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Informal Worker Organizing as a Strategy for Improving Subcontracted Work in the Textile and Apparel Industries of Brazil, South Africa, India and China

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**Final Report: Informal Worker Organizing  
as a Strategy for Improving Subcontracted Work  
in the Textile and Apparel Industries  
of Brazil, South Africa, India and China**

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# Table of Contents

## **I. Introduction**

Page 2

## **II. Brazil: Active unions, supportive government, limited results**

Page 7

## **III. South Africa: Clothing and textile industries in KwaZulu-Natal and the Western Cape**

Page 31

## **IV. India: From standard unions to SEWA**

Page 53

## **V. Chinese labor NGOs: A grassroots approach to the challenges of informality**

Page 77

## **VI. Conclusion and synthesis**

Page 120

## **References**

Page 135

## **Appendices**

Page 145

## I. Introduction

Recent tragedies in Bangladesh and Pakistan have led to greater public attention on the garment and textile industry. Hence, this study is timely and provides insights into the current working conditions, organizing efforts, and the changing organization and structure of the industry in question. **Our central question in this study is the extent to which worker organization can improve monitoring and enforcement of labor standards in subcontracted and home-based work in the garment and textile sectors in Brazil, China, India, and South Africa.** Existing research literature suggests that in at least some cases of informalized and casualized work, formation and mobilization of worker organizations can do much in this regard. The research has particularly pointed to the importance of innovative and alternative forms of organization that depart from standard trade union models—in line with the departure of whole sections of the world of work from standard forms of work organization. While suggestive, this literature has been dominated by cases of a single organization in a single country, or in some cases convenience samples of organizations from one or a range of countries.

This report thus makes two distinctive contributions. First, it spotlights a set of specific sector-country combinations that have received limited attention at best in previous research. Second, it assembles a systematic comparison of organizing activities in a single sector (apparel and textile) across four countries with very different economies, institutional structures, and histories. This comparison points to some possibilities for generalization to a broader range of countries.

At the same time, the study design, itself centered on case studies, builds in important limitations. The four countries in question range in size from large to very large, including the two largest countries in the world by population, China and India. The garment and textile sector, as the conjunction “and” signals, combines a variety of economic units and activities ranging from huge, highly automated textile mills producing standardized outputs to individual home-based seamstresses carrying out custom work. Narrowing the focus to subcontracted and home-based work limits this variety somewhat, but as we will see in all four countries, given the current pervasiveness of subcontracting in this industry, it is not a major narrowing. At the same time, the case study nature of the research, and its limited scale and duration, necessitates a focus on a small number of organizations in countries where organization is relatively advanced (India and South Africa), or on a single productive region in countries where organizations are still at an early, experimental stage (China and Brazil, though in the latter case we were able to supplement the in-depth regional study with a look at organization in a different region as well). The organizations and regions are chosen because of their importance as distinctive examples, and because in their entirety or in key aspects they have remained understudied in previous research. The resulting cases are valuable in their own right, but degree of generalizability across the full clothing and textile sector and the full countries in question is unknown.

### 1. Commonalities and differences identified through fieldwork

Through the research we were able to identify common characteristics of subcontract work in the apparel and textile sector across the four countries. The research also presented some characteristics that were distinct to each.

In brief, several characteristics of subcontracted garment and textile work are typical across the cases. The work does not involve large-scale capital investments and its products are easy to ship, so the activity is geographically mobile. Such work is in large part informal. It preferentially employs young

women, though in all the countries there is a gendered division of labor in which men occupy certain jobs. Worker organizations seeking to organize and assist these workers face a number of challenges, including difficulty in locating them, worker disinterest or even fear toward organizing given their isolation and vulnerability, and the dual worker-entrepreneur status of technically self-employed home-based workers. In many cases, formal trade unions are reluctant to organize such workers, often viewing them as unorganizable or even as not truly workers. Labor laws often fail to cover home-based and in some cases subcontracted workers, and when the laws do cover such workers, governments often lack the capacity or the will for rigorous enforcement.

Aside from the first commonality of mobility, which is a well-known aspect of apparel production globally (see, for example, Rosen 2002), the other commonalities merit a brief preview, and we touch on each in the sub-sections below.

### **1.1. Subcontract work in the informal economy**

Increase in the need for flexibility and cheap labor has resulted in subcontract work to become informalized. Across all four countries, subcontract work falls within the informal sector. There is a structure to the production of garments and textiles that is generally comprised of levels or tiers. At the top is a formal production entity, which delegates work to small factories or workshops, which in turn delegate aspects of production to even smaller workshops or home-based workers. For instance, researchers in China identified a four-tier system where the large factories contract out to the second tier, which is comprised of small factories. These small factories then delegate work to even smaller garment workshops, which then contract out to home-based workers. Similarly, in South Africa, there are few large factories (full-package manufacturers, FPMs) with most of the apparel production spread out across medium-sized, micro factories, and survivalist operations (Cut Make and Trims, CMTs) and home-based workers. It is a similar scenario in Brazil where there are *fábricas*, *fabricos* and *façções*. The *fábricas* tend to be formally organized but the latter two groups in general tend to be informal. In India, textile and garment production is mostly informal, with only a small percentage of permanent workers (considered formal workers).

### **1.2. Workers in formal enterprises**

While formal top-tier factories constitute the most structured link in the production chain, it is evident through the literature and our fieldwork that even many workers in this top tier are routinely denied their basic rights. In China, fixed-term contract workers (considered formal workers) in the first tier large factories and second tier mid-sized factories are often times not asked to sign a contract, or are not given a copy of a signed contract. Sometimes workers are not even aware that they are entitled to such an agreement. This makes it difficult to prove that there is an employer-employee relationship. In India, permanent workers in factories are considered formal workers, but as we found in our research, this group of workers is regularly denied basic rights. Additionally, their employment is often terminated without cause or notice.

South Africa's FPM workers, who are generally unionized and are paid according to minimum wages set by labor-management Bargaining Councils, also voice concerns of low-wages, bad working conditions, and irregular pay, among other grievances. The larger, more established CMTs are registered with Bargaining Councils, thus formal in the South African framework, largely match pay and conditions of top-tier enterprises, but more commonly enforce policies such as the "no work, no pay" rule (workers are not paid for time out sick or for periods where there is no production). Home-based and survivalist

CMTs, whether registered or not, much more commonly fail to provide the range of benefits to which workers are entitled as set out in Bargaining Council collective agreements.

In Brazil, as in South Africa, employees of garment and textile subcontractors are nominally subject to the same laws and labor standards as those at fully formal integrated producers, but many subcontractors simply function under the radar or disguise employment as self-employment, rendering traditional modes of labor standards monitoring and enforcement extremely challenging.

### ***1.3. Female workers***

It is important to note that most workers in the garment and textile industry tend to be women. Women remain particularly concentrated in Brazil's self-employed and unpaid family worker categories. In South Africa, women of color are overrepresented in the most marginalized forms of subcontracted and home-based work. India's contract workers tend to be rural women, often from the lower castes, and home-based workers generally tend to be women as well. However, in China the larger factories are comprised of young female migrant workers, while mostly men are employed in small workshops. Factory owners tend to hire young women from rural areas because they are viewed as more docile and less likely to protest.

### ***1.4. Challenges in organizing subcontracted and home-based workers***

Our research found that trade unions are resistant to organizing subcontracted and home-based workers, or if they do attempt to organize, they face many challenges.

In the case of India, traditional, politically-affiliated labor unions have long resisted organizing informal workers because they have not viewed them as "real workers." Such unions often depict informal labor as a threat to their economic and social role. The state's overt sanctioning of informal labor and the changes in the global production structure(s) are perceived as a direct attack on traditional unions. Despite the change in the production structures and proliferation of informality, such unions continue to make traditional demands for formal workers (wage increases, insurance and pensions, etc.). To the extent that some are trying to organize informal workers, they continue to demand that these workers become formalized under existing state laws. However, independent unions (not politically-affiliated) and worker organizations have arisen that are beginning to employ innovative new strategies to organize informal workers and seek demands that are more clearly aligned with the workers' needs and suit the new production structure. The most well-known Indian success story in this regard is the Self-Employed Women's Association (SEWA), which is recognized as a trade union federation (indeed, India's largest) but uses alternative forms of organization, such as cooperatives and associations of producers.

In South Africa, the South African Clothing and Textile Union (SACTWU) has attempted to organize informal garment workers, however it has encountered major challenges. First, small workshops can easily pick and up move to another location in order to evade unionization attempts. Secondly, there is a blurring of the employer-employee relationship. Third, home-based workers resist unions because they believe they are better off working from home because they do not have to pay taxes and travel costs. Lastly, workers are mobile. They may work in one workshop for a week and another the next week, making it difficult to locate them. These survivalist workshops are difficult for inspectors and trade unions to locate. The South African Self-Employed Women's Association (SASEWA) and a predecessor organization, SEWU, have attempted to fill this gap by organizing self-employed women along the lines of SEWA in India, but their achievements to date have been limited.

