garments sold by Vendex KBB's subsidiaries is sourced through Karstadt though, direct suppliers to Bijenkorf, HEMA and M&S Mode were found as well, particularly in Sri Lanka.

⁵ Telephone interview Karstadt office New Delhi, d.d. 08-10-00

4. The production countries

This section presents a short overview of the overall situation in term of working conditions in the garment industry in the regions where the worker interviews were conducted.

4.1 India

Tirupur

The worker interviews in India were all conducted in Tirupur, which is often called *T-shirt town*, because of its enormous production of knitted garments. Tirupur is one of the major export hubs in India. The town is located in South India, in the state Tamil Nadu. In the last ten years, the town and its surrounding villages have grown very rapidly in terms of production and population.

The share in total knitted garments exports from India produced in Tirupur was 48 per cent in volume and 35 percent in value terms in 2000.⁶ In recent years, garment production has also increased dramatically in the towns surrounding Tirupur, the region as a whole is now called the Tirupur belt. Further besides Tirupur town and urban area there are many garment units at Avinashi, Perumanallur, Palladam and Coimbatore. Apart from the direct exports from Tirupur, a substantial quantity of garments produced from the Tirupur belt is exported by the merchant exporters in Mumbai, Chennai, Delhi and Bangalore. It would be another 25 per cent of the total knitted garments. Thus, this zone is producing more than half the knitted garments in the country. It is estimated that the amount of workers in the garment industry in Tirupur is around 200.000 to 300.000, many of them work in the informal sector, in so-called job-working units. There are about four thousand garment factories in Tirupur.

Working conditions in Tirupur

Many workers in the Tirupur region are migrant workers. They come from the poor rural areas of Tamil Nadu, where there is not enough employment and wages are extremely low. In most cases, the whole family moves to Tirupur, to find employment in the garment sector. As the income of the head of the family is not sufficient to live on, women and children have to work too. Children are mostly employed further down the sub-contracting chain of the larger, government recognized factories.

Wages

The Indian law says that regional agreements are binding. This means that in Tirupur the agreement between all the major Trade unions (seven) and the Tirupur Export Association (TEA) as of February 2001 is the legal minimum wage. This agreement states the following minimum wages for garment workers for a normal working day without overtime:

⁶ 'Knitwear exports likely to surge'. Indian Express, 10-12-2000

Type of job	Minimum Wages
1 Tailors/cutters	Rs 112.78/=
2 Iron machine/Packing	Rs 112.78/=
3 Checking	Rs 80.19/=
4 Labelling	Rs 75.88/=
5 Hand folding	Rs 74.80/=
6 Damage section	Rs 67.19/=
7 Arranging	Rs 58.56/=
8 Local Machine section	Rs 107.58/=

Bonus:

Any additional bonuses or incentives, like attendance bonus, productivity bonus and incentive for reaching the target are not provided to the workers. Deepavali Festival bonus is the only exception. Bonus is calculated based on their basic pay, it varies from company to company. Bonus is distributed during Deepavali festival in Oct/Nov. Eligibility for the bonus is that the workers must have worked for a minimum of 4 months. Minimum bonus is 8.33 % and the maximum is 30 % and most of the companies are giving the bonus as 20% on an average. However, many of the employers are evading payment of bonus by providing false information that the company is running in loss.

Working hours:

The regular working day is from 8.30 till 17.30, six days a week. On top of this there is usually overtime. 'Normal' overtime is three hours per day, so the workers would work until 21:00. During peak season workers often have to work night shifts too, until 1.30. Peak season for work is September, October, November, and December. Low season is February and March.

Living wage?

The approximate monthly income of a *skilled* worker could amount to Rs 4250 (47 rupees for 1 \$US, 40 Rs for 1 Euro). This is provided he/she works for 25 days with overtime in one month and also if he works in a company which accepts and implements the minimum wages agreement of Trade unions vs Employers Association-march 2000/Tirupur. In other words, this is the maximum wage of a garment worker in Tirupur, because in many cases, the garment companies have not implemented the Tirupur agreement. Obviously, work category like helpers and packaging earn even less.

Presently, this minimum wage figure is set, to cover the living costs of a single person and not his family or his dependent. This is not reflecting the reality of the workers situation, as the family size is on average 4 to 6.

A calculation of the living costs in Tirupur shows that the wage of a skilled worker is not sufficient to live on.⁷ The monthly expenditure will be a minimum of Rs 5000 for a small family of 4 members. For a very ordinary living they need this sum per month like living in a single room rented house (Rs 600 to Rs 700) and spending less than Rs 3000 per month for food, Rs 150 for water, Rs 1000 for education, medical, travel and miscellaneous expenses, etc. For a little more decent living they need Rs 5500 per month. The low wage levels are therefore directly resulting in child labour in Tirupur.

Not calculated are all the expenses for any social responsibilities within the family (elderly people, sick relatives) etc. health care and all social insurance (so they are missing) plus festivals like burials,

⁷ As mentioned before, there are many different ways of calculating what constitutes a living wage in a certain area. The numbers given here are based on the knowledge and observations of our research partners in the region.

marriage, festivals, etc. Thus, not calculated is some discretionary income. Taking these factors into consideration, the present minimum wage cannot be justified.

4.2 SRI LANKA

The garment industry is one of the fastest growing industries in Sri Lanka under the present open economic policy. Since 1989 exports have increased six fold to a value of US\$2,450 million today. Garments account for 52% of all exports from Sri Lanka. According to the Ministry of Industrial Development, at the end of 1998 there were more than 280,000⁸ garment workers employed in 890⁹ factories producing for export across Sri Lanka. This figure does not include workers in the informal sector or those working for factories producing for domestic consumption. 34% of garments produced for export are sent to the European Union (64.2% to the USA).

Garment factories can be classified into three main groups:

- Garment factories operating within Free Trade Zones (FTZ) - [Under Board of Investment {BOI}];
- Garment factories operating outside Free Trade Zones (but still approved by Board of Investment);
- Garment factories operating under normal Company Law (not covered under Board of Investment).

The garment factories operating under BOI - (category 1 & 2) and non-garment manufacturing BOI companies are allowed to manufacture for export only. The garment factories, which are not covered under BOI, are free to produce for the local market, for export or both.

Garment factories are located both inside the various Free Trade Zones (FTZs), Industrial Parks and Estates and outside in the villages and districts. In 1992, President Ranasinghe Premadasa declared the whole of the country a Free Trade Zone and simultaneously set up garment factories in each of the districts under the Garment 200 Factory Programme.

Inside the FTZ's over 80% of workers are single women. These women have migrated from their homes and villages in rural areas to work in the zones, most contribute to the economic well being of their families. The average age of women workers is between 20 – 29 years. Women are preferred as workers in the FTZs as they are seen as a more flexible work force for employers, easily manipulated and less likely to demand their rights. Women working in factories have a poor image and marriage ads often state "no factory girls".

Some examples of conditions for workers inside the zones and industrial parks and estates include:

- Being forced to work long hours to reach unrealistically high production targets;
- Long hours of work and forced overtime (well outside of labour regulations);
- Legal entitlements that are frequently denied, with leave being extremely difficult to take;
- Excessive fines and penalties ranging from being late, sick, not reaching production targets and not doing compulsory overtime. Bonus, fines and penalties are complex and workers frequently can not calculate how much they will earn each month;
- The right to organise collectively or form a union, though legal, is openly repressed;
- Occupational Health and Safety practices are either poor or non-existent;
- Sexual harassment is frequent and inhumane restrictions are often imposed such as a time limit per week for going to the toilet;
- Lack of transportation, especially after late night shifts;

⁸ The largest Free Trade Zones employ Katunayake (60,409), Biyagama (24,432) and Kogalla

⁹ According to government sources there are 84 Industrial Parks in Sri Lanka

- Misrepresentation by the BOI of labour law and frequent attempts to circumvent the law or to make it more “flexible” for employers.

Conditions outside of the factory in the FTZ's are no better. There is a lack of adequate infrastructure and housing, transport and medical facilities remain poor. Sexual harassment is also an issue. Workers live in a single cramped room, in a boarding house, (often 10 - 12 women share a room, 10ft x 12ft and cook inside the room¹⁰). Often there is no electricity and a shortage of fresh water. Ventilation and sanitation systems are usually inadequate.

Outside of the Zones, conditions for workers are poor and wages are often lower than in the zones, however there is more freedom for unions to be formed and the living conditions are generally better as workers tend to stay within their village community.

Existing labour laws would give some space for workers freedom if they were implemented. However, they are not. This means that workers human rights are repressed. It is the non implementation of labour laws and fundamental rights combined with violence and thuggery towards workers who organise and emergency regulations that repress workers. This repression coupled with the virtual break down of the judiciary, due to the prolonged war means that there is virtually no redress for workers against these injustices.

On 3rd May 2000, the Emergency Regulations (which already declared all export orientated industries as essential industries, with ordinary laws particularly in relation to the right to strike and organise prohibited) were extended by the Public Security Ordinance. This ordinance banned "all activities designed to encourage terrorism and disrupt the normal activities of the people"¹¹ including demonstrations, pickets, strikes and some public meetings.

It is within this context that the struggle for workers rights and improvements to conditions takes place in Sri Lanka.

Labour Law and Conditions for Workers

This section will summarise the main labour laws that are relevant to Garment factory workers both inside and outside of the FTZ's. A more detailed description of labour laws and the reality for workers can be found in Appendix D.

¹⁰ We in the Zone Pg 141 commenting on conditions in Katunayake FTZ in Sri Lanka.

¹¹ Daily News, 4th May 2000, Page 1

WAGE RATES**TABLE 1:**

Table 1, below gives the current basic wage, per month in Sri Lankan Rupees (SLRs), with USD conversions (at 78SLR's to the USD) for workers in the garment manufacturing industry who work **OUTSIDE of the Free Trade Zones**.

Year of Employment	Grade 1A	Grade 1B	Grade 11	Grade III	Grade IV	Grade V
<u>Year 1</u> SLRs USD	3,025.00 38.78	3,000.00 38.46	2,900.00 37.18	2,875.00 36.86	2,825.00 36.21	2,300.00 29.49
<u>Year 2</u> SLRs USD	3,060.00 39.23	3,030.00 38.85	2,925.00 37.50	2,895.00 37.11	2,840.00 36.41	ABOVE: 156 days only – training wage
<u>Year 3</u> SLRs USD	3,095.00 39.68	3,060.00 39.61	2,950.00 37.82	2,915.00 37.37	2,855.00 36.60	
<u>Year 4</u> SLRs USD	3,130.00 40.13	3,090.00 39.61	2,975.00 38.14	2,935.00 36.63	2,870.00 36.79	
<u>Year 5</u> SLRs USD	3,165.00 40.57	3,120.00 40.00	3,000.00 38.46	2,955.00 37.88	2,855.00 36.60	
yearly wage increase up to 25 years	35.00 0.44	30.00 0.38	25.00 0.31	20.00 0.25	15.00 0.18	

1st July 2000

TABLE:2

Table 2, below gives the current basic wage, per month in Sri Lankan Rupees (SLRs), with USD conversions (at 78SLR's to the USD) for workers in the garment manufacturing industry who work **INSIDE of the Free Trade Zones of Katunayake and Biyagama ONLY**.

	Semi Skilled	Unskilled	Trainees
SLRs USD	3,300 42.31	3,150 40.38	3,050 39.10 156 days only – training wage

1st November 1999

NOTES TO TABLE TWO:

In table 2, yearly, incremental increases (for years of service) exist, but their implementation is ad hoc and uneven. These increases come into effect in January of each year. However, if a general increase is granted, usually in November of each year, then any yearly increments are deducted from this increase. For example, if a general wage increase of 250SLRs is given in November, then, if an increment of 40.00SLRs was received in January the worker would only receive 210SLRs general increase.

TABLE:3

Table 3, below gives the current basic wage, per month in Sri Lankan Rupees (SLRs), with USD conversions (at 78SLR's to the USD) for workers in the garment manufacturing industry who work **INSIDE** of the **Free Trade Zone of Kogalla ONLY**.

	Semi Skilled	Unskilled	Trainees
SLRs	2,850.00	2,650.00	2,600.00
USD	36.54	33.97	33.33
			156 days only – training wage

1st November 1999

NOTES TO TABLE THREE

In table 3, yearly, incremental increases (for years of service) exist, but their implementation is ad hoc and uneven. These increases come into effect in January of each year. However, if a general increase is granted, usually in November of each year, then any yearly increments are deducted from this increase. For example, if a general wage increase of 250SLRs is given in November, then, if an increment of 40.00SLRs was received in January the worker would only receive 210SLRs general increase.

