



Part 2

# **Workers' Rights: Yet another series of violations**

## Chapter 2:

# A Textile Story: Missed Opportunity For Creating Model of Safe Migration In Tamil Nadu

*Umi Daniel<sup>i</sup> and K. Moulasha<sup>ii iii</sup>*

The textile industry in Tamil Nadu has the distinction of possessing the largest labour-intensive workforce after agriculture. This is due to the large number of medium and small manufacturing units located in 18 districts of Tamil Nadu. In recent years, the migration of workers from states like Bihar, Odisha, Jharkhand and Assam has seen an increase, with migrant workers constituting 15 to 35 per cent of textile workers. The Tamil Nadu garment and textile industry is infamous for a system (Sumangali)<sup>iv</sup> of contractual employment of young, adolescent girls, mostly aged 16 and above, which contravenes international standards as established in the Palermo Protocol and borders on 'trafficking'. Although exporters strongly deny

the existence of Sumangali practices in the textile and garment sector, they admit the presence of hostel facilities for migrant workers, which is called 'camp coolie system'.

This chapter highlights key findings from a study<sup>v</sup> undertaken to understand the working conditions of interstate migrant workers in Tamil Nadu and explores the nature of forced labour or gross exploitation. It studies details of working conditions, statutory entitlements<sup>vi</sup>, recruitment processes, living conditions, and freedom of movement of the interstate migrants. The study was done through individual interviews as well as a qualitative survey designed to capture the perspectives of other stakeholder groups on issues affecting the garment industry<sup>vii</sup>.

## Migrants recruit acquaintances at home with promise of better opportunities

The findings revealed that there were three major methods by which workers got recruited. More than half of them (53 per cent) mentioned, 'Friends and known persons' working in garment factories in Tamil Nadu; approximately 25 per cent said they were recruited by "Family members and relatives" and the remaining 22 per cent mentioned skill centres. The work attracted recruits from landless and poor families, often tribal, who work as seasonal agriculture labour for low wages and come in contact with returning migrant workers and approach them with a request to be recruited. Some returning migrant workers proactively shared about their work life, hostel life, wage, bonus, and other aspects related to life outside the state among their network of relatives and acquaintances to attract new recruits. They are incentivised to do so by employers. What

tended to act as push factors of migration, as stated by 75 to 90 per cent of respondents, was the absence of lucrative, local livelihood opportunities, poor wages and insufficient income. The urgency to pay off debts back home was mentioned as a reason by 40 per cent of respondents. Comparatively, only 30 per cent respondents stated dowry as the reason for migration.

What emerged clearly from the sample villages is that migration to Tamil Nadu for garment work was rampant, and had become very normalised. A popular narrative had been successfully created in the villages where the respondents hailed - 'all is fine' with migration. This was given credence by a situation where current workers themselves acted as recruiters. Irrespective, there is an accepted belief that any kind of situation during migration

would still be better than what is currently

available in the two districts affected by drought.

## Poor conditions at work, but no questions raised

Upon reaching Tamil Nadu textile factories, the working conditions did not always turn out as promised. The lack of awareness of their rights as workers seemed widely prevalent, especially when one spoke about contracts, working hours and wages. While mechanisms of grievance redressal were present, workers preferred to opt for sorting matters by negotiating with seniors or leaving a job for another one. There seemed to be an instinct of self-preservation that compelled migrant workers to accept their situation as a norm, rather than question or seek clarifications about it.

**Contracts lack detail when issued:** While 78 per cent respondents reported not receiving any written appointment order, 28 per cent just stated that they joined the company through their relatives. In fact, the 22 per cent who had received an order described it as a brief letter of employment that did not contain any detail, job description or other terms and conditions.

**Long working hours and ‘voluntary’ overtime:** Two-thirds of respondents stated that they worked 12 hours a day, while other workers said they worked between 11 and 12 hours, both of which are longer than the prescribed eight-hour work day shift. All workers said that they were given one hour of leisure time for having lunch (30 minutes) and two tea breaks (15 minutes each). In the sample district, most of these industries adopted one and a half shifts i.e. 12 hours, with one-hour break. More than 90 per cent of the women migrant workers interviewed stated that they worked 6 days a week. Except a weekly off, no leave system was maintained in the industry. Workers placed by the skill centres stated that the centres instructed them to work for at least 10 hours a day with two days off in a month.