Brazilian unions belonging to a number of competing federations have had some important successes in organizing informal and even home-based garment and textile workers, notably in three cases in São Paulo State reviewed in the Brazil section of the report, the Ibitinga Needle Workers Union, the National Confederation of Garment Workers and the, Seamstresses' Union of São Paulo and Osasco. Still, the unions have had great difficulty gaining purchase in subcontracted and home-based work for many of the same reasons as in other countries. Brazilian unions have thus supplemented traditional organizing with support of cooperatives, close cooperation with government inspectors, and regional development strategies to help garment and textile industries upgrade but also offer workers other options to stem the survivalist influx into home-based and subcontracted work.

In China, there is a single labor union federation, which is tied to the party-state and typically works closely with management and strives for harmonious labor-capital relations, rarely advocating strongly for workers. There are increasing numbers of independent labor NGOs that attempt to assist workers, but are blocked from actively organizing by state strictures. Indeed, stringent state control is the main challenge faced by labor NGOs. In order to avoid being shut down, they mostly focus on the provision of services and organizing educational activities that help workers build a community.

### ***1.5. Lack of labor law enforcement***

One of the key findings is the lack of government labor protection for informal workers—by definition, since we have defined informality as the absence of such protection. The country cases show an overall lack of funding to hire enough inspectors to monitor working conditions and defend workers' rights in the sector. Brazil's federal government increased funding of labor inspections, but it only tackles the worst labor conditions, such as child labor and forced labor. In South Africa there are hardly enough Bargaining Council staff and Department of Labor inspectors to find the many different, highly mobile, survivalist CMTs and ensure that they are registered and in compliance with the Labor Relations Act (LRA) and the Basic Conditions of Employment Act (BCEA). In the city of Hangzhou, China, where there are about 100,000 workers, the Jiubao Labor Supervision Team (JLSS) has only 6 staff members to conduct inspections and follow up on worker complaints. Due to inadequate financial support, such a small JLSS is handicapped in its ability to effectively monitor working conditions and enforcement of the Labor Law and Labor Contract Law. In India, the Ministry of Labor's budget has shown a steady decline since the early 1990s, and the result has been a consistent decline in the number of labor inspectors.

However, it's not just a matter of resources. In most cases (with a limited recent counter-trend in Brazil), policy shifts toward neoliberalism have deliberately relaxed legal protections for workers. Moreover, again with the partial exception of Brazil, there is evidence that enforcement is not pursued vigorously for these jobs. In India, while labor laws do exist, state power and proclivities to enforce the laws have waned during the past two decades. The Chinese Labor Law and Labor Contract Law both apply to all employees, including home-based workers. However, demonstrating the existence of an employer-employee relationship is always the first step for a worker in order to legally challenge the employer for labor law infringement. Thus, garment workers without contracts and home-based workers who often cannot prove the existence of this relationship are not able to gain protections under the existing labor laws. Under the Labor Law, inspectors have authority under to investigate worker issues in workshops but this is a rare occurrence. Inspectors play a reactive role and do not educate workers about their rights.



South African and Brazilian employers easily evade labor regulations and there is the same issue of lack of enforcement as in India and China. South African employers are required to register with Bargaining Councils, which set and enforce minimum labor standards, but they often do not. When employers know inspectors are coming, they can pack up their small workshops and relocate somewhere else. In Brazil, as noted above, subcontracting moves much work outside the influence and often even the knowledge of regulators. Thus, though trade unions and other worker advocates have pushed for formalization of subcontracted workers, in most cases this is an uphill battle.

In this environment, support for informal workers, rather than an attempt to shift them to formal status, may prove more viable. For example, in India informal workers' unions, such as the Self Employed Women's Association (SEWA), have been able to win the establishment of Welfare Boards. These tripartite, sector-specific, institutions, implemented by state governments (so far only in some of India's states, and only in some sectors) are funded by contributions from employers, workers and government. Rather than monitoring working conditions or defending workers' rights on the shop floor, the Welfare Boards provide social insurance and benefits to informal workers and their families. They are funded through state contributions, revenue from taxes (from the employers) and membership dues (from the informal workers).

## **2. Report structure**

Due to historical differences, varying political contexts, and the differences in the structure of industry and labor, it is crucial to have a historical lens and structural analyses in order better understand the current conditions and contexts. Some reports, to wit India and China, delve deeper into the history than others. The India case study provides a thorough background on the garment and textile industry starting with the colonial era. The industry in question served as an engine of economic growth and industrialization for India before and after independence. Hence, how the industry has evolved, especially with India's move towards liberalization of its economy, plays an important role in understanding the current organizing efforts or lack thereof, by trade unions and other worker organizations. However, in the case of China, the textile and apparel industry has become more significant relatively recently in comparison to India. Thus, the report on China delves deeper into the spatial and social organization of production as influenced by China's policies for economic growth through an increase in exports.

After the historical and structural analyses in each country report, the researchers present their findings from their fieldwork, supplemented by relevant information from the literature. In these sections we learn about labor standards and regulations, the role of trade unions, and alternative forms of organizing of subcontracted and home-based workers. Lastly, each report concludes with some insights into what strategies are being employed to organize subcontracted and home-based workers and what potential opportunities are there to protect workers' rights in each country. The final section of this report is a comparative analysis and synthesis of the findings across the four countries.

In the order of chapters and in discussion in the Conclusion, we have ordered the countries in descending order by Gross National Income per capita, except that China's political economy is so distinctive that we moved it from third to last. The order is thus Brazil, South Africa, India, and China. Thus, we have placed analysis of countries that are in some sense economically similar next to each other. Following the detailed country cases, the Conclusion synthesizes findings and suggests some broader conclusions and hypotheses.

## II. Brazil: Active unions, supportive government, limited results

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With the help of Lucas Kerr*

### 1. Introduction

This chapter deals with home-based workers in the Brazilian garment and textile sector and illustrates the challenges faced, and efforts undertaken, by workers and their advocates to improve worker protection. Brazil is an interesting and important case because it has one of the largest textile and clothing sectors in the world, unions with a long history of militancy and innovation, and a national government that, since 2003, has taken concerted policy steps to improve the situation of workers. The Brazilian needle trades are also notable in that in recent years about one-third of the sector's workforce has been home-based (though this proportion declined during as the economy slowed, as we will describe below).

The particular needs of Brazilian workers vary from region to region, and these differences will be explored in this chapter. But there is also a fundamental commonality: the unregistered nature of home-based and subcontract work – in particular, its placement outside the government labor inspection and social pension systems – is perhaps the unifying obstacle to achieving adequate worker protections. Because of the very nature of home-based work, there is a lack of contact with other workers and many times, no connection with unions or other workers' organizations. Thus, worker organization efforts in Brazil have sought to move home-based workers into the formal sector of garment production as their primary strategy, either through the heightened enforcement of the labor law that regulates wage labor, through the use of other legal forms aimed at incorporating self-employed workers into social protection schemes, or by registering small workshops in a simplified taxation regime.

In this chapter we will discuss two case studies, the garment cluster at the Caruaru region in Pernambuco and the garment sector in São Paulo state. This is done so as to underline the impact of different economic and social contexts on the possibilities of organizing home-based workers. The metropolitan area of São Paulo concentrates the largest agglomeration of production, distribution and service units in Brazil. Thus there are many economic alternatives available. In contrast, the Caruaru cluster is located in an isolated and poor area in the remote Northeast of the country, where few economic alternatives are available. Thus, these case studies were selected to illustrate the variety of social and economic contexts where home-based workers in the garment sector carry on their jobs.

Organizing and protecting home-based workers requires an approach that takes into account the variety of contexts. For example, in Caruaru production takes place in family-owned or very small firms that sell their products at regional bazaars called Feiras. These small units are not necessarily working as subcontractors for large firms, and home-based producers are more likely to see themselves as small entrepreneurs than as workers for whom unionization would be appropriate. Thus leading strategies of worker organizations involve formalizing small and micro enterprises through enforcement linked with supports and assistance that serve as inducements for small entrepreneurs to formalize. Other places, where subcontracting is the basic relationship among home based workers and firms, require different organization approaches, exemplified here in the São Paulo case study. In São Paulo State, subcontracted and home-based production is more often linked into supply chains that end in brands

with market power and thus “deep pockets.” Here worker organizations more often rely on pure enforcement (via union organization or mobilizing the labor inspection system) or on pressing the brands at the top of supply chains to require formalization by their subcontractors.

The chapter is organized as follows. First we examine the relevance of the textile and garment industry in Brazil, mainly in terms of its contribution to job opportunities, in particular, for home-based workers. The next section deals with the role of worker organizations in monitoring labor conditions and the enforcement of labor law in the garment sector, again in particular among the home workers. Then we proceed to present the results of our in-depth fieldwork in the Caruaru Cluster, which included interviews with key actors in the formalization process of home-based workers, a process that was initiated by the Departamento Intersendical de Estatística e Estudos Socioeconômicos (DIEESE), a multi-union research entity. For São Paulo, we present findings derived from an extensive interview with the current President of the National Confederation of Garment Workers, supplemented by key literature. We close with conclusions and policy recommendations for better labor protection schemes in the Cluster and in the São Paulo garment sector.