NOTE TO TABLES 1, 2 & 3:

Wages in both table currently have a 400 SLR allowance added to them, under emergency regulations, to compensate for the dramatic increase in the cost of living, many workers however, are not being paid this.

With overtime workers can earn between about 4,500 to 5,000 SLRs or between \$56.25 to \$62.50 USD per month.

Working hours:

A normal working day is defined in the Wages Board Ordinance for the Garment Manufacturing Trade as; 9 hours- Monday to Friday-this is inclusive of one hour for a meal or rest break; 6 ½hours on Saturday- this is also inclusive of one hour for a meal or rest break.

Overtime:

Overtime is paid for each hour worked in excess of 9 hours (Monday to Friday) and 6 ½hours on Saturday. It is paid at 1 ½times the normal rate. Any part of an hour worked shall be calculated and paid proportionately. According to the factories Ordinance women **cannot work more than 100 hours overtime in each calendar year**, or more than six hours in any one week; or over more than 25 weeks in the year.

Freedom of association and the right to organise and collectively bargain:

The right to form a union and for workers to organise and collectively bargain exists¹², however, in reality these rights are prevented from being exercised.

In December of 1999, just prior to the Presidential elections and amendment to the Industrial Disputes legislation was made, requiring that unions must be recognised if 40% or more workers in a factory belonged to the union. While this amendment presents some problems and is not perfect, it was

¹² These rights are enshrined in the Constitution of Sri Lanka, the labour legislation and Sri Lanka has ratified ILO Conventions No. 87 on Freedom of Association and Protection of the Right to Organise and No. 98 on the Right to Organise and Collective Bargaining.

something that could be used to force employers to recognise unions. Since this amendment a number of unions have been organised inside of the Zones, however, no factory based union or branch has received recognition. The regulations to the amendment are still being drafted. In January of 2001, the Free Trade Zones Workers Union was formed, covering all three FTZ's and this has received recognition, it's branches however, have not, as yet. This situation is similar for everyone who is organising unions in the Zones.

Living wage

The concept of a living wage is not recognised within the labour law of Sri Lanka or the Constitution¹³. The law is based on a minimum wages policy. Government processes for increasing minimum wages are to slow and cumbersome in the current climate of high inflation. Increases granted in the public sector usually take at least 12 months to flow on to the private sector.

A cost of living index does exist in Sri Lanka, however it's indicators are based on a "basket of goods" from the 1952 and is not relevant today¹⁴. The Rupee increase per point is two – this is too low by today's standards. Nonetheless some industries still receive wage increases based on this; the garment industry does not. If this index were to be revised, reflecting today's living costs, the rupee amount per point increased and fast mechanisms for these increases to translate to wage increases determined, then this could be a useful tool for contributing to determining a living wage and subsequent increases.

The concept of a living wage in Sri Lanka has received little attention from worker, unions, labour activists and labour NGO's. The harsh everyday reality for workers and the constant struggle to form and have recognised unions of their choosing leave little time for concern with issues of a living wage. Mass awareness raising and training programmes around a living wage have not occurred.

Of course workers have identified that the reason they need to do long hours of overtime is because their basic wage is not enough to live on. All available research and some interviews with workers and unions indicate that workers in the garment industry (and in many other industries) do not receive anywhere near a living wage.

Workers wages are spent on survival: food; accommodation; transport to and from the factory; and a small amount sent to the family; sometimes workers over several years save some money for marriage; women towards their dowry.

¹³ The new draft of the constitution does recognise citizens' rights to a reasonable standard of living. It also recognises safety and security of citizens. This proposed constitution, which also contained controversial devolution clauses was introduced in Parliament before the December 2000 parliamentary elections. It was withdrawn as the government did not have the necessary 2/3 majority in parliament to pass it. Post elections the government does not have the required 2/3 majority.

¹⁴ For example the basket of goods does not recognise the cost of electricity or telephone communications.

5. Findings from the research on suppliers

Two types of findings from the research can be distinguished, namely the actual working conditions in the factories and their relation to the AVE and CCC-modelcode and the state of affairs regarding implementation and monitoring by Vendex KBB.

5.1 Working conditions in India and Sri Lanka

In general, it must be noted that the working conditions described here are reflecting the conditions in the factories supplying directly to Vendex KBB. It is well known that the conditions are even worse further down the supply chain. In Tirupur, there is an enormous amount of small units of less than 20 people, producing for the export market. Sub-contracting takes place either when the production capacity of the direct suppliers cannot meet the demands, or embroidery and so on. Although it was not possible in this research to make a direct link between the suppliers of Vendex KBB and their sub-contracting chain, some suppliers have stated that sub-contracting takes place for specific tasks and during peak season.

Wages

In *Sri Lanka*, the wages paid in most factories that were investigated are the legal minimum (see the above section on Sri Lanka). Only in company IX, supplying for Vroom & Dreesmann, wages are paid under the legal minimum wage.

In *Tirupur*, workers were asked what their minimum wage is without overtime. The answers were categorized as follows:

- less than Rs. 1000;
- Between Rs. 1000 and Rs 2000;
- More than Rs 2000.

In total, only 45 % of the workers receive more than Rs 2000 as their minimum wage. Only in garment companies II, III and VII a small percentage (10%) of the workers earn more than Rs 3000,- per month as their minimum wage. When a skilled worker would earn the legal minimum wage of Rs 110 per day, this would amount to Rs 2650 to Rs 2850, provided he/she works 6 days a week.

More than half of all the workers (55%) earn even less than Rs 2000, which shows that the agreement between the TEA (Tirupur Export Association) not fully implemented. In companies I, II, IV and VI there are even a significant number of workers that earn less than Rs 1.000/- per month as their minimum wage.

Wage level	Company I	Company II	Company III	Company IV	Company V	Company VI	Company VII
less than Rs. 1000	10%	20%	0%	10%	0%	20%	0%
Rs. 1000 - Rs 2000	50%	30%	60%	40%	50%	50%	40%
More than Rs 2000	40%	50%	40%	50%	50%	30%	60%

Working hours

Long working hours is one of the major problems in the factories. In *Sri Lanka* overtime hours of 50 up to 90 hours were found to exist. In most cases, such overtime is compulsory. This means that in each factory, the Sri Lankan labour law with regards to overtime hours is violated.

In *Tirupur*, working hours are in general less than in Sri Lanka, between 40 to 60 hours a month was found to be the norm in most of the factories. For most of the workers, overtime is compulsory.

Apart from the fact that overtime was in most cases compulsory in the factories investigated, it must also be noted that the workers are forced *economically* to work extremely long hours. During interviews with the management, it was often said that the workers themselves want to work extra shifts, seven days a week. The above mentioned minimum wage levels explain why. The workers *have* to work long hours in order to survive.

Freedom of association and the right to collective bargaining

Officially, the right to organise and collectively bargain is recognized in both India and Sri Lanka. However, all of the management that was interviewed expressed their negative feelings towards trade unions. When questions to the management were raised concerning social standards in the factory, most answer that the conditions are fine, because of the increased health and safety improvements in recent years. However, when they are asked about trade unions, it becomes clear that this is not what they see as part of the labour standards. Some of the management openly state that trade unions are not allowed in the factory, others claim that the workers 'don't need a trade union, because there are no problems.'

In *Sri Lanka*, three of the five factories had a workers council (See Appendix D for a description of the workers council in Sri Lanka), but none had trade unions. In some cases, workers were openly prevented from forming a union in the factory (for example, in factory X), showing that the right to organize is not respected at all.

The same is the case for *India*, where none of the factories investigated had trade unions and none of the workers interviewed were members of the trade unions. The workers interviews also showed the general negative attitude of the management towards trade unions and towards workers willing to form a union. Another problem in Tirupur is the fact that many workers have a negative opinion on the existing trade unions, and they do not see in which way trade unions can improve their situation. The lack of credibility of the trade unions in Tirupur stems from the fact that they are all politically affiliated and there is a lot of corruption.

Discrimination

Discrimination is one of the most difficult labour rights issues, because of the cultural dimension. For example, when workers were asked whether there is discrimination taking place in the factories, the usual answer was that there was not. However, in both India and Sri Lanka, women workers are often denied higher paid and higher skilled work, and many times there are additional benefits for men that are not available for the women. For example, two women workers from company VIII said there was no discrimination, but went on to explain that women were denied transport to the factory while the men were picked up by a van.

Unlike in Sri Lanka and many other countries, there are many male workers in the Indian garment industry. The jobs are very divided: Most men are tailors and cutters, while most women are checking. In most factories, all the men are seated behind sewing machines, while all the women are standing in front of tables. Even though this is clearly visible from any factory visit, it remains difficult to pinpoint this as discrimination when the women workers do not feel discriminated.

Child labour

In the factories that were researched, child labour does not seem to occur on a large scale anymore. There was only one child found to be working in Company I, in Tirupur. This seems to be one of the results of the increased demands from the Western retailers on their suppliers as well as the increased attention from the national labour inspectors. Especially in Tirupur, workers were found that must have started working in the factory as a child, but are now old enough to be legally working. This also shows that it is only quite recently that the suppliers have stopped employing children. However, there are still many workers that are very young, in the age group of 15 to 18.

Health and safety

Most of the improvements in recent years in factories have been made in the field of health and safety conditions for workers. In particular in Tirupur, many workers expressed that good improvements were made in terms of health and safety in the factories, such as better lighting, toilets, fire extinguishers, seating and so on. Having said this, the health and safety conditions in many factories still fall short of the regulatory framework for occupational health and safety. For example, in Companies II, III and IV, medical facilities were not available. In Company VIII, no clean drinking water is provided to the workers, which is against the Sri Lankan law. Another major problem that exists in terms of health and safety is that paid sick leave and paid maternity leave is often not provided to the workers.

5.2 Implementation and monitoring

Apart from an analysis of the working conditions, the research has also provided information on the current practices regarding implementation of the code of conduct and monitoring by Western retailers in general and Vendex KBB -and Karstadt in particular.

In general, it can be said that most of the suppliers are aware of the increasing demands regarding social standards in their factories. Most of them have had to sign codes of conduct from different Western clients. However, even though communicating the code to the suppliers and asking them to sign it is regarded as one of the first steps of the implementation of the code, most of the management interviewed was not aware of the existence of the AVE code in particular, nor of the codes conduct of Vendex KBB or its subsidiaries. For example, the management of Company IV, producing for de

Bijenkorf (not via Karstadt but another agent in Tirupur), is not aware of the written policies of the Dutch client.

Most of the factories have been visited by social auditors, either from one of the supplier's clients (the Western retailers) itself, or from a commercial auditing firm. The interviews with the management and the workers have shown different methods of monitoring and auditing that currently takes place. As the management of Company II and IV explained, the 'social audits' consisted only of visiting the showroom and checking the books. Other social audits have been a little more thorough, when inspections of the work floor are done. The audits are usually announced beforehand and do not include any interviews with the workers.

The social audits that are most likely to reveal the truth about the working conditions are those that are unannounced (so that the factory cannot be 'cleaned up' beforehand) and include interviews with the workers. Such audits were conducted in Companies V and VI, but not by Vendex KBB or Karstadt. Interestingly, interviews with workers from those factories showed that the workers did feel that improvements were made in the conditions in the factories after the audits. However, the workers were told beforehand what to say to the social auditors, and wage levels were not checked, so the improvements only relate to physical conditions in the factories concerned.

The above shows that the quality of the audits that are taking place can be questioned in terms of revealing the truth concerning all the working conditions covered by most codes of conduct. Physical conditions in the factories and checking on child labour may be assessed by these methods, but the more sensitive issues such as freedom of association, living wages and discrimination cannot be revealed when workers are not interviewed under circumstances where they can speak freely and by interviewers that they trust.

The quality of the audits that take place can be questioned, because;

- the results of the interviews indicate that workers have not been able to tell the truth to the social auditors, because they were either not interviewed at all, and if they were, this was in the presence of the management, and they are told what to say;
- Factory visits are mostly announced, and the workers know when the auditors are coming. Interviews with the workers revealed that in such cases, the management prepares for this by 'cleaning' the factory.

The monitoring currently in use by Vendex KBB (which claims that their buyers are already checking the working conditions) as well as the monitoring that is organized in cooperation with Karstadt have so far not made much impact on the suppliers that were investigated in this research.

6. Conclusions and recommendations

The number of factories (twelve) that were found to produce for Vendex KBB is sufficient enough to conclude that violations of labour rights in Vendex KBB's supply chain are not isolated and taking place on a large scale in both India and Sri Lanka.

The biggest obstacles for garment workers in India Sri Lanka is the lack of freedom of association and the right to organise, long hours of work, forced overtime and low wage levels. No workers in the garment industry of India and Sri Lanka receive a living wage.