Overtime work was often voluntary but the supervisors “excepted” everyone to volunteer. Exemptions were allowed for workers with severe sickness / ill health or any other emergency.

Regarding payment for overtime work, 30 per cent stated that they were promised double the wage while others did not know the rate as they said they had not worked overtime in the recent past.

**Low wages and lack of clarity about it:** Many respondents were unable to share their exact monthly wages. Neither did they have any written contract nor did they receive any lump sum amount from the employer. Though they received pay slips, many did not have any idea about how their wage was being calculated or what deductions were being made and why. The table below provides an approximate figure that the respondents provided – this is the figure prior to deductions of Employee Provident Fund (EPF) and Employee Social Insurance across different categories of work. The wage mentioned in the table is on the higher side. Most workers do not necessarily get this wage, as deduction are often made for leave or absence. Those who stayed in the company accommodation said that if they did not work the 12-hour shifts, it would be difficult for them to substitute the deduction of Rs 1500 towards food, accommodation and EPF.

If wages were calculated based on an 8-hour working day, none of these workers were paid the statutory minimum wage. Some of the workers were told that they were being paid as per the hosiery industry minimum wage calculation. However, the wages are below par even by that standard. Workers would not necessarily stand up for their right to a minimum wage because they felt they had consented to the wage. The lack of alternative options placed them in a vulnerable position. Further, all factories uniformly paid less than minimum wage, so even if they moved out of their factory, they would not get better options in the state.

**Table: Approximate Monthly Wage Before Statutory Deductions for 26-days Month, Based on Responses from 79% respondents\***

Monthly Wage (approx.)	Local workers or Those Not provided Accommodation by the Employer				Workers staying in the accommodation provided by the employer			
	Packers/Helpers Quality Control/Checker		Machine Operator/Supervisor		Packers/Helpers Quality Control/Checker		Machine Operator/Supervisor	
	Statutory Minimum Wage (Rs. 7957 to Rs 8490 for 8 hrs)		Statutory Minimum Wage (Rs 8190 to Rs 8490 for 8 hrs)					
	Min	Max	Min	Max	Min	Max	Min	Max
12 hours	9600	10400	9600	10400	8100	8900	8400	9200
8 hours	7000	7500	7500	8000	5500	6000	5500	6500

Note: \*21% respondents refused to share information on the wage. Amounts mentioned are approximate

### Significance of social security not realised:

Some workers preferred to look for factories where statutory deductions such as ESI and EPF would not be made from their earnings so that they could have more cash in hand. More than one-third of respondents (35 per cent) said that employers had enrolled their name for EPF scheme, while 25 per cent said that they were not sure about it. However, none of those who mentioned EPF were able to specify how much money was deducted towards EPF or their EPF account number or the new Universal Account Number (UAN). In case of ESI, 30 per cent said that their name was registered for the ESI scheme. Again, none of them were able to mention either the amount deducted from their wage for ESI or their ESI account number.

With regards to bonus, a discussion with respondents revealed that there was no common understanding among the workers. Some said that the bonus amount varied between 6-10 per cent of the cumulative salary of the last 12 months according to seniority, and some said that they received a consolidated amount of Rs 2000 to Rs 4000. Among the workers interviewed, only 40 per cent reported receiving a bonus.

**Verbal abuse is 'normal':** When asked about

conditions of work, respondents seemed reluctant to talk about any abuse they faced. Through informal discussions aimed at understanding their views on abuse, harassments, committees and supervision, it emerged that none of them had reported having undergone any physical, sexual, violence and harassment in the work premises or in the hostels. None of them reported having felt that the workers from outside the state were treated worse than local workers.

Workers denied having faced or having heard of any sexual harassment or physical abuse by the supervisors. Most workers accepted the verbal abuse as 'normal'. A majority of the workers did not take the verbal abuse and intimidation by supervisors to ensure achievement of production targets as an infringement of their rights. However, they did say that if "poor treatment continues" for long then they changed jobs.