## 2. The garment industry in Brazil

Brazil ranks among the world’s top producers of textiles and apparel, though this sector largely serves a domestic market (Vilasboas 2012; ABIT 2013). According to data from PNAD, the textile and apparel sector is the second largest generator of manufacturing jobs in Brazil (PNAD 2011). In terms of imports, China is the major provider. In the case of exports, the Mercosur countries are Brazil’s major trade partners. As Chinese imports gain a greater market share, the very existence of a Brazilian garment industry is jeopardized. Recently exports to the United States and the European Union have declined, probably due to two different but simultaneous reasons. First, the recession in both areas diminished their demands. Second, Chinese exports to these areas have grown quickly, displacing other garment suppliers like Brazil.

The textile sector was a major one when Brazil was first industrializing in the beginning of the 20<sup>th</sup> century (Abreu 1986). It has lost importance through the 21<sup>st</sup> century. Due to lack of investment, little access to credit, and absence of administrative and technological progress, this sector lost dynamism until the 1970’s. Its structure had been very heterogeneous since its composition, with many small and micro enterprises. So in the 1970’s, a period known as the “Brazilian economic miracle,” the economy was restructured and it seemed that dynamism would be achieved overall. Yet, stagnation in the 1980’s led to the maintenance of heterogeneity in the sector and incapacity to overcome the previous limiting elements.

Garment activities are greatly concentrated in the South and Southeast of Brazil and, surprisingly, employment in the sector has grown since the 1980’s. However, the expansion was led by a growth of low quality/low price production, and powered by business attempts to reduce costs, particularly social security costs (Coutinho and Ferraz 1994). Thus entrepreneurs of this sector have attained certain dynamism by means of what is known as *flexibilização*.<sup>1</sup> In the textile industry, this means outsourcing, home-based work, long workdays, and informality. As Coutinho and Ferraz point out, it is interesting how most home-based work was extinguished by the emergence of modern industry and yet returned

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<sup>1</sup> An increase of flexibility achieved by outsourcing, transfer of activities and social costs.

many years after because of low costs and lack of fringe benefits.<sup>2</sup> The return of home-work also implies reduced worker control of the labor process, precarious conditions, and fewer formal job openings.

Representative statistics on subcontract work are difficult to obtain. But two related measures—the incidence of home-based work and possession of the *carteira de trabalho*, the government-sanctioned work registration card—are collected regularly by the Brazilian statistical bureau and provide useful information about worker characteristics and experiences. The data presented in the tables below helps us to understand better the current situation of the labor market in the garment sector in Brazil. In recent years there is evidence of an important shift in the structure of employment in the sector. Recent years have seen growth in wage employment in larger companies, and to a lesser extent in microenterprises (Table II.2.1). At the same time there is a significant decrease of jobs subject to higher instability (self-employed and home workers). A significant reduction in the number of employers, particularly in 2011, is also important since it may suggest a process of concentration in the garment sector with probable elimination of Brazilian companies that act as intermediaries in the production process as well as some more precarious jobs.

The overall labor market improvement was due in part to the global commodities boom, which simultaneously fortified consumer demand and expanded alternative opportunities for low-wage workers. In addition to economic growth, the Brazilian labor market has benefited from a policy of raising the minimum wage, greater monitoring of compliance with labor legislation, and heightened trade union negotiations and pressure, as well as a set of important changes that were not immediate consequences of economic growth, but stemmed from the political relations established between workers, employers and government in various institutional bodies, as expressed in policies and actions such as the major expansion of income transfer programs (notably the Bolsa Familia conditional cash transfers to very low-income families) (Baltar *et al.* 2010).

It is worth noting that, to bolster the domestic garment industry, the Brazilian government has recently adopted some trade protection measures. As these measures more directly benefit companies that are already formal and well structured, they contribute to a process of relative strengthening of larger, more formal, and well-capitalized segments of the sector at the expense of more precarious ones.

The Brazilian garment sector falls into three main types of organization (Veras 2011). *Fábricas* are the production-units that are based in facilities outside the home. *Fábricas*, on the other hand, are the home-based or family production units; but they may have dozens of informal laborers (who may even receive salaries). *Fações* are the most precarious form of organization and are the ones that are sub-suppliers of the *Fábricas* and *Fábricas*. The three forms of enterprise may be informal or hire informal workers, but the more precarious the organization, higher the probability of being so. The latter are generally informal, whilst the *fábricas* tend to be registered and formally organ

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<sup>2</sup> Under Brazilian law, formal sector employers must incur the following monthly charges for each employee, that form the set of legally-required fringe benefits and are levied on the gross monthly wage: 8% for the Guarantee Fund for Employees - FGTS (forced savings, similar to unemployment insurance, that the employee can withdraw if the employer fires him/her); 8% of the month's payment to contribute to an additional month wage, to be paid at the end of the year, 20% contribution to social security, 2.5% for financing the employer's responsibilities for training the company's workforce, 8% relative to annual mandatory holidays; 2.67% as an additional holiday allowance, and other minor charges. It is important to note, however, that tax loopholes have been created in the last 15 years that release firms from the full payment of all payroll taxes. Currently, depending on the annual turnover of the company and the business sector in which it operates, much of the social charges can be replaced by a single payment, of a lower amount, which is based on the firm's presumed profits.

**Table II.2.1.** Count/Percentage of workers in textile and garment industry by employment type  
(and micro business) and home-based work

		2004	2005	2006	2007	2008	2009	2011
<b>Large and Medium Companies</b>	Employee	833,632	901,138	899,957	927,497	992,379	966,894	1,034,738
		27.7%	27.3%	27.0%	28.5%	28.1%	28.1%	39.3%
	Employer	93,036	97,166	117,221	94,428	142,593	106,607	65,964
		3.1%	2.9%	3.5%	2.9%	4.0%	3.1%	2.5%
<b>Micro Business*</b>	Self-employed	1,013,766	1,133,202	1,132,720	1,082,075	1,158,072	1,161,155	786,981
		33.7%	34.3%	34.0%	33.3%	32.8%	33.8%	29.9%
	Employer	62,657	53,987	66,727	60,499	90,947	69,103	41,047
		2.1%	1.6%	2.0%	1.9%	2.6%	2.0%	1.6%
<b>Home-based work</b>	Male	43,894	53,106	59,484	61,752	68,529	63,809	46,812
		1.5%	1.6%	1.8%	1.9%	1.9%	1.9%	1.8%
	Female	961,121	1,062,743	1,058,526	1,022,684	1,081,202	1,070,467	656,641
		32.0%	32.2%	31.7%	31.5%	30.6%	31.1%	24.9%
<b>Total</b>		<b>3,008,106</b>	<b>3,301,342</b>	<b>3,334,635</b>	<b>3,248,935</b>	<b>3,533,722</b>	<b>3,438,035</b>	<b>2,632,183</b>

\* Fewer than six employees

Source: Relação Anual de Informações Sociais (RAIS) — Anuário estatístico (MTE)

Women do the great majority of home-based work. They combine working at home for pay with household chores. These are key elements for the reproduction of the labor force. Women's conditions in most sectors are customarily worse than men's, a fact that creates a link between sexual division of work, domestic work and home-based work.

Unions fought to curb home-based work because of its associated bad working conditions, occupational diseases, and long work hours; unions also saw the prevalence of home-based work as associated with a decrease in job openings in factories. Other elements that make home-based work problematic are the lack of control over working hours and lack of visibility: it is very difficult to regulate. In the 1970's, this type of work grew significantly in Brazil, because it is a very efficient way to reduce costs via outsourcing (but again, the most recent data from the textile and apparel sector suggest that it is once more retreating in the last few years). This type of work is usually paid by the piece (in the case of the textile and garment industry). It is interesting to notice that the progress of technology increased the capacity to incorporate home-based work, stimulating growth of this type of informal work.

### **2.1.A closer look at home-based labor in the garment industry: São Paulo and the Caruaru Cluster**

Table II.2.2 profiles Brazil's ten largest apparel clusters, including the São Paulo and Caruaru clusters we visited in our fieldwork, which we have highlighted with bold type. A complete table of Brazilian garment clusters appears in the Appendix.