In factories supplying garments for Vendex KBB many violations of fundamental labour rights, the national law, and the *AVE code* were found:

- Compliance to the regulatory framework for occupational health and safety is often violated;
- Working hours are excessive: violating human rights *and* the national labour laws;
- Some factories pay wages below the legal minimum wage;
- Even including extremely long working hours, there is *no 'assurance of fair remuneration adequate to local conditions and the level of development'*, and does not *'allow a minimum level of satisfaction of basic material needs'* (AVE code);
- There is discrimination taking place on the basis of sex and political beliefs.
- Workers are denied their rights to organise and collectively bargain;
- One child labourer was found.

The current measures that Vendex KBB undertakes to improve the working conditions under which the private brands they sell are made are obviously not sufficient to guarantee improvements of working conditions and compliance to their self-proclaimed codes, including the AVE code of conduct. This research confirms that a monitoring system based on internal monitoring and private social auditors does not guarantee improvements of working conditions in some important areas covered by the AVE code, such as the living wage, hours of work, and freedom of association.

The improvements in the factories are primarily related to the physical conditions, because they can be checked by internal auditors. Apart from that, child labour is not occurring on such a large in the factories supplying directly to the Western retailers anymore. However, especially in Tirupur, child labour is still taking place lower in the sub-contracting chain of the suppliers for the Dutch market.

Vendex KBB must realize that the situation in terms of working conditions and general repression of workers in the countries where they source from, means that workers' concerns cannot be assessed by auditors that have gained the trust from the workers.

Increasingly, companies have become aware that the only way to come to a credible and independent system for monitoring and verification of compliance is to work with (local) NGOs and trade unions. Multi-stakeholder initiatives in the garment industry can now be seen throughout the world.

SOMO therefore recommends Vendex KBB to accept the principle of independent verification, and to build on a system for monitoring and verification that allows the voices of the workers to be heard and taken seriously. Such a system can only be developed in cooperation with trade unions and NGOs. SOMO urges Vendex KBB to sign up to the Dutch Fair Wear Foundation, that is currently working on a system for monitoring and independent verification of the CCC modelcode.

APPENDIX A: SUPPLIER PROFILES

Garment producers for Dutch retailers in India

Garment company I

1. PROFILE

This company mainly produces for Karstadt and this company is purely a Tirupur based manufacturing company. Through Kartstadt they produce for Vendex KBB. Most of the workers (90%) are below 30 years of age. And a majority of them (60%) are unmarried. The ratio of Male and Female workers is 60:40.

50% of the workers have a family size of 4 to 6 members. And around 40% of the workers have a family size of 1 to 3 members. 40% of the interviewed workers are tailors and the same percentage of workers is unskilled workers.

2. WAGES

- Most of the workers work only on hourly wage system. Half of the workers in this company earn just above Rs.2,000/- per month as their minimum wages. While the remaining 40% of the workers earn between Rs 1,000/- and Rs.2,000/- per month. Surprisingly, 10% of the workers earn less than Rs.1,000/- per month as minimum wages. This is a very low wage even in comparison to other garment companies in Tirupur.
- There are only 20 % of workers, who get payment of Rs.20/- per each overtime hour, while 40% of the workers get only Rs.5/- to Rs.10/- each over time hour
- Low minimum wage gives the pressure for them to do over time work but these over time wages do not provide any realistic living wage for workers.

3. WORKING HOURS

- Working condition in terms of working hours is not good in their company, particularly compulsory over time, which is more than 40 hours per month, no paid holidays and regularly working for more than 6 days a week.

4. THE RIGHT TO ORGANIZE AND COLLECTIVE BARGAINING

- There is no trade union in this company. The management of this company does not allow trade unions to operate. Some of the workers have inclination to establish trade union in their company but they don't prefer to be identified with trade unions as workers might be victimized if they are found to be indulging in trade union activities.
- Those workers who have belief in the purposeful role of trade unions seem to be systematically scrutinized and then victimized by the management. Though management of this company does not indulge in physical abuse against workers who attempt to organize trade union or raise their voices, those who do are not allowed to work in the factory anymore.

5. ON DISCRIMINATION

- All the workers feel that there is no discrimination based on sex, religion, caste, colour, nativity, political belief or other.
- Women workers are discriminated in their daily wages when compared to men workers in unskilled category. Women workers cannot avail paid maternity leave. Also women workers are denied equal opportunity in work, since most of them do not get skilled employment, which pays more.

6. CHILD LABOUR

- Officially, there are no child labourers in this company. During interviews we have found some workers in the age group of 14 or 15 years. This is a violation of Indian Child labour law.

7. HEALTH AND SAFETY

- Medical facilities are available in this company. 90% of the workers have rest time during illness. There is enough illumination in this company. There is no dust but it is very hot inside the factory. Fire fighting equipment's are installed in this company. Clean drinking water is provided to the workers. Only 10% of the workers have health problems related to their work. All the workers uniformly have felt that the good improvements are made in the health and safety measures in the factory.

8. CODE OF CONDUCT

- None of the workers know about the code of conduct. This company's management never informed the workers about the code of conduct and their rights.

9. SOCIAL AUDITS

- Social audits have been done in this company. Mostly Government officials visit to check on this company. Some times foreigners visit to check the activities in this company. Last year 3 checks have been done. But these checks have been made in the presence of their management, and the workers were not interviewed.

Garment company II

Producing for Prénatal (Vendex KBB) through Karstadt.

The company was established in 1972. Individual turnover of the company is 5 Million USD per year. Group turnover 10 million USD per year. 20 to 25 % percent of the total production is estimated to be for the Dutch market. The relationship with Karstadt was established about six years ago, while production for Prénatal is taking place for about two years.

Trade unions are not present in the factory, these issues are handled centrally through the TEA. Most of the orders have gone through Karstadt, but recently, people from Prénatal have visited the factory as well. However, they did not visit the production areas, only the showroom. There have never been social audits by Karstadt in this factory. The management is aware of the discussions on social standards.

The management explains that most of the workers are migrant workers from poorer areas of Tamil Nadu. Whole families move to Tirupur to look for work, and the whole family has to work including the children. The children are not employed in the government recognized factories, but they work in the small job-working units surrounding the bigger factories. Sub-contracting is occasionally taking place, for example during peak season, and when specific work has to be done on a particular garment such as embroidery on shirts.

Worker interviews

1. PROFILE

- All the workers are below 30 years old. But 40% of the workers are below 20 years. 80% of the workers have a family size of 4 to 6 members. Male and Female workers are equal in this company. Nearly half of the workers are unskilled workers.

2. WAGES

- 20% of the workers earn less than Rs.1,000/- per month, 30% of the workers earn between Rs.1,000/- and Rs.2,000/- and the remaining workers earn more than Rs.2,000/- per month.
- 50% of the workers earn less than Rs.10/- per each over time hour, among them 30% of the workers earn less than Rs.5/- per each over time hour. 50% of the workers earn more than Rs.11/- per each over time hour.
- 50 % of the workers' families need around Rs.2,000/- per month, while 40% of the workers families need, between Rs.2,000/- to Rs.4,000/- per month extra to meet their basic needs.

3. WORKING HOURS

- Majority of the workers (i.e., nearly 90%) are working 6 days or more in a week. Apart from their routine 9 hours a day work schedule, they have compulsory over time for all the workers. All of them work around 15 – 20 hours a week overtime.

4. THE RIGHT TO ORGANIZE AND COLLECTIVE BARGAINING

- Trade unions are not allowed to operate inside the factory. Management of this company has a negative attitude towards the union. There are no agreements based on the principle of collective bargaining. Workers are mostly illiterate and lack understanding of the concept of trade union.

5. DISCRIMINATION

- Men and Women are treated equally by superiors. Workers deny the presence of any discrimination. Although women workers feel that they are not discriminated, there is discrimination of women on allotment of higher wage works. Women workers are not aware of this discrimination.

6. CHILD LABOUR

- There are no child labourers in this factory. But there are grown up child labourers. For example, a child labourer works in this factory for the past 5 years, now he is 17 years old. However, according to the workers, company do not recruit children below the age of 14 years.

7. HEALTH AND SAFETY

- Medical facilities are not available. Paid sick leave is not provided to workers. Paid maternity leave system is not known to women workers. Good illumination is available along with good drinking water for workers. There is no dust inside the factory. Hot conditions prevail inside the factory. Fire fighting equipment's are available. Some of the workers handle toxic substances for production.

8. THE CODE OF CONDUCT

- Workers are not aware of their labour rights. They don't know about code of conduct and also that their company has a code of conduct. Their company management has never informed the workers about code of conduct and their basic labour rights.

9. SOCIAL AUDITS

- The workers are not aware that social standards are checked in their factory. Interviews with the workers by social auditors have not taken place as far as the interviewed workers know. They feel no improvement in their working conditions.

Garment Company III

1. PROFILE

- This company produces garments for Vroom & Dreesmann. Ages of the workers are below 30 years. Age of some workers is just 15 years or 16 years. 70% of the workers have a family size of 4 to 6 members and 30% of the workers have 1 to 3 family members. 40% of the workers are skilled workers. Men and Women workers are almost equal in numerical terms.

2. WAGES

- Majority of the workers (60%) earn a minimum monthly wage around Rs.1,000/- to Rs.2,000/- and around 40% of the workers earn a little more than Rs.2,000/- as a minimum wage.
- 40% of the workers earn Rs.11/- to 20/- as an over time wage per hour, and same percentage of workers earn more than Rs.20/- as an over time wage per hour.
- 40% of the workers' families need a minimum requirement on top of their current income of less than Rs.2,000/- and the other 60% need more than Rs.2,000/-.
- This indicates that workers minimum wage is far less than that of other companies whereas overtime wage per hour is slightly better.

3. WORKING HOURS

- 90% of the workers work more than 40 hours per month as overtime.
- Most of the workers work around 9 to 10 hours per day as their normal work schedule.
- Overtime work is almost compulsory for 90% of the workers.
- 90% of the workers work more than 6 days a week. At least two or three times a month the workers skip their Sunday as a holiday.

4. THE RIGHT TO ORGANIZE AND COLLECTIVE BARGAINING

- Trade unions are not allowed to operate in the company. Workers who have knowledge of trade union concepts are not encouraged by the management.
- Most of the workers do not have any willingness to either to organize workers or being a member of a trade union, as they do not see that trade unions can be of any help in improving their working conditions.

5. DISCRIMINATION

- No major discrimination is identified by the workers. Most of the workers are treated equally.
- Women workers are denied access to job, which pays more. Attitude of the management towards employing women workers is positive in engaging unskilled work but they are negative to engage more women in skilled category.

CHILD LABOUR

- Child labourers are not employed in this company. Former child labourers have reached the age of 15 years or more.

5. HEALTH AND SAFETY

- Good drinking water, better illumination and fire fighting equipment's are available in this company.
- Working place is hot and dusty. There is no temperature regulation system.
- Either paid sick leave or paid maternity leave is not provided to the workers.
- Medical facilities are not available.
- 60% of the workers have health problem related to their works, while 40% of the workers don't have any health problem.
- Protective coverings are not distributed to the workers.
- Generally health and safety conditions in this company are below average and it fails to satisfy standards anticipated in code of conduct.

6. THE CODE OF CONDUCT

- None of the workers know about the code of conduct. Workers do not know about their basic labour rights.

7. SOCIAL AUDITS

- 90% of the workers have told that there are people who come to their factory to check social standards. Among the visitors, 90% of them are foreigners and 10% of them are government officials. 70% of the workers have witnessed a checking this year, but these checks are announced in advance.
- The workers feel that checks on factory have resulted in good improvement in their working conditions.

Garment Company IV

This company produces for De Bijenkorf. This is not done through Karstadt, but through another agent in Tirupur. The company owns 4 factories in the Tirupur region, and there are about 400 workers. Other western clients include: Salty Dog, Quicksilver, Oxbow, Studio Adventure, Bullrot, E.B.O., Manhattan, No Excess, Protest, Lapagayo and Sunvalley.

According to the management, most of the workers are hired on a daily basis. For about three years there have been checks by the buyers on social standards. The checking was only on child labour and health and safety and consisted of factory visits and checking of the administration.

Worker interviews:

1. PROFILE

- 90% of the workers are below the age of 30 years. 60% of the workers are married. 60% of the workers have a family size of 4 to 6 members and 10% of them have a family size of more than 6 members. 50% of the workers are women workers. 60% of the workers are skilled workers and only 40% of them are unskilled workers or helpers.

2. WAGES

- 60% of the workers earn more than Rs.2,000/- on their minimum wage per month, 30% of them earn around Rs.1,000/- to Rs.2,000/- as their minimum wage per month and 10% of the workers earn less than Rs.1,000/- as their minimum wage.