**Committees exist but hardly used:** Only 60 per cent of respondents were aware of grievance redressal committees and fewer (45 per cent) were aware of an internal complaints committee to address complaints of sexual harassment in the factory. Those who were aware of these said that the committees consisted of migrant workers. None of the respondents mentioned having ever

approached either committee with any complaint. Most workers preferred taking up issues with the hostel warden or supervisors/ managers. Female supervisors and hostel wardens played a major role in sorting out the issues faced by the workers at the hostel as well as the worksite.

**Minimal hostel facilities:** About 75 per cent of respondents reported living in an employer-provided hostel at the time of survey. The accommodation was either located within factory premises or at a walking distance from the workplace. The room space varied - in some places, the dormitory with bedding and bunk cot facilities accommodated 100-125 persons while in some other places 8 to 14 persons stayed in a single room with bunk cot facilities. Around 10-15 workers had to share bathrooms and toilets with their co-workers. Only 40 per cent respondents ranked the living space as “good”. Only 35 per

cent of respondents ranked the condition of toilets as “good”. Overall, living spaces were equipped with electricity, light and fans. A majority of them said that their hostels had basic amenities such as furniture, storage facilities, beds and mattresses and common television kept in the hall for leisure. Some hostels also had separate canteen facilities while in a few, the workers had to cook their own food in the kitchens. Irregular water supply was common and considerably worse in most of the hostels, especially during summer. Therefore, many hostels provided limited water for daily use during the summer.

The factories as well as hostels had a semblance of an emergency medical facility in the form of health rooms and a first-aid box. Respondents said they were provided medical attention if someone fell ill.

## Several violations hint at possibility of bonded labour

The Bonded Labour System Abolition Act (1976) of India is quite extraordinary in that it recognises the overlap between forced labour and bonded labour in customary relationships, the manifestation of these relationships in contract labour and inter-state migration, and considers the nature of restraints suffered by the labourer as a result of the bonded/forced labour relationship, and makes all of these illegal<sup>viii</sup>. Further, the Supreme Court clearly states, “... when a person provides labour or service to another against receipt of remuneration which is less than the minimum wage, he is acting under some force of compulsion which drives him to work though he is paid less than what he is entitled under law to receive.”<sup>ix</sup>

None of the workers covered under the study perceived that they had been trafficked or tricked into the work by anyone. Further they said that, they could quit the work or move jobs as they desired, by informing the supervisor or manager a week or two in advance. According to workers, none of the companies retained the workers forcefully as they had not signed any contract or paid any lump sum payment to the workers.

However, the research team observed certain aspects that need to be further studied. This included the system of companies paying recruiters, recruiters making false commitments at the time of recruitment and the circumstances around the consent to migrate and the element of duress in the same. Additionally, the following themes emerge.

**Denial of Minimum Wage:** An average female migrant worker works for 10 hours a day for 26 days. According to the minimum wage calculation, even at the lowest rate, the monthly wage would add up to Rs 11,935. But most workers were paid a wage between Rs 8000 and Rs 8600. The denial of minimum wage has become a norm. The wage terms were more or less the same in a majority of the garment factories

**Restrictions on freedoms:** Even though the workers staying in hostels were allowed to contact their family and friends via phone, their freedom of movement was found to be restricted to some extent. Women workers were allowed to leave the hostel once a week or twice in a month for a few hours on Sundays and given time to buy

personal items.

**Denial of Holidays:** None of the workers were provided with holidays other than a weekly off and a holiday on harvest festival of Pongal. They were not provided any paid leave but allowed to take leave any number of days with prior notice. While many went home for two to three months with no specific obligation to return, every time they returned from their village, they were treated as new workers, which made them lose their seniority and other benefits such as annual increment.

**No Contract provided:** Most of the workers are not provided any written contract with work terms and conditions.

**No registration of workers:** According to the Interstate Migrant Workmen Act (ISMWA) 1979, labour departments are duty-bound to register migrant labourers both in the source area and the destination area. The workers who are registered under ISMWA are entitled to have journey allowance to the inter-state workplace, better housing, minimum wage as prescribed by the destination state and basic services at the worksites. In this case, none of the workers were aware of the Interstate Migrant Workers Act, 1979 or its mandates. The Government authorities interviewed stated that a big challenge to this was the scattered nature of workers and that no mechanism had been put in place to keep a record of migrant workers.