**Table II.2.2. Brazil's ten largest apparel clusters by employment**

	<b>State</b>	<b>Cluster</b>	<b>City or cities</b>	<b>Employees, registered firms</b>	<b>Registered firms</b>
1	<b>São Paulo</b>	<b>Polos de Confeções do Brás e Bom Retiro</b>	<b>São Paulo</b>	<b>163,700</b>	<b>19,188</b>
2	Santa Catarina	Blumenau	Brotuverá, Brusque, Camboriú, Doutor Pedrinho, Garpar, Guabiruba, Ibirama, Ilhota, Indaial, Itajaí, Ituporanga, Lontras, Luiz Alves, Navegantes, Pomerode, Rio dos Cedros, Rio do Sul, Rodeio, Timbó, Agrolândia, Apiúna, Ascurra, Balneário Camboriú, Benedito Novo, Blumenau	148,079	8,487
3	Ceará	Polo de Moda do Ceará	Fortaleza	67,532	4,896
4	Minas Gerais	Juiz de Fora / São João Nepomuceno	Astolfo Dutra, Bicas, Cataguases, Descoberto, Guarani, Guarará, Juiz de Fora, Mar de Espanha, Maripá de Minas, Rio Novo,	27,202	1,824

			Rio Pomba, Rochedo de Minas, São João Nepomuceno		
5	Pernambuco	Polo de Confeções do Agreste	Agrestina, Belo Jardim, Brejo da Madre de Deus, Caruaru, Cupira, Gravatá, Passira, Pesqueira, Riacho das Almas, Santa Cruz do Capibaribe, Surubim, Taquaritinga do Norte, Toritama, Vertentes	24,449	3,458
6	Goias	Goiania	Goiania	24,166	3,700
7	São Paulo	Americana	Americana	23,624	1,102
8	Bahia	Moda do Estado da Bahia	Feira de Santana, Amélia Rodrigues, Coração de Maria, Conceição da Feira, Santo Estevão, São Gonçalo dos Campos, Conceição do Coité, Santa Luz, Serrinha, Tanquinho, Santo Antonio de Jesus e Jequié	23,305	946
9	Mato Grosso do Sul	Campo Grande	Aparecida do Taboado, Carapó, Campo Grande, Dourados, Glória de Dourados, Naviraí, Nova Andradina, Paranaíba, Ponta Porã, Sidrolândia, Três Lagoas	21,474	508
10	Rio de Janeiro	Nova Friburgo	Cantagalo, Cordeiro, Duas Barras, Bom Jardim, Macuco e Nova Friburgo	20,540	1,746

Source: (SEBRAE Pernambuco 2013)

Data in Table II.2.2 refer to registered establishments, but, by means of the *National Household Sample Survey (PNAD)*, we can get a glimpse of the relevance of home-based workers in the two garment concentrations where the fieldwork was conducted.

Table II.2.3 shows the total number of workers and home-based workers in the textile and garment industries in the states of Pernambuco (where the Caruaru Cluster is located; data are not available for the cluster itself) and São Paulo. Although the absolute number of workers in São Paulo is higher during the 2004-2011 period, Pernambuco shows faster growth in the employed population when 2011 is compared with 2004, both in total workers (87% as opposed to 3%) and in home-based workers (52% as opposed to -15%).

Table II.2.4 shows the proportion of home-based workers in the total of textile and garment workers. Both states showed a quite similar decrease in the number of home-based workers in this sector (approximately 19% when comparing 2011 with 2004). Next, we locate conditions in the garment

industry in these two states within the context of national-level Brazilian labor regulation, labor relations, and economic and labor policy.

**Table II.2.3.** *Textile and garment workers by state and place of work*

Year	Pernambuco		São Paulo	
	Total	Home-based workers	Total	Home-based workers
2004	79,525	33,985	547,292	161,766
2005	89,953	38,674	628,566	222,924
2006	85,860	31,574	663,086	215,552
2007	90,415	35,240	617,763	201,272
2008	101,121	41,278	686,360	227,149
2009	84,243	27,651	644,543	221,114
2011	148,979	51,610	566,261	136,862

Source: National Household Sample Survey (PNAD) 2004-2011

**Table II.2.4.** *Home-based workers as a percentage of all garment and textile workers by state*

Year	Pernambuco	São Paulo
2004	43%	30%
2005	43%	35%
2006	37%	33%
2007	39%	33%
2008	41%	33%
2009	33%	34%
2011	34%	24%

Source: National Household Sample Survey (PNAD) 2004-2011

### **3. Monitoring and enforcement of labor standards: Existing systems and the role of worker organizations in Brazil**

This section contains a general description of the legal and practical context in which workers' organizations act. We begin with a general description of labor law and the role of labor inspection, as well as the prevailing rates of unionization. Then we proceed to examine several national level initiatives for organizing informal workers. In the final subsections, the case studies of the Caruaru Cluster and São Paulo are presented.

#### **3.1. Overview of government inspection and union organization**

##### **3.1.1. Brazilian labor law and the labor inspection system**

Among the emerging countries, labor regulation in Brazil stands out in terms of its reach (it has a single national code) and of the mechanisms to supervise and enforce compliance with the law. Since 1943 a national labor law—*Consolidação das Leis Trabalhistas (CLT)*—governs labor and capital relations for almost all waged Brazilian workers, except domestic service and civil service workers. Since 1939, Brazil has had a Labor Court, a branch of the judiciary with the task of ensuring compliance with labor rights in the country, helping to arbitrate labor law disputes, and enforcing labor law in registered enterprises.



The garment sector companies have to comply with the CLT, and are under this Court's jurisdiction. Under the CLT, companies that outsource part of their activities to other companies share responsibility for the obligations of labor rights of the workers in subcontracted firms. This means that even contractors must comply with labor legislation verbatim, with enforcement in practice primarily through larger firms' pressure on smaller suppliers to ensure compliance.

Due to the extensive character of the Brazilian legislation and the intrinsic difficulty of supervising all firms and diversity of work activities, enforcement of labor laws and regulations is primarily driven by complaints that are forwarded to the relevant bodies. Both the Regional Labor Inspection (directly subordinate to the Ministry of Labor), and the Public Labor Ministry (the body whose duty is to investigate and report possible breaches of legislation) act promptly on potential offenders, fining and referring contentious cases to the labor courts (Maciel 2010). Moreover, according to the Brazilian law, any worker can directly access the Labor Court to claim his/her labor rights, both in the case of a current employment relationship, as well as in the case of any that has occurred in the last five years. Over 90% of complaints that end up in the Labor Courts have decisions favorable to the worker (a consequence in part of the Principle of Protection that guides labor standards in Brazil). The demonstration effect of labor legislation enforcement has advanced in recent years, particularly due to the maturing of the institutions that were created or reinforced in the 1988 Constitution. Furthermore, the environment of renewed economic growth (since 2004) and gradual reduction of surplus labor appears to be contributing to a reduction of precarious work in the country.

Thus, in spite of the fact that Brazil has fewer than 3 labor law inspectors per 100,000 workers, a level that is both low in absolute terms and relative to its Latin American neighbors (Schrank and Piore 2007), the inspection process has been able to target an average of a third of the total number of workers in Brazil (MTE 2013). The Workers' Party administrations of Lula da Silva and Dilma Rousseff, in power from 2003 to currently, have added resources to labor inspection, although part of the added resources has been used to target the worst labor abuses, notably forced labor and child labor (ILO 2010). In the garment sector in particular, literature to be cited below points to some successful use of inspections to bring subcontracted and even home-based workers jobs back into formality and compliance with basic Brazilian labor laws in São Paulo state (see for example Pires 2008 and Cardoso and Lage 2005).

One recent regulatory innovation is the creation of the Microenterprise Individual Entrepreneur (MEI) category of business. MEI is a new legal status, created in 2009 in Brazil, that allows any independent contractor (a house painter, cleaner, gardener, independent publisher of books, etc.) to be registered as a regular business. In return for an individually determined monthly contribution of up to US\$ 18 that replaces all other taxes or charges, the entrepreneur gains access to social security, including the right to retirement, and may also hire a single employee engaged in the same activity. Since 2009 about 3 million MEI's have been created in Brazil. Expansion of MEIs has the potential to allow many of the self-employed to register as businesses, which increases the odds that inspection and enforcement agencies will be aware of their existence.

### *3.1.1. Organization of workers in the apparel sector*

The organization of the apparel industry, which was discussed above, imposes a series of restrictions on worker organization or access to social protection schemes (in particular, labor rights and pension programs). Even under these conditions, unionization rates in these sectors are not far from the overall rates. Unions, organized in several large, competing union federations, put in a great effort to increase their membership, but as outsourcing is a common strategy in the production chain even of large

apparel firms, two issues arise. The first is the difficulty of organizing (or even detecting) home-based workers. The second is how to devise effective schemes of social protection for the self-employed.

In spite of the lack of a nation-wide inventory of efforts to organize or formalize apparel workers, the following group of examples shows the diversity in existing strategies.

**Table II.3.1.** *Unionized workers as percentage of total employment in the sector, Brazil 2004 to 2011*

	2004	2005	2006	2008	2009	2011
Textile and garment	13,49	14,94	15,27	13,12	12,16	12,97
All sectors	17,97	18,36	18,59	18,16	17,75	17,16
<b>Total count in textile and garment</b>	2.4m	2.6m	2.6m	2.8m	2.7m	2.3m
<b>Total employment</b>	84.4m	86.9m	88.7m	92.4m	92.8m	93.5m

Source: National Household Sample Survey (PNAD) 2004-2011

### 3.2. *New national level initiatives*

#### 3.2.1. *Worker cooperatives and the role of UNISOL*

Worker cooperatives in Brazil were inspired by the ideals of collectivism or the “solidarity economy,” and are very common nowadays in the country. In these coops, the employees themselves or are owners of the means of production, so the entire surplus is divided equally among workers. Many municipalities have responded positively to the emergence of local cooperatives and offered support by creating Coop Incubators—an advisory and organizing group of people—whose purpose is to organize groups of workers and raise funds to provide the productive infrastructure for cooperatives. The emergence of numerous cooperatives in Brazil, especially after the 1990s, is driven by worker pursuit of alternative employment and income generation against a backdrop of crisis experienced by the country as a result of liberalizing policies (Lima 2002). Because of their bottom-up nature, cooperatives are applicable to workers in subcontracting firms and even groups of home-based workers, without regard to whether labor laws or unions reach these workers.