- 40% of the workers earn less than Rs.10/- as their over time wage per hour, 30% of the workers earn between Rs.11/- to 20/- as an over time wage per hour and only 30% of them earn more than Rs.20/- as their over time wage per hour.
- 60% of the workers' family earn less than Rs.8,000/- as their monthly income. 10% of the workers' family earn between Rs.4,000/- and Rs.8,000/- a their monthly income and 30% of the worker's families earn less than Rs.6,000/- as monthly income.
- 50% of the workers' families need Rs.3,000/- to Rs.4,000/- per month, 40% of the workers' families need Rs.2,000/- and Rs.3,000/- per month and 10% of them need less than Rs.1,000/- per month to run their family on top of their salaries.

3. WORKING HOURS

- All the workers work for more than 6 days a week.
- Over time work is compulsory for all the workers.
- 50% of the workers work for 20 to 30 hours per month as over time, 40% of the workers work for 15 to 20 hours as their over time and 10% of the workers work for more than 40 hours as their over time.
- Most of the workers work for 10 hours on an average working day.

4. THE RIGHT TO ORGANIZE AND COLLECTIVE BARGAINING

- There is no trade union in this factory. The management's attitude towards the union is negative.
- None of the workers are members of trade unions. They don't like to have a trade union in their company and workers are not aware of the purpose of trade union and its goals.

5. ON DISCRIMINATION

- All the workers are treated equally, irrespective of age, caste, religion, colour, or nativity. But there is a clear discrimination existing in engaging skilled work to women garment workers.
- They have been denied equal opportunity in engagement of skilled work. Similarly, workers who believe in their right to organize are not treated equally with other workers.

6. CHILD LABOUR

- Child labourers are not allowed to work in this company. Children around 15 years of age are working as helpers. Many children between 15 to 18 years are working in this factory.

7. HEALTH AND SAFETY

- Medical facilities are not available and Doctors never visited this factory.
- Workers are allowed to take rest if they are sick.
- Good drinking water, Fire fighting equipment's and good illumination are available at work place.
- Workers do not get paid sick leave or paid maternity leave.
- Some workers use toxic substance for the production.
- 40% of the workers have health problems related to their work.

8. THE CODE OF CONDUCT

- The workers are not unaware of the code of conduct as well as its implication.
- The management never attempted to educate the workers about the code of conduct.

9. SOCIAL AUDIT

- Social Audit is not conducted in this company according to the workers, which contradicts with the answers from the management. This indicates that if checks on social standards have occurred, workers have not been involved in any way and improvements in working conditions were not felt.

Garment Company V

This company is producing for Vroom & Dreesmann, directly (label Javelin). Other clients include: Fila, Le Clerck, Quelle, Tommy Hilfiger and Karstadt. 60 % of the production is for the US market, the other 40 % for the EU. The yearly turnover is about 810 min USD per year. Production is 200.000 pieces per month. The company has three knitting factories. They work mainly directly through the buying offices of the large western brand that are located in Tirupur.

The production for the Dutch market started in 1995, with 1 mln Rupees per year. Now that number is 315 mln Rupees per year. Various codes of conduct are put on the wall in the showroom. The company also has its own code of conduct. There are codes of conduct in all factories in the local language on the wall. Every six months unannounced visits take place, and during these audits workers are interviewed.

There 700-800 workers. There is no trade union, and no collective bargaining agreement. There is no need for this, because the workers are paid well, above the general wage. The workers are hired on a permanent basis and paid by shift. Working hours are usually from 8:30 to 9 pm. This is 1 and half shift. Workers work 6 days a week.

Worker interviews:

1. PROFILE

- All the workers in this company are in the age group of less than 30 years and about 30% of the workers are below 20 years of age.
- 40% of the workers are unmarried and 30% of them are married. 60% of the workers have a family size of 4 to 6 members, 10% of the workers have a family size of more than 6 members and only 30% of them have a family size of 1 to 3 members.

2. WAGES

- 50% of the workers earn a minimum wage between Rs.1,000/-and Rs.2,000/- per month and 50% of the workers earn a minimum wage just above Rs.2,000/- per month. Unskilled workers earn less than Rs.10/- as an over time wage per hour and skilled workers earn between Rs.11/- and Rs.20/- as an over time wage per hour.
- 30% of the workers families need above Rs.4,000/- as a minimum monthly wage requirement. 50% of the workers' families need about Rs.2,000/- to Rs.4,000/- as their minimum wage requirement for a month.
- They don't get productivity hours, attendance bonus or incentive for reaching the target.

3. WORKING HOURS

- Their normal working hours is 9 hours per shift and they work for another 3 to 4 hours a day as over time, which corresponds with the interview with the management.
- Over time is compulsory for all the workers. They work more than 60 hours a month as over time.
- 80% of the workers have more than 6 days per week as working days. 20% of the workers get 5 days per week as working days.
- Workers work throughout the week, without one day off at least twice a month.

4. THE RIGHT TO ORGANIZE AND COLLECTIVE BARGAINING

- There is no trade union in this company. None of the workers are members of any trade union.

5. ON DISCRIMINATION

- All the workers are treated equally and there is no discrimination based on caste, religion, colour or age. However, discrimination based on sex prevails particularly in women who are denied the opportunity to work in highly skilled lucrative jobs such as cutting and tailoring. Women are mostly engaged in unskilled work of low wages.,

6. CHILD LABOUR

- The Management of this company does not employ child labourers anymore. Those child labourers previously employed here in this company have grown up and now they fall in the age group of 15 to 18 years, which is legal as per Indian child labour law.

7. HEALTH AND SAFETY

- Medical facilities are available in this company. Doctor used to conduct Medical check-up for workers. Good drinking water is provided to workers, fire fighting equipment's, good illumination, temperature regulation are available in this factory. However, hot condition prevails inside the factory and preventive coverings are not provided to the workers. Paid sick leave or paid maternity leave is not available.
- Most workers feel that their company has made some improvements in the health and safety situation.

8. THE CODE OF CONDUCT

- Workers do not know either about the code of conduct or about the certain labour rights related to the code of conduct. The management has never informed them about the code of conduct. This is quite contradictory to the answers from the management that their code of conduct is put up on the factory wall in the local language. Either this is not the case at all (it was not possible to verify this), or it shows that such action by the management is not enough to make workers aware of their rights as laid down in the code of conduct.

9. SOCIAL AUDITS

- Social Audit was conducted in this factory. Factory check-up was conducted without prior announcement. Those checks were done in the presence of the management. The management told them in advance what to be said during such checks. However, all the workers accept that these check-ups have resulted in good improvement in working conditions of their company.

Garment Company VI

The company is specialised in Baby Wear and Children Wear. The company produces for Vroom & Dreesmann through Karstadt. Other clients include: C&A, Karstadt, Woolworths (Australia), Obermeyer (Germany), Sicotex (France), Bewise Stores (U.K.), Catton Brothers (U.S.A.) Kids Head quarters (U.S.A.), Iron Knights (U.S.A.).

The company was established in 1982. Production for the Dutch market takes place since 1985, with fairly steady sales in the recent years. Approx. 2 million USD is exported to the Netherlands per year. The production capacity is 6.000 pieces per day.

The management has seen an increase in the demands from their buyers regarding social standards. Checks by social auditors have taken place in the last two years. In the beginning the focus was on child labour, but more and more demands have come up, especially concerning health and safety in the factory. These social audits take place around two times a year, and they are unannounced. As a result of this, there have been a lot of changes in factory, better machinery, better protection, lighting, toilet facilities and so on.

There is no separate trade union in the factory. Workers can join unions however; they join the unions through the TEA (Tirupur Export Association).

Worker interviews

1. PROFILE

The number of workers varies from time to time and can range from 350 to 400. The workers work about 60 hours per week. 50 % male, 50 % female. 50% of the workers are in the age group of 21 – 30 years, 40% of the workers are in the age group of less than 20 years and only 10% of the workers are in the age group of 30 – 40 years. Half of the total workers are unmarried, 50% of them are unskilled workers while the remaining workers are skilled, 80% of the workers have a family size of 4 to 6 members while 10% of the workers have a family size of 1 to 3 members and 10% of the workers have a family size of more than 6 members.

2 WAGES

- The majority of the workers earn between 1,000/- to 2,000/- Rupees as their minimum wage. They need to double that for sufficient wage level and therefore, they have to do a lot of overtime work.
- 30% of the workers earn more than Rs.2,000/- as their minimum wage, 50% of the workers earn around Rs.1,000/- to Rs.2,000/- as their minimum wage and only 20% of the workers earn less than Rs.1,000/-.
- There are considerable differences in the overtime wages that the workers receive. This can vary from Rs 5 to Rs 20 per hour.
- 30% of the workers get more than Rs.20/- as their over time wage per hour, 30% of the workers get around Rs.11/- to Rs.20/- as their over time wage per hour, 20% of the workers get between Rs.5/- and Rs.10/- as their over time wage per hour and 20% of the workers are working as piece rate workers, so it is not applicable to them.
- 10% of the workers' families earn more than Rs.8,000/- as their monthly income, 50% of the workers families earn between Rs.6,001/- and Rs.8,000/- as their total monthly income and 40% of the workers' families earn around Rs.4,001/- to Rs.6,000/-.
- 20% of the workers' families need more than Rs.4,001/- as their minimum monthly requirements as wages.

3 WORKING HOURS

- Normal working hour per shift is 9 hours including lunch & tea break. Some workers work for 10 hours per shift. Over time work is compulsory for 80% of the workers and it is optional for 20% of the workers.
- 20% of the workers have more than 40 hours of over time.

4. THE RIGHT TO ORGANIZE AND COLLECTIVE BARGAINING

There is no trade union in this company. None of the workers is a member of any trade union.

5. ON DISCRIMINATION

- All the workers are treated equally and there are no discriminations based on caste, religion, colour or age. However, discrimination based on sex prevails particularly women are denied the opportunity to work in highly skilled lucrative jobs such as cutting and tailoring. Women are mostly engaged in unskilled work of low wages. Workers are discriminated based on their political belief related to right to organize and collective bargaining.

6. CHILD LABOUR

- The Management of this company does not encourage child labourers and they never employ child labourers. Those child labourers previously employed here in this company have grown up and now they fall into the age group of 15 to 18 years.

7. HEALTH AND SAFETY

- Medical facilities, good illumination, temperature regulation, good drinking water and firefighting equipments are available. Workers have freedom at work place.
- Paid maternity leave or paid sick leave is not provided to workers.
- Dust free atmosphere exists in the factory but hot conditions prevail inside the factory.
- Rest time for workers is given during illness.
- Preventive covering is not provided to the workers.

8. SOCIAL AUDIT

- Most of the workers that were interviewed confirmed that social audits have taken place in the factory, by foreigners. All of them felt that these factory checks have resulted in improvement in working conditions in the factory. However, the auditors did not check on the wage levels.
- The management accompanied these people during factory checks. Interviews with the workers were conducted in the presence of management. The management have informed them what they should speak.

Garment Company VII

1. PROFILE

- This company is a very large garment export manufacturer in Tirupur with a turnover of over 30 million US Dollars. This company exports almost to all the countries in Europe and America. They have 11 manufacturing units in and around Tirupur. They produce garments for WE international and Vroom & Dreesmann (through Karstadt)
- All the workers are less than 30 years of age and more than 30% of the workers are less than 20 years of age. Male and Female workers are almost equal in members. 60% of the workers are unmarried. 90% of the workers have a family size of 4 to 6 members and remaining workers have a family size of 1 to 3 members.

2. LIVING WAGE

- 60% of the workers earn more than Rs.2,000/- per month as a minimum wage and 40% of the workers earn around Rs.1,000/- to Rs.2,000/- per month as a minimum wage.

- 40% of the workers earn more than Rs.20/- as an over time wage per hour, 20% of the workers earn between Rs.11/- and 20/- as an over time wage per hour, and shockingly. 40% of the workers in this company earn less than Rs.10/- as an over time wage per hour.
- 60% of the workers' family income is around Rs.6,001/- to Rs.8,000/- per month, 30% of the worker' family income is between Rs.4,001/- and Rs.6,000/- per month and 10% of the workers' family income is around Rs.2001/- to Rs.4,000/- per month.
- 30% of the workers' families minimum requirements per month is Rs.6,001/- to Rs.8,000/-, 10% of the worker's families minimum requirement per month is Rs.2001/- to Rs.4000/- and nearly 40% of the workers' families minimum requirement per month is less than Rs.2,000/-.

3. WORKING HOURS

- Workers work for 9 hours a day including lunch and tea breaks.
- They work minimum 3 hours a day every day as over time.
- Normally each workers work for more than 11 hours a day.
- Over time is compulsory in this company. Normally they work for more than 6 days a week. This frequently happens 2 or 3 times a month.
- 50% of the workers work for more than 40 hours as over time per month and 50% of the workers work more than 30 to 40 hours a month as over time.