## Scope to create a model of responsible business and safe migration

With the demand in Tamil Nadu for ‘workers, who are vulnerable’ and the supply that states such as Odisha provide of ‘workers, who are desperate for any kind of livelihood options’ unsafe migration is inevitable. The textile industry, in this case, targets a female work force to reap the additional gender-based vulnerabilities – a contentment with lower wage, a sense of escape or freedom from the lack of mobility back home and a contentment with limited means and minimal living conditions. A number of female workers now migrate from the two districts of Odisha to Tamil Nadu and most also act as recruiters, keeping this cycle of migration self-sustained.

This has bolstered a ‘business-case’ for textile companies, owing to which they target migrant workers who are less demanding, less collectivised and can be kept as ‘captive’, rather than local workers. Companies have, consciously or unconsciously, woven a working environment

that has ensured that this kind of work practice falls short of being classified as bonded labour or trafficking.

There is a need for proactive intervention from businesses to create good models of worker-friendly environments, so that workers can demand and receive better working conditions in other ‘free-entry/exit’ occupations.

The business and human rights narrative can ensure that the state protects the workers and their rights; the businesses respect their human rights and there is an efficient grievance redressal mechanism in companies, company associations, state bodies, quasi-state bodies and judiciary. This alone can contribute to a sustainable and responsible business environment in the textile industry where migration becomes a safe livelihood option for women from different states across the country.

## The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

The system of employment of migrant labourers are not only exploitative in nature but also woven with false promises, malpractices and violation of human rights. The provision of Contract labour (regulation and abolition) Act, 1970 even after certain amendments had been unable to protect migrant workers' rights and take care of the malpractices by contractors. Hence in 1979, the Inter-State Migrant Workmen Act was enacted to regulate the condition of service and safeguard migrant workers' rights. The act creates provisions for contractors to employ better skilled labour from outside whenever there is a shortage of required skills among the locally available labour.

### **Key Highlights:**

- According to Economic survey 2016-2017, an average of 9 million people migrated between states every year either for education or work. The figure of inter-state migration is almost double than recorded during 2001-2011
- According to IMPEX 2019 (index compiled by a Mumbai-based non profit India Migration Now), Kerala ranked first for migrant friendly policies for out-of-state migrants, followed by Maharashtra and Punjab
- Migrants prefer to settle down in smaller cities rather than in huge urban agglomeration or metropolitan cities according to the report 'Migration and its impacts on cities' by World Economic Forum
- While major rural migration corridors have been Uttar Pradesh and Bihar for decades, some of the newer regions sending manual labour across the country are Odisha, Madhya Pradesh, Rajasthan and the North-Eastern states

- i. Aide et Action International - South Asia
- ii. Praxis Institute for Participatory Practices
- iii. With inputs from Pritha Choudhury and Durba Biswas
- iv. The word "Sumangali" in Tamil means "married woman" or "single girl becoming respectable through marriage." The scheme is also known as "marriage assistance system". Under the Sumangali scheme, girls' parents are persuaded by brokers to sign up their daughter(s) with the promise of a bulk of money after completion of a three- or five-year contract working in the factory that is used as dowry for marriage by the families. (<https://www.fairwear.org/wp-content/uploads/2016/06/fwf-india-sumangalischeme.pdf> and <https://www.inditex.com/our-commitment-to-people/our-suppliers/workers-at-the-center/sumangali-in-india>)
- v. Commissioned by Rights Education and Development Centre (READ, Tamil Nadu) with the financial support from TRAIID and done by Partners in Change
- vi. Such as wage, Provident Fund, Employees State Insurance and bonus
- vii. The research team reached out to 295 respondents, of which 70 people refused to be part of the study after the introduction and 25 stopped answering after the start of the interview. Therefore, 200 respondents were included in the final analysis. The survey was facilitated by three civil society organisations and field work was organised between August and September 2018. All respondents, belonging to two districts of Odisha, were female workers who were formerly or currently migrant workers in and around Tiruppur, and working in the textile industry of Tamil Nadu. The majority of respondents were aged 19-22 years, unmarried and had not studied beyond middle school. Most of the migrant workers belonged to the SC or ST categories.
- viii. ILO (2005), Bonded Labour in India: its Incidence and Pattern. Available at [https://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_081967.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_081967.pdf)
- ix. Writ Petition 8143 of 1981, People's Union for Democratic Rights vs. Union of India, 1992