The Federal government has also established entities to support cooperatives. The first Lula government (2003-2007) instituted National Secretariat of Solidarity Economy (SENAES), under the Ministry of Labor and Employment, based on the perception that cooperatives constitute a positive way of generating economic and social progress (Singer 2004). However, a law taking effect early in 2011 eliminated SENAES as a separate agency, relocating its functions to a new Secretariat of Micro and Small Business. The Network of Alternative and Solidarity Economy Networks (REAS) denounced the reorganization as signaling a reduction of government support for solidarity economy programs (including cooperatives) (REAS 2011) but it is early to draw definitive conclusions about the outcomes of the change.

The UNISOL federation of cooperatives, founded in March 2000 in São Paulo State, was initiated by cooperatives created with the institutional support of the United Steelworkers of Sorocaba and Santo

André, São Bernardo do Campo and São Caetano (ABC), and the ABC<sup>3</sup> Chemical Workers Union, among others—all unions affiliated with the Unified Workers Central union federation (CUT). After several years of growth in São Paulo state, the UNISOL Cooperatives and unions decided in 2004 to expand UNISOL into a nationwide federation of social enterprises and cooperatives, to carry out a project of economic and social inclusion, democratization in workplaces, equity and income sharing (UNISOL 2013 and ND). Thus, UNISOL now promotes the formation of cooperatives at the national level, making those cooperatives part of the Social Economy Networks supported by SENAES and its successor agency.

Currently 700 cooperatives with 50,000 cooperative members are affiliated to UNISOL, including Justa Trama, a successful example of a group that includes the entire productive chain of apparel, from the production of cotton to the final product.<sup>4</sup>

In 2000, the national-level CUT also launched an overlapping initiative, the Solidarity Development Agency (ADS-CUT) to carry out campaigns to organize and promote local development of coops and more broadly worker-controlled aspects of the solidarity economy in the various regions of the country (UNISOL 2013).

### 3.2.2. *National Labor Forum*

By initiative of the Lula government, a National Labor Forum was created in 2003. The Forum created standard tripartite labor-business-government working groups in seven of eight sectors (Almeida 2007). They organized an eighth working group to address the informal economy, and departed from the standard tripartite structure to include associations of subcontractors and varied worker and small producer organizations including cooperatives, associations, and movements as well as trade unions. Though the Forum did not directly lead to reforms, participants from informal worker groups stated that simply being recognized as legitimate worker organizations was tremendously important, as this allowed more visibility to the workers' organizing efforts (Sanchez 2012).

### 3.2.3. *DIEESE*

The Inter-Union Department of Economic and Social Studies (DIEESE) is an organization established in 1963 by all the union federations in Brazil, as a research and training center to advance the unions' bargaining processes and capabilities in defining strategies to enhance workers' labor conditions.

In 2009, DIEESE started a major project named "Reducing Informality through Social Dialogue." The project began as an effort to bring together local actors and government agencies, in order to protect informal workers, or workers with no access to social protection and without labor rights. Under the notion of Social Dialogue, this project seeks to articulate a system of networks of local and national actors so as to discuss the problems of the workers involved in the specific activities selected, and to find solutions to those problems, with special emphasis on social protection issues. The long-term goal is to expand the process to include regional (Latin American) actors also.

The general project started with five local projects, designed to test a two-part intervention model. First, the mobilization of social actors, through awareness-raising visits in selected locations, followed by

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<sup>3</sup> ABC is the acronym of a set of major municipalities that surround São Paulo city: Santo André, São Bernardo do Campo and São Caetano. It is a region where the manufacturing activities flourished in the 1950s and currently is still an area where many big firms, mainly in the metallurgical and auto parts sectors, are located.

<sup>4</sup> Please see <http://www.unisolbrasil.org.br/2011/09/27/trama-de-algodao/>.

workshops to identify their demands and issues and to develop an Action Plan for social intervention and monitoring.

The initial projects were:

- Street vendors in Porto Alegre, in the state of Rio Grande do Sul;
- Construction workers in Curitiba, Paraná;
- Apparel in Pernambuco (Caruaru; our fieldwork explored this initiative and we discuss it in some depth below);
- Agribusiness Sector in Rural Morrinhos, Goiania;
- Family Farming in Rural Sector at Ituporanga, Santa Catarina

These pilot projects were selected because they have a high incidence of informality, capacity for social mobilization and conflict resolution, as well as already existing inter-institutional cooperation. In Section 3.4, we present the apparel sector project in Pernambuco and the results of our field work on this initiative in one cluster, Caruaru.

### ***3.3. São Paulo case***

Our first regional case of the textile and apparel sector is São Paulo State. This state is Brazil's industrial heartland, and São Paulo State and in particular the metropolitan area of the city of São Paulo have a strong presence in national garment production. This is the result of a long historical process whereby the City of São Paulo became a production center for the whole country. As Da Silva (2008) shows, in the City of São Paulo apparel production is concentrated in certain areas of the old downtown, where garment activities have evolved from minor family workshops and small factories to a complex set of large firms, intermediaries, family workshops and home based work. This case encompasses both relevant literature and field research. Due to time and budget constraints, we decided to restrict our fieldwork in São Paulo to a very long exchange with the leadership of the CNTV, Confederação Nacional dos Trabalhadores do Vestuário, a major national-level textile, garment and shoe production union federation. The CNTV brings together more than 22 unions. In this São Paulo case narrative, we first characterize sectoral conditions in the region, then review two important cases from the literature in which unions have successfully organized home-based workers, and close with findings from fieldwork.

Subcontracting and home-based work have been present in São Paulo City and State since its inception, but recent trends have intensified those patterns. Since the eighties, a two-tier complex of firms and workers has characterized apparel in São Paulo. A profitable group of fashion firms with outlets in shopping malls or with brand name stores coexists with a mass market of standardized products. There is a striking technological and organizational divide between the two subsectors, as the high priced clothes are designed according to international fashion patterns, using the best available technologies that the other, low cost, sector is lacking. Nevertheless, they have in common an outsourcing process that very often ends in unregistered firms or in the homes of women working under precarious conditions. In addition, garment industries use illegal migrants as to minimize labor costs (Centro Gaspar García 2012). Da Silva (2008) likewise emphasizes that the garment industry in São Paulo city restructured in the 1990s, increasing subcontracting and leading to an increase in small workshops and home-based work.

Subcontractors also recruit undocumented Bolivian migrants to fill the jobs, under harsh labor conditions (Centro Gaspar Garcia de Dereitos Humanos 2013). One dramatic description of this process

appears in an interview published as an appendix to Sanchez's (2012) dissertation. A consultant to Brazil's Labor Inspection Department commented on the situation of home-based workers in apparel (pp.175-77). He described women doing home-based work in São Paulo, attaching labels to clothes for large department stores (through chains of subcontractors—chains so long that “at the end of the day, nobody knows where the work is being done, or at least that's what they pretend”). Undocumented migrant women from Bolivia were working in conditions he labeled “urban slavery,” but he added, “they put up with this because they don't want to return to Bolivia,” suggesting that the “slavery” is more rhetorical than literal. Even so, Illes *et al.* (2008) similarly report that in São Paulo, undocumented migrant women from Bolivia have been found working in conditions that can be labeled as forced labor, as they work long hours, have low pay and no social protection, and sometimes live in the same premises where they work and have restrictions on leaving their jobs.

### 3.3.1. *Organizing and registering home-based workers: Ibitinga Needle Workers Union*

The Ibitinga Needle Workers Union emerged in 1988 from a previous organization founded one year earlier to help mostly female workers improve labor conditions and to register them at the Ministry of Labor in order to get their labor cards (Leite 2009). In her study of the formation of the INWU, Leite emphasizes the importance of workers organizations in decreasing home-based work and bringing businesses into compliance with the laws, a process that lies at the roots of the Ibitinga union's vigorous growth in recent years.

A very important thing that stands out in the case of Ibitinga is that the workers themselves initiated the organization of the union, although later on they had the support of other unions and federations. Over a period of years, the union consistently conducted consciousness-raising of home-based workers themselves and the general public about the problems of home-based work and the status of home-based workers, taking advantage of every possible public forum. At the same time, they pressed employers for union recognition and better conditions, and pressed government officials to recognize them as workers, certify the union, assist in getting a union contract, and carry out inspections. In 2001, by mobilizing support from the Labor Courts, the union signed a collective bargaining agreement with local employers that ensured even home-based workers and those in outsourcing firms would be granted labor cards, and gave the union the right to oversee conditions in all these workplaces. Even after winning the contract, they worked with local inspectors and the national Ministry of Labor to ensure adequate inspections and enforcement of the contract. Thus, the Ibitinga union is an example of how workers organizing themselves were able to demand labor rights, for those working in firms as well as for those home-based workers who took part in the same production process, as suppliers for those firms (Leite 2009).