4. THE RIGHT TO ORGAINISE AND COLLECTIVE BARGAINING

- There is no trade union in this company. None of the workers is a member of any trade union.
- They don't have any demands and they don't insist to have a union in their factory despite working in adverse working conditions and insufficient living wages.

5. ON DISCRIMINATION

- All the workers are treated equally and there is no discrimination based on caste, religion, colour or age. However, discrimination based on sex prevails, particularly women are denied the opportunity to work in highly skilled lucrative jobs such as cutting and tailoring. Women are mostly engaged in unskilled work of low wages., Workers are discriminated based on their political belief related to right to organize and collective bargaining.

6. CHILD LABOUR

- The Management of this company does not encourage child labourers and they never employ child labourers. Those child labourers previously employed here in this company have grown up and now they fall into the age group of 15 to 18 years, which is legal as per Indian child labour law.

7. HEALTH AND SAFETY

- Medical facilities are available in this company.
- Doctors used to visit the factory to conduct Medical checkups.
- Dust free working atmosphere exists.
- Temperature regulation, good drinking water supply, fire-fighting equipments are available at workplace.
- 80% of the workers have felt that hot conditions prevail inside the factory.
- 30% of the workers have health problems related to their work.
- Rest time in given to sick workers.
- Paid maternity or paid sick leave is not provided to workers.
- Health and safety conditions in this company are average.

8. THE CODE OF CONDUCT

- Workers do not know either about the code of conduct or about the certain labour right related to the code of conduct. The management never informed them about the code of conduct.

9. SOCIAL AUDITS

- There are people who conducted checking of social standards in their company.
- Foreigners have visited their factory for such checkings and they have come only once in last year.
- Workers don't know about the type of checking.
- Some Government officials have also visited the factory.
- Checkings were done in the presence of the management and Interviews were taken together with the management
- Workers were not allowed to speak frankly and they were instructed by the Management on how to speak.
- There is a feeling among the workers that such social audits have resulted in good improvement in working conditions.

Producers for Vendex KBB in Sri Lanka

Garment Company VIII

Producing for: M&S Mode, EASYWAY (Bijenkorf label), HEMA, GAP

Location: Koggala EPZ (approximately 120 km south of Colombo)

Workforce: total: 1500 women: 1300 men: 200

This company is producing for HEMA since two years. The production is 150.000 pieces per year. There is no trade union in the company.

The management is aware of the increasing demands regarding social standards, but has experienced pressure to change the conditions in the factories mostly from US companies. For example, social auditors from Nike and GAP have visited the factories. Checks on social standards were never done by any of the Dutch clients.

Working Conditions

Wages: This factory operates within the Koggala Free Trade Zone, and our survey indicates that the company pays the minimum wages laid down by BOI.

Wages are paid regularly on the 10th day of every month, in accordance with the law.

Category of workers	Basic rate Received per Month	Average pay received Per month including Overtime & bonuses
Worker 1 / Trainee	2950	4500-5000
Worker 2 / Machine Operator	2300	
Worker 3 / Helper	2850	4400-4300
Worker 4 / Cutter	2300	3500-3800
Worker 5 / Supervisor	2950	4500-5800

Code of Conduct:	Workers surveyed are not aware of that Codes of Conducts exist and they have not read any such codes on the wall.
Overtime:	Overtime is compulsory, about 60 hours per month is worked. It varies greatly from month to month according to the orders. This is not in accordance with the law.
Night work:	There is night work and it is compulsory. Usually till 9.30 p.m. but some times the whole night until the next morning is worked – this is contrary to the law. This is usually 2-3 days a month generally but the finishing section works at night for 2 weeks. Transport home is provided.
Target system:	Production targets are set, and the workers are punished if they do not reach targets. Production targets are not part of the law and there is a proper process to deal with punishment, which is not followed.
Safety procedures:	Workers are not aware of health and safety procedures in the factory.
Toilets:	There are 40 toilets, 25 for women, and 15 for men. This is average of one toilet for every 37 workers and can be considered bad by Sri Lankan standards, as the minimum allowed by law is 25 per toilet. A time limit imposed on going to the toilet.
Lunch time:	The lunch break is 30 minutes and 15-minute tea breaks are given. The factory does not supply lunch.
Medicine box:	There is a First Aid box in the factory premises and medical treatment is given twice a week.
Canteen:	Canteen available
Drinking water:	Drinking water is not provided (the law requires that safe drinking water be provided).
Union:	No union exists in this factory. Workers are not aware if it is possible to organise unions. There is a workers council.
Additional:	Workers cannot obtain leave when they want it – This is in contravention of the law. No freedom at all to workers and insufficient time to go to toilet are the main complaints.

Interview with two garment workers from Company VIII

During the field visit an interview with two workers was conducted by SOMO with interpretation of the local trade union representative.

Working conditions:

The standards working week is from Monday to Saturday from 8:00 until 17:00. On average, overtime is about 100 hours per month. Overtime is compulsory. This is not according to the law, which stipulates that compulsory overtime cannot exceed 100 hours per year. The standards wage is 2500 SRL per month. With OT the wage comes to about 5000 SLR per month. The women are living in very small boarding houses near the factories. They have to pay 1300 SLR for boarding alone, which shows that 2500 SRL would not be enough to live on.

The factory works with production targets. When these are not met in the regular working hours, the workers have to do unpaid overtime until the production target is met.

Health and safety

Facilities such as toilets, lights and fire extinguishers are all available. However, the women have to sit on stools without a back side. The women tell that a few weeks ago some workers fainted, because of the heat in the factory, and they were hospitalised. They were not paid any salary for the time that they were in the hospital.

Discrimination:

When the workers are asked about discrimination they first say there is no discrimination. However, later they say that the men are only getting transport, and not the women.

Codes of conduct and social audits:

The workers are aware that codes of conduct exist, but they have never seen one in their factory, not in English, not in the local language. When asked if they have ever seen people checking their factory for social standards, they confirm that auditors have visited the factories. The workers can tell when the social auditors are coming, because the factory management puts soap in the toilets and carpets on the floor. Apparently, there are also interviews with the workers.

Garment Company IX

This company produces for Vroom & Dreesman (Easyway) and for GAP

It is located in Mahayangar (in the North East, about 250km from Colombo), it is considered a remote area. This company is one of the “new wave” of companies to move to the remote rural areas to take advantage of people’s poverty and the lack of organisation by workers. Workers at this factory, while paid below even the legal minimums will not complain, as their income is better than most in this area. For example alternatives include making mud brick, which is longer hours and hard hot work – for this they receive approximately 2,000SLRs per month (about half what can be earned per month in the garment factory).

Working Conditions**Code of Conduct:**

There is a Gap code of conduct and workers are aware of its existence, but not how to use it.

Unions or Workers Council:

no union, no works council

Wages:

Workers are paid under the minimum wage and often work 12 hours a day at the normal rate of pay. Their attendance bonus is deducted if they do not report for work on one day, even if this one day is a Sunday or a day where leave has been approved. Workers are paid a bonus at New Year.

Night Work:	Women often have to work until 12.00 midnight, transport home is not provided so they have to stay overnight at the factory and work the next day.
Target Systems:	A “production incentive” is given if a worker reaches the target, if they do not reach production targets then they are forced to work without pay until they meet the target - this is in contravention of the labour law. If they reach the target and are required to work more hours then they will receive overtime pay.
Lunch:	Breakfast is provided but not lunch.
Additional:	If a worker raises a complaint or grievance with the department of Labour at the District level (in Badulla – the closest labour office). Management pays a bribe to the Labour Office, so the grievances do not get dealt with.

Garment Company X

Producing for:	M&S Mode
Total workforce:	1000 (Female: 925, Male: 25)
Location:	Situated in the Biyagama EPZ

According to the management, this company is visited twice a year by agents from the buyers, and they check the social standards in the factory. They have total in-house production, so there is no sub-contracting. There are no problems regarding social standards, as all the health facilities are available in the factory. However, there is no trade union allowed in the factory. The average wage for the workers is said to be 4000 Rs per month.

Working Conditions

Code of Conduct:	Not displayed and workers are not aware of their existence
Unions/ Workers Council:	None
Wages:	The legal minimum is paid.
Overtime:	Yes - about 90 hours per month – this is in contravention of the law
Night Work:	Workers are not required to work nights
Target Systems:	Target system exists.
Safety Procedures:	Safety procedures exist.
Toilets:	30 for 1000 workers. Females 925 - 25 toilets. Males 75 - 10 Toilets. Bad for women workers by Sri Lankan standards, as the minimum allowed by law is 25 per toilet. A Time limit to go to toilets exists.
Lunch time:	30 minutes.
Union:	There is no freedom of association. Workers were prevented from forming a Union. They tried to organise a union, however management threatened and warned them against forming a union, they became frightened and backed down. Now there is not even a workers council in the factory.
Medicine Box:	Medicine Box with basic painkillers is available – the regulation to the law provides a list of what should be contained in first aid boxes – it is more substantial than basic painkillers.

Canteen: Canteen available.
Drinking Water: Provided, in accordance with the law

Garment Company XI

Producing for: Vroom & Dreesman
Location: Situated in the Katunayake EPZ
Total workforce: 800
Country of export: USA, UK, Europe

Working Conditions

Code of Conduct: Not known
Unions or Workers Council: Yes, Workers Council
Wages: Legal Minimum.
Overtime: Yes, up to 90 hrs per month – this is in contravention of labour laws.
Night Work: Not compulsory, 8-12 Hrs. per night /6 nights per month.
Target Systems: Target systems exist. No penalties for not reaching targets.
Safety Procedures: Safety procedures exist.
Toilets: 30 for 800; Good, by Sri Lankan standards, the minimum allowed by law is 25 per toilet No time limit to go to toilets.
Lunch time: 30 minutes.
Union: There is a Workers Council – Some demands have been won.
Medicine Box: Medicine Box with basic painkillers is available. The regulation to the law provides a list of what should be contained in first aid boxes – it is more substantial than basic painkillers. Doctor visits once a week.
Canteen: Canteen available – Lunch provided. This is additional to legal requirements.
Drinking Water: Provided, as per the law.
Additional: Leave on request, library and sports facilities granted. 6000SLRs gift to those who complete one year. Production bonus of 50/= per day. Some workers are provided with company accommodation. These (with the exception of leave) are additional to legal requirements.

Garment Company XII

Brand labels produced: Hunkemöller
Total workforce: Katunayake 2,000
 Kogalla 800

Code of Conduct:	Displayed in Sinhala language in Koggala but not displayed in the Katunayake Factory.
Unions or Workers Council:	Yes, Workers Council
Wages:	Legal Minimum is paid
Overtime:	Yes, up to 55 – 60 hrs/month, in contravention of labour laws
Night Work:	Koggala not compulsory - transport given.
Target Systems:	Target systems exist. No penalties for not reaching targets.
Safety Procedures:	Safety procedures exist.
Toilets:	Koggala 35 / 800 workers (Female 25 toilets for 750; Male 10 toilets for 50) Male toilet ratio very good, female below legal standards. Number of toilets in Katunayake – not known. No time limit to go to toilets.
Lunch time:	30 minutes.
Union:	There is a Workers Council – Some demands have been won through the workers council (attendance bonus – Nursing mothers one hour to feed the child – daily)
Medicine Box:	Medicine Box with basic painkillers is available. The regulation to the law provides a list of what should be contained in first aid boxes – it is more substantial than basic painkillers. Doctor visits once a week.
Canteen:	Canteen available – Lunch provided.
Drinking Water:	Provided, in accordance with the law
Additional:	Leave granted on request in Katunayake factory (in accordance with the law) but difficult to obtain in Koggala factory (contrary to the law)

APPENDIX B

AVE Declaration concerning A Code of Conduct for the Procurement of Goods to Ensure Protection of Welfare Standards

1/ The Foreign Trade Association of the German Retailing Trade (AVE, Cologne), whose members are retailing companies and associations, represents the foreign trade interests of its members.

2/ Ensuring respect for human life and dignity, improving social standards, and protecting the environment are among humanity's most important tasks. Sustainable development of the economy and attendant social progress can be realised only if the natural foundations of prosperity are respected.

3/ Desirous of participating in this process, the retailing companies of the AVE have adopted a Code of Conduct for the procurement of goods. The aim is to exercise a positive influence on the procurement markets without engaging in protectionist behaviour, helping to protect basic human rights and safeguard the environment.

>4/ In accordance with the Conventions of the ILO, the Code of Conduct aims at attaining certain minimum standards the following requirements are of special importance:

- Prohibition of forced labour and prisoner labour that violates basic human rights.
- Establishment of and compliance with a regulatory framework for occupational health and safety.
- Prohibition of child labour, especially the exploitation of children under conditions resembling slavery or harmful to their health.
- Prohibition of workplace practices, conditions and working hours, which violate human rights and labour law.
- Assurance of fair remuneration adequate to local conditions and the level of development, allowing a minimum level of satisfaction of basic material needs
- Prohibition of discrimination on the basis of race, skin colour, sex, religion, political convictions or social background.
- The right to form associations and to conduct collective negotiations for a minimum democratic consensus

5/ Aware that existing problems are very complex and that some influence can be exercised, within a framework of appropriate measures, AVE members undertake to promote observance of the above requirements by fixing and implementing appropriate rules and monitoring their trade partners as well as their subcontractors for compliance.

6/ Observance of the code of conduct will rely on dialogue, cooperation and a consensual approach that respects the trading partners' responsibility.

When a violation of the Code of Conduct is determined, member companies will immediately enter into negotiations with the affected suppliers and search for ways to resolve the problem, taking into consideration the interests of the employees and avoiding the effect of a boycott. If suitable solutions cannot be found within a reasonable period of time, this is a reason to terminate further business relations.

7/ Any action taken by the members of the AVE in no way prejudices the responsibilities of governments of industrialised countries and the EU in their pursuit of co-operation with developing countries and a trade policy of open markets governments of developing countries and the sovereign competence of countries in establishing regulations for the improvement of their circumstances, in particular local social and environmental conditions.

8/ The AVE is prepared, within its legitimation for action to submit the substance of this declaration to public discussion and political decision-making processes.

APPENDIX C

The CCC model code

CODE OF LABOUR PRACTICES FOR THE APPAREL INDUSTRY INCLUDING SPORTSWEAR

February 1998

N.B. This section contains only the standards in the CCC-model code. The complete code also includes provisions on implementation, monitoring and verification. The CCC-model code can be found on the website: <http://www.somo.nl/monitoring/reports/ccc-coc.htm>

Employment is freely chosen.

There shall be no use of forced, including bonded or prison, labour (ILO Conventions 29 and 105). Nor shall workers be required to lodge "deposits" or their identity papers with their employer.

There is no discrimination in employment.

Equality of opportunity and treatment regardless of race, colour, sex, religion, political opinion, nationality, social origin or other distinguishing characteristic shall be provided (ILO conventions 100 and 111).

Child labour is not used.

There shall be no use of child labour. Only workers above the age of 15 years or above the compulsory school-leaving age shall be engaged (ILO Convention 138). Adequate transitional economic assistance and appropriate educational opportunities shall be provided to any replaced child workers.

Freedom of association and the right to collective bargaining are respected.

The right of all workers to form and join trade unions and to bargain collectively shall be recognised (ILO Conventions 87 and 98). Workers' representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to enable them to carry out their representation functions (ILO Convention 135 and Recommendation 143). Employers shall adopt a positive approach towards the activities of trade unions and an open attitude towards their organisational activities.

Living wages are paid.

Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income.

Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted without the expressed permission of the worker concerned. All workers shall be provided with written and understandable information about the conditions in respect of wages before they enter employment and of the particulars of their wages for the pay period concerned each time that they are paid.

Hours of work are not excessive.

Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7 day period. Overtime shall be voluntary, shall not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate.

Working conditions are decent.

A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer are strictly prohibited.

The employment relationship is established.

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 arrangements, or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment. Younger workers shall be given the opportunity to participate in education and training programmes.

APPENDIX D

Labour Law and Conditions for Workers in Sri Lanka

This section will outline and summarise the main labour laws that are relevant to Garment factory workers both inside and outside of the FTZ's. The boxed sections represent comments on the labour laws and reflect the reality for workers.

HOURS OF WORK

The Wages Board decisions for the Garment Manufacturing Industry covers all workers in the garment industry whether producing inside or outside of the FTZ's or for export or local production. Actual wage rates do vary depending on the location of the factory. Wage rates are given at the end of this section.

The numbers of days full time workers must work in each month at ordinary time to be paid the monthly rate is:

January	27
February	24
March	27
April	26
May	27
June	26
July	27
August	27
September	26
October	27
November	26
December	27

Additional pay must be given for working Overtime, Sundays and Public Holidays. The minimum number of days is reduced by one for any month that has 5 Sundays in it.

- Fines are limited to 5% of salary and any other deductions from your ordinary pay must be authorised;
- Wages are to be paid within ten days after the end of each wages period;
- Full-time worker should be paid for days that the employer is unable to offer work;
- Salary to be paid within two working days of termination of employment.

The monthly rate of ordinary time pay is not linked to production targets or quotas. The monthly pay should not have built into it fines, punishment or bonuses. The management of the factory arbitrarily sets targets, quotas, fines, punishment and bonuses not Sri Lankan law or the Board of Investment.

Deductions are frequently made from workers wages without their permission, deductions for being late to work are common for example if a worker is half an hour late then one hours pay is deducted, in some places workers are only paid half a day, even if they are half an hour late in the morning.

Any fines or punishment at all must be done in accordance with the procedure laid down by the BOI, however this procedure is rarely followed. Fines cannot exceed what is contained within the legislation and permission must be granted from the Commissioner of Labour, again this rarely occurs. Workers are frequently fined, punished or lose their wages from their ordinary pay for not meeting targets, taking time off work that they are entitled to, such as Sundays and Annual Leave.

The Normal Working Day

A normal working day is defined in the Wages Board Ordinance for the Garment Manufacturing Trade as; 9 hours- Monday to Friday-this is inclusive of one hour for a meal or rest break;
6 ½ hours on Saturday- this is also inclusive of one hour for a meal or rest break.

The Ordinance also states that the employer must allow Sunday as a weekend holiday. However, it goes on to say that an employer can ask an employee to work on Sunday but they must allow a days holiday within six days following the Sunday worked,

and

pay the normal rate, plus an additional half you normal rate for the first 9 hours (known as 1 ½ times your normal rate-including a one (1) hour meal or rest break)

and

double time (your normal rate of pay doubled) for each hour worked after the nine (9) hours.

Workers who are required to work on a Sunday are paid at the additional rate, within the FTZ, outside the zones this is sometimes not paid. Workers never receive a day off within the next six days.

Overtime

Overtime is paid for each hour worked in excess of 9 hours (Monday to Friday) and 6 ½ hours on Saturday. It is paid at 1 ½ times your normal rate. Any part of an hour worked shall be calculated and paid proportionately.

According to the factories Ordinance women **cannot work more than 100 hours overtime in each calendar year,**

or more than six hours in any one week;

or over more than 25 weeks in the year.

Some workers are compelled to work 5 hours of overtime daily, in addition to this 12 - 15 hours daily workload, they also have to work on Saturdays, Sundays, Public holidays and Poya days (Full Moon days are religious monthly holidays in Sri Lanka). Workers are punished through fines and/or warning letters if they did not work on Poya days or on holidays.

There are factories where workers put in 100 - 120 hours overtime per month. 50 - 60 hours of overtime in the FTZ factories are the norm.

In July 2000 the government of Sri Lanka sought to amend the overtime legislation to 100 hours of overtime PER MONTH, this was subsequently reduced to 80 hours per month. In media releases the Chairperson of the Board of Investment, Mr Thilan Wijesinghe claimed that these changes needed to be made so that Sri Lanka would remain internationally competitive, especially after the removal of quotas under the Multifibre Agreement (MFA) in the year 2005. And to conform to the codes of conduct of major brand labels/retailers who do business in Sri Lanka (this is despite the fact that most codes of conduct recognise that labour law or 14 hours per week overtime should prevail, which ever is better). That most codes of conduct state that all overtime should be voluntary is not reflected in the proposed changes to legislation or in statements by the government or Board of Investment.

This amendment was eventually postponed in parliament due to the elections, but will be raised again. The main reason why democratic and independent unions protested against an increase in the hours of overtime is that at least the law as it exists, although routinely violated, offers some protection for workers if they need to refuse overtime work, as should be their right for whatever reasons. The very real fear is that if overtime hours were increased to 80 hours per month, then 80 hours would be the amount of "compulsory or forced" overtime that women workers were required to work.

This fear is reinforced by judgements from the Supreme Court of Sri Lanka, some of which state that in certain circumstances overtime is not voluntary, because these judgements have applied to the need to meet production orders. Other judgements recognise that an employer has a right to ask an employee to do overtime for a reasonable reason and that the employee has the right to refuse overtime on reasonable grounds.

Positions vary amongst unions on the provisions that should be contained within the overtime legislation. The position of Sri Lankan trade unions and NGOs is that there must be real consultation and discussion with unions before changes could be made and that any changes must reinforce that all overtime is voluntary and remunerated at overtime rates.

Public Holidays

The Wages Board decision for Garment Workers and the Public Holidays Act state that the following days are Public Holidays;

- Tamil Thaipongal Day
- National Day (February 4)
- Day prior to Sinhala and Hindu New Years Day
- Sinhala and Hindu New Years Day
- May Day (May 1)
- Day immediately succeeding Full Moon Day of the Sinhala month of Wesak
- Milad Un Habi (Holy Prophet's Birthday) – Only for Muslim workers
- Christmas Day

Workers are frequently forced to work on Public Holidays, inside the Zones they do receive the correct additional pay for working on public holidays, outside of the zones this is irregular (i.e. some workers receive this and others do not).

Poya Holiday

The Full Moon Poya Day of each month is a holiday. Workers regularly work on Poya Days until 5.00pm

- If your employer requires an employee to work on a public holiday then they must receive either another day as a public holiday on full ordinary pay before the 31st of December for that year, or
be paid double time for 9 hours (including a one hour rest break) and triple time for hours in excess of the 9 hours.

Working on a Public Holiday

- If your employer requires an employee to work on a public holiday then they must receive either another day as a public holiday on full ordinary pay before the 31st of December for that year, or
be paid double time for 9 hours (including a one hour rest break) and triple time for hours in excess of the 9 hours.

LEAVE ENTITLEMENTS

Annual Leave

Annual Leave entitlements according to the Wages Board decision for the Garment Manufacturing Trade are:

To be entitled to Annual Leave an employee must work continuously for 218 days (the period of 218 days is the qualifying period), they are then entitled to 14 days Annual Leave, this accrues at one day of leave for every four days of work (after 218 days) up to 274 days;

Up to 7 days Annual Leave can be taken at the one time;

Both the employer and employee must both agree when the holiday can be taken;

Payment must be made for the Annual Holiday whether it is taken or not;

On termination of employment payment must be made for any outstanding Annual Leave owing;

Pay for Annual Leave

- Holiday pay is calculated by taking the daily wage (less overtime and bonuses) earned in the last 60 days of the qualifying period (the 218 days). So if Rs 4000.00 was earned (excluding overtime and bonuses) in the last two months of the qualifying period then the annual holiday pay would be based on this and would be Rs66.00 for each day of leave owing.

- Annual Holiday pay must be paid before a worker takes leave, but not earlier than 7 days before the leave commences.

In reality workers are not able to take their leave when they want it. Workers take some time off during the year, when they need it, however, this is treated as leave without pay and affects the attendance bonus, end of the year bonus and the following years leave entitlement. The annual leave is usually paid at the end of the year. However, as mentioned above workers are disadvantaged under this system, it is also contrary to the law.

NIGHT WORK

The Employment of Women, Young Persons and Children's Act has provisions within it that regulate the night work of women.

Exemptions

Women who are exempt from these provisions are:

Those who hold managerial or technical positions;

Women engaged in health or welfare services;

Women employed in an undertaking where members of the family are employed.

In *exceptional circumstances*, emergency or crisis, when interruption of work occurs women can be required to work at night.

Women workers can not be employed at night against their will, written permission must also be granted to the employer by the Commissioner of Labour. Women workers should not be employed after 10.00pm if they have already worked on that day between 6.00am and 6.00pm. Women workers should not be employed after 10.00pm for more than 10 days in a month. The rate of pay for work after 10.00pm should be 1 1/2 times the normal pay. A female worker should be employed to look

after their welfare. Canteen, medical facilities, restrooms and refreshments are to be provided. Transport facilities are to be made available for use in an emergency.

Most employers, both inside and outside of the zones violate the law on night work for women. Management does not obtain consent from the workers. They force workers to sign letters consenting to night work and then each time they are required to work night work, management adds a date to a photocopied letter, that was signed – these are then submitted to the Commissioner of Labour, stating that consent has been obtained.

Often workers are required to work at night immediately following a day shift, women workers then usually sleep for a few hours at the factory, under their machines if they have time. This is due to the pressure of work, the requirement to continue to work the following day and lack of safe transport home. Night work is mostly considered as overtime, not as a salary, this means that EPF & ETF payments are affected.