### 3.3.2. *Monitoring and uncovering labor rights abuses: Seamstresses' union of São Paulo and Osasco*

Leite (2004) discusses the evolution and activities of the Seamstresses' Union of São Paulo and Osasco.<sup>5</sup> This union was established in the 1940s and has since been active in the organization of seamstresses in São Paulo City and Osasco (a neighboring city). They actively organize home-based workers. During 2012, through their local networks they helped to identify and denounce two firms (Zara and Gregory, the latter better known in Latin America than in the US) that used outsourced production from units where Bolivian and Peruvian workers labored under extremely harsh conditions. As their journal *Vestuario* reports in the January 2013 issue:

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<sup>5</sup> For further information, see <http://www.costureirassp.org.br/index.asp>.

*“...We helped to discover work-shops that provided services to the internationally known Zara brand. The employees from Bolivia and Peru were under a scheme where they had to work up to 16 hours a day, with limited individual freedom and workshops outside basic safety standards. In addition, the salary paid was just 1 US dollar per piece sewn.”*

*“Our work continued this time involving another renowned designer. The Group to Combat Forced Labor, from the Regional Superintendent of Labor and Employment of São Paulo (SRTE/SP) inspected and found serious violations of the rights of the employees in four workshops that provided services for the of women’s clothing brand Gregory. The team freed 23 Bolivian workers who worked under precarious conditions, including debt bondage, excessive work-days, poor safety standards and even evidence of human trafficking. The owners of those workshops were charged with ethnic discrimination against indigenous Quechua and Aymara workers, because according to the evidence, they were more mistreated than other workers. The Gregory firm may be included in the “dirty list” of slave labor, a register maintained by the Federal Government which gathers companies caught using forced labor. Those responsible may also be subject to a criminal inquiry” (Vestuario 2013, 18).*

### 3.3.3. São Paulo State as a whole: An apparel union perspective

In May 2013 we conducted a long interview with Francisca Trajano, president of the National Confederation of Apparel Workers (CNTV, as noted an association of 22 unions) on the challenges faced by CNTV in the organization and protection of workers in the garment sector in São Paulo. Trajano stressed two major developments in the sector, the huge inflow of garments imported from Asia and the current economic situation in Brazil.

On the first issue, she stressed the need for a trade protection policy to guard the sector against price manipulation and uncontrolled importation of cheap, low quality products. Last year, the Finance Ministry set up tariffs against certain garment products, because of evidence of price manipulation by exporters to Brazil. Competition with imports has forced a segment of firms to upgrade their processes, a situation that has led to growing concentration in the garment production market.

Second, as the economy grew steadily from 2003 up to 2008, there was a sustained growth of minimum wage, increases in average wages, and reduced poverty. Unemployment fell also, as new job opportunities grew (Baltar *et al.* 2010). Because of an increase in job opportunities and income, many families exited poverty, and so the need for a job, no matter how precarious, has been reduced for many women.

Over the same period, worker organizations along with labor inspectors in São Paulo have been able to reduce some of the worst abuses in the garment workshops. Firms that use forced labor, or do not abide by labor laws, if they are discovered, must pay heavy fines. This also applies to subcontracted labor, as Brazilian labor laws make the main firms co-responsible for labor law violations in the subcontracted units.

In particular, this law has been used to protect home-based workers who go to the CNTV to ask for counseling. The confederation president is at the same time the president of the Seamstresses’ Union of São Paulo and Santo Andre, and so has participated in information campaigns to inform the home-based workers of their labor rights. Nonetheless, Trajano acknowledged how difficult is to fight against the exploitation of household work in the sector.

### 3.3.4. *Closing thoughts on São Paulo State*

The São Paulo case points to five strategies for improving subcontracted and home-based jobs in the state's textile and apparel sector. The first two are broad national policy directions. A first option is trade protection of the sector against dumping or "social dumping" in which low import prices are based on production under conditions where core labor standards are not in force. Such protection does little to promote better jobs in the long run, but it blunts the incentive to slash labor costs, and provides space for innovation and upgrading. Second, national policies that raise the labor standards "floor," such as minimum wage increases and increases in income support alternatives for the poor such as the Bolsa Familia, can reduce the influx of desperate job-seekers and downward pressure on wages and conditions. The Ibitinga example points to a third strategy, worker self-organization that combines education of home-based workers, pressure on government officials to intervene, and direct negotiation with employers. The Seamstresses' Union of São Paulo and Osasco used a fourth strategy: targeting visible brands at the top of the supply chain with government inspections, financial penalties, and bad publicity in order to reduce their reliance on highly precarious home-based workers in the supply chain. The CNTV union has used a more comprehensive strategy combining aspects of the previous two: allying with government agencies and inspectors to educate and reach out to home-based workers, including migrants from other countries, to convince them to stand up for their rights, affiliate with the union, and if necessary make complaints to labor inspectors.

These last three approaches to ameliorating conditions in home-based and subcontracted work depend crucially on the role of worker organizations—self-organized informal workers, unions that seek to organize informal workers, and state- and national-level unions that advocate for and attempt to represent informal workers. For that matter, the first two national policy shifts have resulted in part from the political clout of the national union federations, notably the CUT, with its close ties to the Workers Party that has controlled the presidency since 2003.

### 3.4. *The Caruaru Cluster*

The Caruaru Cluster of the clothing and textile industry in Pernambuco state is of interest precisely because it offers an instructive contrast with São Paulo. Caruaru is a rural area where the textile and apparel sector is for the most part *not* linked via supply chains to major brands and retailers, but instead dominated by family workshops serving a regional market. A larger part of the sector is characterized by home-based work and precarious working conditions. In this case study, we profile the Caruaru Cluster and describe an important initiative by the Inter-Union Department of Economic and Social Studies (DIEESE), a research and technical assistance body, to upgrade and formalize apparel and textile jobs in the cluster. The fieldwork builds on meetings with eight organizations (including unions, government officials, a local chamber of commerce, and DIEESE itself) and eight in-depth interviews with key individuals in the region (details can be found in the Brazil Methodological Appendix at the end of the report.)

The decision to sample a garment cluster in rural Pernambuco (made up of the municipalities of the Caruaru region: Caruaru, Bezerros, Gravatá, Santa Cruz and the Capibaribe Toritama) is because of its peculiar dynamic economic development. It differs from other garment clusters existing in Brazil because of a high degree of informality and precariousness of labor relations and the predominance of the family production units, along with some small and medium enterprises that make up the base of the productive structure. Veras (2011) uses the notion of social economy to frame a chapter describing and examining this cluster, which has also been called *Polo de Confecções do Agreste Pernambucano*.

The state –much like the whole Northeast of Brazil – is remarkably poor and its inland areas have a great problem with the dry season. Before the cluster<sup>6</sup> emerged, the region was profoundly poor.

To understand the particularities of the case in question we need to go back to some of its historical determinants.

**Figure II.4.1.** Map of the state of Pernambuco, showing the location of Caruaru



### 3.1.1. Historical context

The production of textile products began in the 1950's, when locals of Santa Cruz do Capibaribe started to take fragments scraps of fabric and produce low quality clothes for sale at "fairs," regional outdoor markets. Due to their low quality, these fairs became known as "*Feira de Sulanca*"<sup>7</sup>. The initial production was all home-based, as the families had sewing machines and could do this to complement their agricultural work. Eventually every member of the family started to work within home-based textile production, since offered greater income than other activities. Due to the aridity of the region, agriculture (mainly cotton production) is very difficult, and had shrunk in the 1940's.

This initial rise in low value added production was followed by the expansion of production within Santa Cruz and beyond to other cities such as Caruaru and Toritama. Veras (2011) argues that, because of the marginality of the city where it started, its development cannot be associated with any governmental or external initiatives. The first initiative by a national bank to finance the acquisition of industrial low-

<sup>6</sup> It is not completely appropriate to call it an industrial cluster, but it seems the most apt term to describe what the region has become: a full employment, specialized production region.

<sup>7</sup> Sulanca: inferior quality and low price.



rotation machinery took place only in 1960. Rather than external forces, the reasons for the Cluster's development arise from the need to survive, the persistence, and even stubbornness of the people. But what other choices were there for them? This process led to the possibility for residents to stay in the region (not migrate south or east) and even to return from other places.

Therefore, despite the great specialization that occurred in the region, its productive structure is still very heterogeneous. The majority of entrepreneurs still rely on their tacit knowledge and intuition rather than on modern techniques of administration and business. Furthermore, the productivity of the labor is low, and likewise capital-intensity, even in the *fábricas*. Hence, the normal workday of the workers is quite long. So it becomes very evident that, although the region has developed significantly, many social problems persist, even at full employment levels.

The region grew so significantly over the second half of the 20<sup>th</sup> century that the cities were absorbing all the labor coming from a rural exodus motivated by both the hard conditions of the land and the attractive opportunities in the cities. The growth has created conditions for significant capital accumulation, and that is what is interesting about the *Polo* in the present moment: one part of its enterprises is becoming capitalist<sup>8</sup> and the other part remains as primitive as it was 30 years ago. There has not been any movement to organize a proper cluster, for what remains intrinsic to the region's entrepreneurs seems to be the capacity for autonomous growth. Therefore, even when the government provides support, via SEBRAE (Brazilian Support Services for Entrepreneurs), this service is not greatly welcomed by the owners of the family enterprises.

A very interesting evolution process is currently observed, as household work and family-owned firms interact with larger firms. Labor conditions have not, as some theories have proposed, changed significantly with these developments: there has not been a general movement towards formality. What will emerge from the interaction between the two sectors in the region is still unclear.