EMPLOYEES PROVIDENT FUND (EPF)

This is a Superannuation fund, the main fund is the Central Bank of Sri Lanka. However, private funds do exist, the requirements are the same for all funds. The main goal is to provide a lump sum payment to workers upon retirement. Contributions are both the responsibility of the employee and employer. The EPF is an Act of Parliament.

Employers must send 20% of the employee's total earnings per month to the fund before the end of the following month. This commences when the employee starts work. The employer must contribute a total equivalent to 12% of the employee's salary. This does not come from the salary, it is additional to it. Employees have to contribute 8% of their salary. Employers can contribute more and employees can also voluntarily contribute more of their salary, however, they cannot be forced. It is illegal for employers to try to take more from the employee's salary as part of their contribution.

The meaning of earnings includes wages, allowances, payments for holidays and leave, the cash value of food provided by the employer and meal allowances. It does not include overtime payments, rent allowances, transport reimbursements and bonuses.

Some people are **not** covered by this Act. However, all workers in the garment industry would be covered by this act, unless they are working in an establishment that employs only family members.

The employer must deduct the employees' contribution and send this with the employers' contribution by the end of the following month to the fund. Where an employer delays payments they will have to pay a surcharge.

Workers are entitled to receive EPF benefits:

When they reach retirement age, which is 50 years of age for women and 55 years for men. It is at the employer's discretion as to whether employees can work beyond these ages. If the employer does allow an employee to continue working they must continue to provide both EPF and ETF;

If they are a female employee and stop work due to marriage;

Cease to work because of permanent and total incapacity to work - certified medically unfit;

Take up permanent residence abroad;

Commence work in the Public Service or Local Government and become entitled to a pension;

Work for a Public Corporation or government owned business undertaking and are retrenched from service;

Die, the people or person nominated receives the benefits.

The main problem with EPF is that it is collected from the workers but not deposited in the Central Bank account. Employers often use this money for other business purposes. EPF is also not paid during the training period, however this is a legal requirement. When workers want their entitlements they are not there. Many women workers depend on these entitlements when they get married. Legal processes to obtain and recover this money are lengthy and often take many years.

There have been a few reported cases where foreign investors default on Provident Fund payments and leave the country without fulfilling their obligations and statutory requirements. Later it would be discovered that these employers were indebted to the local bank and the bank would take charge of any assets left by such employers.

Government has signalled its intention to convert EPF into a pension scheme, at the same time abolishing pensions in the public sector and introducing the EPF system. Workers are wary that government will use these funds for investments and their savings will not be safe.

EMPLOYEES TRUST FUND – (ETF)

This fund is administered by the Employees Trust Fund Board. This Act covers the same people as the Employees Provident Fund. A self employed person and migrant worker can also join this fund, they must make the payments themselves. The definition of earnings is the same definition as for EPF (see other side of page). The employer must contribute 3% of employees' total earnings per month by the end of the following month. The employer cannot deduct this amount from the employee's wage. If there is a delay by the employer in forwarding payments, a surcharge must be paid by the employer.

ETF can be claimed on:

- Termination from employment if no withdrawals from the fund has been made in the past five years;
- Over 60 years of age;
- Migration, intending not to return to the country;
- Leave employment due to permanent and total incapacity for work;
- Take up pensionable employment in the Public Service, Local or District Service;
- Upon your death to nominee.

ETF Benefits to Workers

Additional benefits are also available to workers who are members of the EPF, these are;

- Life Insurance Benefits
- Total and Permanent Disability Insurance Scheme

GRATUITY

Is the payment of compensation to workers if they are terminated from employment by the employer or if a worker resigns.

If a factory employs 15 or more workers and the employee has been employed for a period of five years or more they are entitled to half a month's wage or salary for each year of completed service if

terminated. The rate should be calculated according to the last month's pay. Payment should be made within 30 days of termination.

Gratuity payments are often not paid on time.

HEALTH AND SAFETY IN THE WORKPLACE

It is the responsibility of the employer to ensure that the factory is safe for every person working in the factory. This includes employees and sub contractors.

Employees have an obligation not to interfere with, misuse appliances or other equipment provided for the health and safety of all. Also, employees cannot knowingly do anything that is likely to endanger themselves or others.

Accidents at Work; all fatal accidents (those resulting in death), those disabling a worker for more than 3 days and any dangerous occurrences must be reported by your employer to the Chief or District Factory Inspecting Engineer. They must also be noted in a General Registrar, kept in the factory. The General Registrar can be inspected by the Chief or District Factory Inspecting Engineer

Most accidents in the garment industry are considered by employers to be minor for e.g. Repetitive strain injury or needlestick injuries, these are not noted in the registrar. Many companies do not keep such a registrar.

Occupational Disease; any disease of an occupation origin (caused by work) should also be notified by the medical officer to the Employer and Occupier of the Building, who must then inform the Chief Factory Inspecting Engineer at the Department of Labour - Colombo. A disease such as cholera that was contracted at the workplace as a result of inadequate sanitary facilities or lack of clean drinking water would be classed as an Occupational disease. Dust related diseases would also fall into this category.

Dust is inhaled, mostly due to inadequate ventilation this causes chest pain, respiratory problems and hair loss. Diseases also occur due to unsafe drinking water. Hearing and eyesight problems are common. However, these are not classified as occupational diseases and are therefore not notified – this affects compensation. Stress and Repetitive Strain Injury (RSI) is also not recognised.

Personal Protective Equipment; employees engaged in hazardous work must be provided with suitable personal protective equipment.

Often this is not provided, but when it is, workers often do not use it due to the pressure to reach targets. Management is also known to remove protective equipment to increase production.

General Register; A General registrar must be kept in each factory for inspection by any Factory Inspecting Engineer. It should contain details of any young person employed, every notifiable accident or industrial disease and other relevant reports.

This are very rarely kept in garment factories. Workers are not aware of such registers.

Worker's Compensation; there is Workers Compensation Legislation, which applies to people who are injured at work, it allows for people who earn up to 6000Rs per month to be able to claim up to a maximum of 250,000Rs.

Many diseases and accidents in the garment industry are not recognised as work related, therefore compensation is not claimed very often. This is due to lack of awareness of workers and lack of cases to support the various diseases and accidents that do occur. This area needs further attention by unions, government, employers and the medical profession.

First Aid; in every factory there must be a first aid box, only containing first aid materials and a person in charge of it during working hours. There must also be a sick room.

Most first Aid boxes contain only panadol, however, the regulations, specify a list of medicines that must be made available free of charge. The required medicines are not provided, some factories charge for these medicines. There are some factories that do not even have a first aid box. Some factories employ a nurse, others do not. In the larger garment factories a sick room is available, however, permission to go to the sick room is frequently denied.

Machinery; every dangerous part of a machine must be fenced securely. Devices for promptly cutting off power to transmission machinery must be provided in every room where work is conducted. Female workers should not be employed in the cleaning or lubricating of any machine that is in motion. Trichloroethylene (TCE) is an industrial solvent frequently used to degrease machines. It is carcinogenic when mixed with water gloves should be worn when using it and disposal should ensure it does not come into contact with water.

This is not a major issue in the garment industry as machines are not so heavy or sophisticated. Machines are maintained.

Hoists and Lifts; Every hoist or lift must be properly constructed, maintained and examined by a competent person every 12 months, (cranes should be examined every 14 months) with the results being entered into or attached to the general register in the factory. Safe lifting loads must be clearly marked on each hoist or lift. Every hoistway must be protected with interlocking devices for landing gates and substantial enclosures.

Hoists are often operated by male workers without a license. Accidents do occur, but they are not common.

Chain Ropes and Lifting Tackle; must be examined by a competent person every six months and a register all chains etc and the certificates of tests must be kept. The safe working load should not be exceeded.

These legal requirements are not met.

Steam Boilers, Steam Receivers and Steam Containers; Steam boilers must be examined by an authorised person every 12 months, steam receivers every 24 months. After extensive repairs to steam boilers an examination is to occur every 24 months. They should be operated by a person who holds a certificate of competency.

Generally these requirements are not met, however accidents are rare.

Air Receivers and Gas Receivers; These must be thoroughly cleaned and examined at least once every 24 months and 12 months respectively, with results being attached to the general register.

Garment factories do not contain sufficient air receivers. Ventilation fans are often blocked by piles or stored garments.

Safe Access; there must be a safe means of access to every place where a person has to work. Drops of 6ft or more must be fenced.

Overcrowding; in every factory a minimum of 400 cubic feet of space, for each person should be allowed. This does not include space 14ft and over from the floor level

Frequently when permission is sought to start a garment factory a lower number of machines is submitted for. After permission is given the number of machines is increased, without expanding the factory and without permission. This results in overcrowding and inadequate safe access to work. The law requires that there are six exits to the outside.

Temperature; a reasonable temperature should be maintained in each work room so that workers can work in comfort. The circulation of fresh air should be maintained, all fumes, dust or impurities should be removed from the work environment.

This does not occur, temperatures are high from the constant use of machines, air conditioning is used, fresh air is not circulated and fumes and dust impurities are not removed from the factory.

Lighting; there must be suitable and sufficient lighting for the work performed.

The problem with lighting is that it is fixed for the machine and not for the varying heights of the women who use the machines. This creates major eyesight problems.

Fire Escapes; must be provided, properly maintained, free from obstruction and distinctly marked. A plan for evacuation in a fire or emergency should be prepared and practiced. All doors should open outwards. Electrical wiring should conform to standards.

There are no separate exits for fire. Fire exits are used as storage areas so are not free or distinctly marked. Some factories have fire drills. Electrical wiring often does not conform to standards.

Noise; Suitable precautionary measures must be taken if the worker is exposed to vibration or noise.

Suitable precautionary measures are not taken, this results frequently in hearing problems.

Protection of Eyes; Suitable eye protection must be provided if the work involves special risk of injury to the eyes of the worker.

Protection of the eyes has more to do with ineffective lighting and improper removal of dust, however, it is a major problem. If dust and lighting were fixed, then eye problems would be less.

Excessive Weights; employees should not be required to lift, carry or move a load that is likely to cause injury to them.

Sanitary Conveniences; suitable (with adequate lighting and ventilation) and sufficient (1 per 25 female workers) sanitary conveniences must be provided, separate for each sex.

This is a big problem, there are not a sufficient number of toilets for workers. They are not regularly cleaned, maintained and repaired. Workers often do not drink water while they are working, to enable them to meet their production targets, this creates a rush for the toilet during lunch breaks.

Washing Facilities and Drinking Water; adequate and suitable (one basin for every 20 workers and showers, if workers need to take a shower after work) washing facilities must be provided and maintained. An adequate supply of drinking water with cups is to be made available to employees.

Drinking water is often not safe, due to well not being properly maintained.

Meal Room; a meal room of a reasonable size with sufficient number of tables and seating to accommodate at least 1/3 of the workforce and with taps/wash basin must be provided. Meals or drinks must not be taken in any workroom or place where there are poisonous substances, vapours or dust.

Meal rooms are not big enough.

Changing Rooms and Lockers; are to be provided separately for male and female workers, with each worker to be given a locker and key to store personal belongings.

These are provided.

Resting; suitable facilities for resting must be provided to female workers, whose work requires them to stand.

These are not provided. Workers in the ironing room are often required to stand and work 10–12 hours per day without rest (except for the usual meal breaks).

Generally there is a lack of awareness of health and safety issues, procedures, protective equipment and most importantly safe systems of work, by workers. There are not enough Factory Inspectors to be effective.

MATERNITY LEAVE

Maternity Leave entitlements for women working in the Garment Industry are;

For the first and second live births women are entitled to 2 weeks subsequent to the birth of your baby (prenatal) and 10 weeks after the birth of the baby (postnatal). This is a total of 12 week's maternity leave and is paid at 6/7th of the normal wage per day.

For example if the normal pay (less any overtime or bonuses)

Were 66 Rs per day, then 6/7th of 66 Rs equals 56.6 Rs.

This is how much would be paid per day for 12 weeks at the normal hours.

All other confinements, either for the further birth of a live child (after two children) or, the birth of a dead child, or viable foetus* women are entitled to two weeks prenatal and four weeks post natal leave at 6/7th of the normal wages per day.

* a viable foetus, as defined in legislation is one of 28 weeks gestation, which should weigh at least 2 pounds or be at least 12 inches long.

All women working fulltime in the garment industry are entitled to and have a right to maternity leave. There is no qualifying period. Women should inform their employer one month before the expected confinement to receive prenatal benefits, once confined they should also give their employer notice so you can receive post natal benefits.