The Caruaru Cluster is located in a transition area between the Zona da Mata (the wetter coastal zone) and the rugged semi-arid zone of Northeast Brazil. The municipality of Caruaru is rightfully known as the "capital of the Cerrado" or "gateway of the Sertão" (the name used by the local dwellers to designate the semi-arid region).

Since the sugar mills (production units similar to southern U.S. plantations) settled between the seventeenth and eighteenth centuries in the Zona da Mata, poor whites and mestizos, who found no place in the mills (whose workforce consisted mainly of black slaves), moved inland, towards the semi-arid area, developing subsistence activities, notably raising cattle and goats.

Caruaru provided a gateway into the Sertão backcountry. It grew around trade activities, becoming sort of a warehouse where inland settlers traded livestock products (beef jerky, leather, milk products) for other food products and manufactured goods coming from Zona da Mata and the port city of Recife (capital of the state). Given this economic configuration, the Caruaru Fair, the largest outdoor market of Brazil, operating once a week, arose in the city's center. The Fair attracted an inflow of thousands of people interested in buying locally produced goods. Their potential demand stimulated people at Caruaru and surrounding towns to produce goods for sale at the Fair. Thus, the Fair was transformed from a low-cost-low-quality one to a city full of businesses, even major retailers and national suppliers.

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<sup>8</sup> In the Marxist perspective: an enterprise that seeks only to accumulate more capital, expand its accumulation via the expansion of its activity, concentration and centralization of capital.

In spite of this transformation, there are still a great number of vendors in fairs, mainly informal, outside the center (Veras 2011).

Today, about 500,000 people live in cities that make up the cluster and most directly or indirectly derive their income from apparel production. Despite the undeniable dynamism that garment activities brought to the Caruaru cluster, the sector's productive structure is quite fragile. This results from the fact that its main comparative advantage over other clusters around the country is low production cost due to abundant low-wage labor. This is driven in part by low levels of capital, geographic isolation and few alternative economic opportunities, and bolstered by the prevalence of extremely precarious labor relations. For example, in the municipality of Toritama, where most of the jeans are made, it is estimated that 90% of workers are informal, and most work within their own homes with discarded equipment rented out by the same individuals who purchase the jeans.

According to a SEBRAE report (SEBRAE Pernambuco 2013), in the Caruaru Cluster, on average, 80% of the production units are informal –i.e., not registered- while 20% are formal. Across municipalities, the share of informal productions varies from 67% to 89% of total units. Outside of the two extremes, the results for the other municipalities are all very close to the overall average. The information used to classify a unit as formal or informal was registration in the CNPJ, the National Register of Legal Entities of the Finance Ministry. The fact that a small firm has a CNPJ card does not mean necessarily that it uses registered workers in its production process. As a result, the numbers of non-registered workers have to be estimated by indirect means.

The use of family labor is one of a number of factors that explain the persistence and growth of informal production in the Garment Cluster in Pernambuco. Production often involves many members of the family, from children to the elderly, without any social security coverage or institutional support. Moreover, according to our interviews, since the prevalent form of compensation in garment activities is payment by piece, daily working hours often exceed twelve or even fourteen hours.

The lack of registration and the absence of a minimum set of social protection rights are also among key issues. As the SEBRAE (2013) report states: *“To date, the Cluster has lived and expanded largely because businesses pay few taxes and respect even fewer rights and labor obligations. This situation has endured for 30 or 40 years, but in the long run it is unsustainable.”*

This unsustainability is universally recognized in the region. In response, the Inter-Union Department of Statistics and Economic and Social Studies (DIEESE, a multi-federation think tank and technical assistance organization) in partnership with the worker organization Nova Central,<sup>9</sup> a new union federation founded in 2005 independent of the CUT and Força Sindical, the two largest and most established federations) led an effort to contribute to modernizing the region and improving social dialogue. As the region goes through a modernization process, family units will become unable to compete with middle-size and large firms. Those firms are now under closer supervision of state and federal agencies (the taxation and labor protection agencies). As a result, the use of unprotected labor will become more and more difficult to sustain. The modernization process will also bring to fore the need for a higher-skilled labor force. As it stands now, low educational levels as well as the general low skills of workers will be a hindrance for new firms.

### 3.1.2. DIEESE and Nova Central: Reducing informality through social dialogue

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<sup>9</sup> Please see <http://www.ncst.org.br/>.

### Pilot project development

Since March 2010, DIEESE has been conducting a series of meetings with key actors in the Garment cluster of the Caruaru region. The goal is to deepen dialogue on the importance of formalization as a way to reduce the precariousness of working conditions found in the region. Among the actors and segments that have participated in this process are: labor unions and the employers, the executive branch of the three levels of government (federal, state and local), universities, associations, networks, and technical education institutions. These actors were selected to be representative of all the social forces acting in the region, through an initial research process.

An initial workshop was held in Caruaru, Pernambuco in March 2010 (DIEESE 2010). In this DIEESE-coordinated workshop, participants discussed a number of key issues identified by each major group of actors: employers, government and workers. The topics chosen by each express the most important problems faced by them in apparel production. For the employers, the most pressing problem was the lack of trained workers, including sewing machine operators and others. For the government officials, there was a need for technical support in the area of administration and management, as family-owned firms need training in management. The government officials also raised the issue of how to register workers, stressing the need for an awareness program about the need for workers and employees to be registered. The third issue raised was that of developing policies to support and extend the life of the economic units to foster their growth and sustainability. Examples include public policies for subsidized credit with long-term payment schedules and provision of infrastructure to the area (energy, water, etc.). The workers stressed the need for an awareness campaign on the value of becoming registered workers (with a labor card). Another point discussed was the need to create partnerships between the Ministry of Labor, the National Institute of Social Security, local government, and professional associations. Worker representatives also demanded the training of workers in the clothing sector, a process they believe has to be accompanied by a rise in the average schooling level.

The points identified by the groups indicate the possibility of convergence between the proposals and suggest the feasibility of a common agenda. Currently, all those proposals continue to be discussed, with the goal of producing a common project.

After the first meetings, DIEESE listed a set of objectives that were pointed out by several participants as relevant for achieving the project's general goals. Among the main ones are:

- Discussing fair trade policies;
- Seeking social and environmental responsibility;
- Working on a formality culture;
- Raising awareness of the importance of social security;
- Creating a seal of quality;
- Developing educational techniques to train parties in bargaining and business creation;
- Providing technical support for production and marketing;
- Ensuring access to finance and credit;
- Increasing the presence and legitimacy of the state;
- Increasing the level of formal/professional quality;
- Increasing workers' political and social awareness;
- Encouraging formation of cooperatives and entrepreneurship;
- Modernizing the productive sector.

The next steps in the project schedule are to be a discussion of how to reach those goals, including a timetable for each goal to be completed.

#### Evaluation of the pilot project: Our field work

Three years on, the pilot program “Reducing Informality through Social Dialogue” is still under development. Because of the specific economic, social and cultural context of the Caruaru region, the creditable purpose of the project will certainly take a few years to achieve tangible results. In a March 2013 visit made by us to talk with key actors in the region (a list of groups met with and interviewees can be found at the end of the Brazil section of this report), we found that, on the one hand, there is a clear recognition of the importance of the project. On the other hand, it is recognized that there are huge challenges ahead in the process of formalizing labor in economic activities revolving around the garment sector.

Respondents reaffirmed the widespread practice of using informal workers who operate primarily in their homes or in the homes of relatives or acquaintances. Personal ties are the first step toward the establishment of labor relations. They did note certain industry segments, such as industrial laundries, which, because of greater technical specificity of routine work, the presence of more sophisticated machinery and chemical complex, require the predominance of formal workers. They deemed government regulation of labor standards in firms of all sizes in the Caruaru regions as very rare, and generally considered enforcement actions to be for the most part ineffective. By coincidence, the week we were visiting the area, there had been an investigation conducted by the Ministry of Labor, in order to monitor the working conditions in garment manufacture. This action was undertaken because of evidence of a great number of unregistered workers in small factories. State and federal Labor Ministry officials denounced “conditions analogous to slavery” in some enterprises, shut down a number of businesses, and made a publicity splash (Folha de São Paulo 2013; Globo 2013). However, these inspection efforts seemed to be focused on the worst abuses rather than overall labor standards and the attendant publicity would seem to confirm the unusual nature of this inspection push. Concern is widespread that rigorous enforcement of labor laws would lead to large-scale job loss, and even union leaders from Nova Central believe that the practical result of enforcement action would be a wave of dismissals of “two hundred workers per day.”

At the same time, unions and other social movements advocating for workers were viewed as weak and fragile in the region. It is very difficult to identify a specific cause to explain the weakness of trade unions in the region of Caruaru. According to Milena Prado of DIEESE and Aurora Duarte, the President of the Pernambuco State Union of Seamstresses, most obstacles to organize workers in the Caruaru Cluster result from the lack of registration of the companies themselves. This makes it very difficult for union organizers to approach workers, and also makes it difficult for workers themselves to be aware of their organization rights. Aside from these problems, a number of other factors contribute to the precariousness of labor relations in the region. Among them, we can list the following: reduced presence of public institutions; economic culture associated with subsistence activities; informality of market relations; employment relations permeated by kinship relations, limited presence of large companies, low average education of workers; and predominance of productive activities with low added value.