Documents that should be produced in support of the confinement are;

a certificate from the Medical Practitioner who attended the confinement,

or,

a certificate from the Officer in Charge of the lying-in home, maternity home or other institution where the confinement took place,

or,

a certificate signed by two people who attended and were witnesses to the confinement,

or

a birth certificate of the child.

Nursing Intervals

On return to work women are allowed two nursing intervals during the day. One in the morning and one in the afternoon at times determined by the woman. The length of each interval is 30 minutes, if there is a crèche or room to feed the baby available. If such facilities are not available the length of each interval is one hour.

Other issues

Women cannot be dismissed from work because they are pregnant. If dismissed five months or less before confinement women are still entitled to receive maternity benefits. However a decision of the Labour Commissioner regarding this matter is final.

Generally, employers in the Free Trade Zone do not employ women with children. Intervals for feeding, as required by law are often not given or given at a reduced rate.

DISCIPLINARY ACTION & DISMISSAL

- Reasons and Process

The following outlines the generally acceptable process that should be followed in a disciplinary matter (it is contained within the signed agreement between the investors and the BOI) Investors have an obligation to carry out these guidelines "Guidelines for Labour Relations and Industrial Disputes";

- A preliminary investigation by management into the alleged offence, with a view to ascertaining the facts. Findings of this investigation must be made available to the worker involved.
- If Management believes the offence warrants a warning this must be given to the worker in writing.
- The next step is a show cause notice. This is issued by Management to the worker if Management intends to proceed further. It must outline the charges of alleged misconduct, be given to the worker within 10 days of the offence and the worker must be given 3 days to respond. Additional time can be requested in writing stating the reasons why. The response should be in writing and should be carefully checked.

- If Management is not happy with the explanation given by the worker, they can hold a domestic inquiry, within 15 days of receiving the worker's response. If a domestic inquiry is to be held, usually a charge sheet is issued, nominating an Inquiring Officer and outlining the time, date and place where the offence was allegedly committed. Principles of natural justice are to be followed at the inquiry. If charges or punishments are imposed on the worker, these must be within 15 days of the inquiry. Normally outsiders do not appear at domestic inquiries, however, this depends on existing practice in the workplace.
- Workers can be suspended, but only under specific conditions, as a punishment (up to 7 days), pending an inquiry if the offence is serious and could warrant dismissal, or in order to prevent a breach of peace, damage to the property or disturbance of the business. This provision is often abused by employers.

The biggest problem with this disciplinary process is that employers rarely follow it. They say that they are not bound by the guidelines – even though they have signed them. The small number of employers who do recognise the guidelines, fail to provide an independent person for the domestic enquiry. They usually employ someone who has been recommended by the BOI and likely to rule in the employers favour. In the opinion of the Industrial Transport and General Workers Union and the Free Trade Zones Workers Union have not had one positive judgement in the last 18 years from such an inquiry.

Principles of natural justice are denied. Documents are often prepared, where the list of offenses is ticked, without asking for an explanation. The worker is then forced to sign this and it is attached to their personal file. Once the worker has signed three such letters, employers argue that they have a right to terminate, however the workers has not been given any opportunity to defend themselves against the allegations that have been made.

Workers are often not aware of their rights or the correct procedure in these circumstances.

Grounds for dismissal or disciplinary action include:

Vacation of Employment - This is where an employee stays away from work for a long period of time without any lawful excuse and without intimidation by Management;

Misconduct- is an unlawful act or conduct that is detrimental or likely to be detrimental to the interests of the employer. Misconduct must be proven by Management;

Incompetence and Negligence- Incompetence is the inability to do one's work at all.

Negligence is intentional and deliberate misconduct. The emphasis is on the employer to prove inefficiency, incompetence and negligence. These are more often disciplinary matters and do not always warrant dismissal. A single mistake due to the pressures of work cannot be seen as incompetence.

Absenteeism - Continual absenteeism without a reasonable excuse can be grounds for disciplinary action. If you are absent due to ill health then a medical certificate should be provided.

Others include loss of confidence in an employee and insubordination.

Employers often initiate disciplinary action or dismiss workers on far less serious grounds than those mentioned above. Also if a worker is disciplined on one of the grounds mentioned above, frequently the disciplinary process is not followed, thereby denying workers a fair process and natural justice.

WORKPLACE DISPUTES

According to the Industrial Disputes Act (1960) a dispute in the workplace is when a difference occurs between an employee and an employer, or between employees, whether or not they are employed directly by the factory.

The Industrial Disputes Act allows for the settlement of disputes through:

- Conciliation
- Settlement by an Authorised Officer
- Settlement by Voluntary Arbitration
- Settlement by Compulsory Arbitration
- Settlement by the Industrial Court

The Labour Tribunal has the power to determine whether a dismissal or termination is legal or not. So if either of the processes referred to above for dismissal or termination is not carried out fairly or if the facts are inaccurate then an application should be lodged by either the worker or their union on their behalf within six months of the dismissal or termination. The Labour Tribunal can order reinstatement with or without wages, award compensation in place of reinstatement, or agree with the employer that the termination was just and fair, in which case reinstatement or compensation would not be applicable.

The major problem, with the conciliation process for FTZ workers is that the BOI has taken it upon themselves to conciliate disputes in the Zones by settling up a so-called Industrial Relations division to prevent workers from seeking the intervention of the Labour Department. Under the Industrial Disputes Act, only the Commissioner of Labour or his representative has the power to conciliate as their role is that of independent third party. Under the BOI system workers are denied a fair and independent process as BOI officials represent the interests of investors. This is a denial of fundamental rights under the ILO Convention on Tripartitism.

The legal apparatus has become a mechanism for implementing government policy. Although workers have some limited access to the law, it is often not sufficient to help to resolve their problems. The legal apparatus has been deliberately weakened over time. National government funding to the Labour Department has remained the same although the workforce has steadily increased. At a district level, often there is only one officer so it becomes very difficult for workers to access officials to file complaints. Labour regulations are written in English thus presenting many language difficulties. Assistance is needed for workers to access the Labour Department. Justice is delayed and as previously stated the judicial systems have virtually broken down. Cases can take over two years before they are heard at arbitration. Regarding Health and Safety, there are not enough Factory Inspectors to be effective. Privately Senior Public Servants within the Labour Department admit that there are not sufficient staff and that they do not have enough power to act independently as a third party, however their official stance is that there are adequate resources and they are independent.¹⁵

TERMINATION OF EMPLOYMENT

If there are 15 or more workers employed at the factory then management cannot terminate the services of the worker if he/she has worked for one year or more, other than for a disciplinary reason or unless, the worker gives written consent.

or

¹⁵ From Asia Pacific Law Review 1999, Sri Lanka Chapter, written by Kelly Dent and Anton Marcus

The Commissioner for Labour gives prior written consent. The Commissioner has absolute discretion in granting approval or not and may also order compensation. Approval or rejection should occur within three months of the employer notifying the Commissioner.

In any termination, (other than disciplinary or voluntary resignation) the employer must obtain prior written permission from the Commissioner of Labour.

If this process is not followed then the termination is illegal and the Commissioner can order reinstatement with back wages.

The purpose of this Act is to prevent unilateral closures of factories and unlawful termination on these grounds. However, because the Commissioner has no powers under this law to order the employer/investor to re open the factory there are many occasions where employers have first closed the factory and then asked for permission to terminate the workers. In these circumstances the Commissioner has no alternative but to order compensation, as reinstatement is not an option.

With all of these weaknesses at least this act provides some security to workers, therefore, employers and the BOI are continually pressuring government to abolish this act.

FREEDOM OF ASSOCIATION AND THE RIGHT TO ORGANISE & COLLECTIVELY BARGAIN

As mentioned in the introduction, freedom of association and the right to organise and collectively bargain legally exists. However, in reality it does not. Employers simply refused to recognise unions once they were formed. Workers attempts to organise unions are frequently repressed through violence. Previously, this situation was worse inside of the Zones and outside of the Zones there was more space for workers to organise. However, in recent times this problem has existed both inside the zones and outside.

In December of 1999, just prior to the Presidential elections and amendment to the Industrial Disputes legislation was made, requiring that unions must be recognised if 40% or more workers in a factory belonged to the union. While this amendment presents some problems and is not perfect, it was something that could be used to force employers to recognise unions. Since this amendment a number of unions have been organised inside of the Zones, however, no factory based union or branch has received recognition. The regulations to the amendment are still being drafted. In January of 2001, the Free Trade Zones Workers Union was formed, covering all three FTZ's and this has received recognition, it's branches however, have not, as yet. This situation is similar for everyone who is organising unions in the Zones. A major campaign for recognition of FTZ unions will commence shortly.

The biggest obstacle garment factory workers of Sri Lanka are faced with in their fight to obtain their rights and improve their conditions within and outside of the factories is the lack of freedom of association and the right to organise and collectively bargain.

Workers Councils

Prior to elections in 1994 the opposition People's Alliance (PA) campaigned on a platform of allowing Unions into the zones. After winning the PA reneged on this promise, due to pressure from Foreign Investors, instead proposing the formation of Workers Councils. Workers Council representatives were elected by a secret ballot of workers and they were able to take up some issues within the factory and win some demands. Their major problem was that they did not represent full freedom of association,

only dealt with issues within the factory and representatives were not accountable to the workers who elected them. Other problems also included interference in election and bribery of elected representatives. The BOI also unilaterally intervened and changed the guidelines, by removing most of the positive aspects of the functioning of Workers Councils, making them even less relevant to workers.

Aware that Workers Councils were not an alternative to unions workers saw the opportunities that they could open for organising, resolving workers problems and most importantly their potential as a vehicle for eventually forming unions. However, for individual Councils to be effective they needed to be bought together collectively". The Joint Association of Workers and Workers Councils of the Free Trade Zones of Sri Lanka was formed in June 1996 as a vehicle for organising workers in the Free Trade Zone and eventually forming a union. This goal was realised in January 2000 when the Free Trade Zones Workers Union was formed.

Other Issues

LIVING WAGE

The concept of a living wage is not recognised within the labour law of Sri Lanka or the Constitution¹⁶. The law is based on a minimum wages policy. Government processes for increasing minimum wages are too slow and cumbersome in the current climate of high inflation. Increases granted in the public sector usually take at least 12 months to flow on to the private sector.

A cost of living index does exist in Sri Lanka, however its indicators are based on a "basket of goods" from the 1952 and is not relevant today¹⁷. The Rupee increase per point is two – this is too low by today's standards. Nonetheless some industries still receive wage increases based on this; the garment industry does not. If this index were to be revised, reflecting today's living costs, the rupee amount per point increased and fast mechanisms for these increases to translate to wage increases determined, then this could be a useful tool for contributing to determining a living wage and subsequent increases.

The concept of a living wage in Sri Lanka has received little attention from workers, unions, labour activists and labour NGO's. The harsh everyday reality for workers and the constant struggle to form and have recognised unions of their choosing leave little time for concern with issues of a living wage. Mass awareness raising and training programmes around a living wage have not occurred.

Of course workers have identified that the reason they need to do long hours of overtime is because their basic wage is not enough to live on. A recent preliminary report titled "Some Preliminary Comments on a Living Wage for Sri Lankan Garment (and related industries) Workers" (attached) has been written on the issues surrounding a living wage in Sri Lanka. All available research and some interviews with workers and unions indicate that workers in the garment industry (and in many other industries) do not receive anywhere near a living wage.

¹⁶ The new draft of the constitution does recognise citizens' rights to a reasonable standard of living. It also recognises safety and security of citizens. This proposed constitution, which also contained controversial devolution clauses was introduced in Parliament before the December 2000 parliamentary elections. It was withdrawn as the government did not have the necessary 2/3 majority in parliament to pass it. Post elections the government does not have the required 2/3 majority.

¹⁷ For example the basket of goods does not recognise the cost of electricity or telephone communications.

LIVING CONDITIONS

As mentioned in the introduction, living conditions for FTZ workers are inadequate. This area is dealt with in the living wage, preliminary report, which quotes research in this area. The living conditions of zone workers have also been the subject of numerous research reports. Campaigns and lobbying for improvements to these conditions continue and have produced some benefits, however these are minimal. Government, along with employers need to make substantial investment in infrastructure for workers, in the same way as they have for foreign investors and employers.

HARASSMENT

Harassment, of mostly women workers, occurs both inside and outside of the workplace. Harassment occurs in all forms. From sexist and offensive comments, unwanted touching and petty theft through to instances of rape. Inside the factories male supervisors frequently use degrading and insulting language towards women for failing to meet unrealistically high production targets set by management, verbal abuse is common, as is women who are singled out for special treatment or promotion in return for sexual favours. Lack of adequate transportation, particularly when women workers finish late at night is a major problem and a contributing factor towards harassment.