Among the few mentions of worker organizations, one notable example is DIEESE itself. The organization is recognized as an important institutional actor that lately has been focused on the

subject of informality. Our respondents also cited state and municipal departments, usually linked to social assistance—the Department of Women and the Department of Social Participation—which have begun to take steps to strengthen support and awareness networks of the region’s workers. It should be noted that the initiatives are still very embryonic and facing opposition within their own local governments, since often the political class of the region’s cities is identical to the class of small entrepreneurs in the garment sector.

Because of the enormous challenges faced by the interviewed practitioners, they see the greatest hope in a long-term process that would have as its main thrust the education of new generations. In the last decade there has been a large increase in educational facilities in the area: there are now, in addition to public elementary and schools, a university and several federal technical education centers. They opined that the transformation of the region's social structure would only be possible to the extent that there is an improvement in the education level of the general population in the Cluster. The presence of teachers and researchers that has accompanied this process of expansion of the public education is also seen as a promising contributor to social dynamics, especially in Caruaru proper, where educational resources are concentrated.

When asked if there are efforts to develop worker cooperatives or the solidarity economy, only one respondent, a member of a women’s association, gave an affirmative reply. She referred to a cooperative of women working with crafts, “Women of Clay,” which with the support of an NGO is organizing a cooperative of women producing clay handicrafts—but with non-registered workers.

We also inquired about the use of the Microenterprise Individual Entrepreneur category (MEI, which allows independent contractors to register as businesses and meet tax and social insurance responsibilities through a single small monthly payment) to formalize home-based workers. Despite the creation of several million MEIs across Brazil since the status was initiated in 2009, in the Caruaru Cluster there is no formalization process grounded in the MEI category. We found that very little is known about this new category in the region, and there is no major initiative to expand this type of individual enterprise in the Cluster cities.

Underpinning limited activity to formalize subcontracted work in the region is a set of ingrained worker attitudes. Respondents described a low awareness of workers—especially home-based ones—of the importance of formalization of work, social security, and union organization or even of the state protection. Our interlocutors suggested that, in general, rather than contemplating the formalization of their work, the workers of the region wish to become owners of a *fábrica* (a company that manufactures products by contracting households to make specific parts for the garment production process), following the path of those who employ or purchase from them today. In other words, the dream of becoming an entrepreneur tomorrow acts as a great motivator of those who live today under poor working conditions in manufacturing activities.

In general, the region’s workers see the state more as a threat to their income (through the collection of fees and taxes or through inspections that threaten to eliminate their means of survival) than a provider of social security or as a promoter of decent working conditions. Workers are not seen as concerned about expanding social protection (pension, unemployment insurance, and industrial accident insurance). Nevertheless, respondents cited the widespread confidence that even under conditions of informality the state will provide social protection in old age (through a safety net program in place since 1971, the *Programa de Aposentadoria Rural*,

Rural Pension Program). Nor is the opportunity to sell to large, image-conscious companies a stimulus for formalization. Unlike what happens in other regions of the country's garment production, in the Caruaru cluster, there is no presence of large companies as buyers that would eventually demand more rigid contractual relations and therefore less precarious working conditions. So neither workers nor entrepreneurs perceive economic benefits that would justify the formalization of working conditions or production. With state agencies under suspicion and the absence of pressure from corporate buyers, worker organizations (including unions as well as labor-based technical bodies like DIEESE) are perhaps the most likely institutional source of pressure and support for formalization and upgrading in the region—but for the same reasons it is an uphill battle for such organizations.

The increasing requirement of fiscal invoices for tax purposes has had an unintended result of stimulating the formalization of all participants in the garment supply chain. The fiscal invoice requirement originates at the tip of the trade that lies in big cities, but it has effects on the rest of the supply chain of trade and production, to the extent that vendors at the tip increasingly need to demonstrate, for tax and accounting purposes, where the goods sold come from and where their money goes. Thus, even small suppliers have to register, so their employees are also registered. This process is closely related to the introduction of computerized systems and equipment inspection for the collection of taxes that are being deployed by state governments throughout the country.

We closed our interviews by asking our practitioner informants how they think the region and its garment cluster will look in ten years. Among the speakers we interviewed, the majority believe that the future of Caruaru cluster, and of the workers who derive their income from it, depends primarily on its possibilities for diversification of the productive structure, with the development of other industries and economic activities. In fact, according to some reports, the strong development of the region in recent years (Caruaru's GDP has grown over 7% per year) has supported the development of a set of city-based service activities (health, education, entertainment, hospitality, banking, etc.) that will gradually bring some diversification to the local labor market, with new possibilities for social development. However, as some of our interlocutors warn, if the goal is to continue growth driven by the garment sector, it seems hardly feasible to imagine a broad formalization of labor relations in the region, largely because the profitability of producing garments in the region depends mainly on the extremely low level of salaries of local workers.

#### Some considerations derived from our work in Caruaru

From our fieldwork and analysis, the expansion of labor bargaining processes and of a generalized formalization of labor relations in the Caruaru region, depend fundamentally on major economic and social transformations. Therefore one should not expect there to be some short-term solution for the massive job insecurity that exists in the region, especially in household units operating in the small villages around Caruaru. However, despite the enormous challenges, we present below some conclusions and recommendations that we believe will help both the actors who are involved in the "social dialogue" led by DIEESE, as well as other institutions, researchers and social actors wishing to address the challenge of reducing the precariousness of labor relations.

We identify several important structural and economic limits that block the effort to formalize the working relationships in the Caruaru garment cluster:

- a. The vast majority of the Cluster's enterprises consist of micro and small enterprises that have intensive use of labor as the fundamental form of income generation. In addition, the equipment used in production is old and technologically obsolete, therefore economic units have very low productivity levels.
- b. This production complex has very limited ability to autonomously launch an upgrading dynamic that would boost value added.
- c. The Caruaru region's only current comparative advantages are a low cost workforce and the presence of regional centers of trade in products for low-income consumers.
- d. The Caruaru region is relatively distant from the dynamic axis of Pernambuco (which extends between the new Port of Suape, Recife and the Goiania municipality).
- e. Although there is a strong tradition of subsistence farming in the region, poor soil fertility and climatic conditions typical of Brazil's semi-arid Northeast are factors that depress farm income and, therefore, on the one hand, push up the cost of reproduction of labor power and on the other, results in an excess supply of skilled labor.
- f. The absence of large enterprises connected to major centers of production and consumption in the country is also a factor that weakens the local economy. This regional isolation results in a lack of external stimuli for strategies to increase value added, such as product differentiation, the exploitation of niche markets, or even selling abroad. Local production caters mainly to regional demand and so is limited to a traditional consumer goods market, and very susceptible to economic cycles in the region. For example, in 2013, due to a severe drought, there was a drop in farm income, which translated into a reduction in sales of the apparel cluster.
- g. Another limiting factor is the fact that the labor legislation in Brazil (as codified in the Consolidation of Labor Laws – CLT), while appropriate and applicable to typical capitalist ventures, is very difficult to apply in cases of marginal enterprises or livelihood strategies, as is the case of most productive units in the Caruaru region.

In addition to the strong and meritorious work of “social dialogue” that has been launched by DIEESE, it seems imperative that the government and other institutions of civil society in the Caruaru region and the state of Pernambuco work to stimulate and foster development of other sectors of production that are not supported by the current low level of incomes. At the same time, they must ensure the dynamism of the region, in order to sustain and take advantage of the rich fabric of trade and services that characterizes Caruaru. Of course, this is not a simple task and it does not seem to be viable through market forces alone. Given the mentioned structural weaknesses of the region, it is inescapable that the public sector must conduct and coordinate investments in public facilities and services throughout the region. This involvement must not only ensure a greater supply of goods and quality services, but also must be able to absorb some of the local workforce, especially the younger generation with more education, who are not willing to submit to the degrading working conditions that still prevail.

As a transitional instrument able to mitigate the medium-term effects of the informality of the existing garment workforce, it seems that a more feasible and simple next step would be to seek first the formalization of home-based workers through the formalization of enterprises. Two distinct models of formalization seem possible:

- a. Formalization of home-based workers through the establishment of Individual Economic Units (MEIs). This type of formalization is not optimal, because it transforms the relationship between capital and labor into a legal seller-customer contract that leaves the worker-owner unprotected from occupational and market hazards. However, it is a measure that at least allows workers to

be incorporated into the pension system and opens to them the opportunity to have access to productive credit and formal recognition of their productive condition.

- b. A second alternative to formalize productive groupings of greater complexity and organization would be to develop cooperatives, workers' ventures and solidarity economy units that would allow not only the workers' access to social safety net, but also the possibility of sharing equipment, to reduce acquisition costs of raw materials and thus augment value added.

Although each of these actions would allow enterprises to be formalized, they are not enough by themselves to satisfactorily expand compensation levels or to promote a profound improvement of working conditions in the region. Nonetheless, individually or especially in combination they would contribute at least temporarily to an improvement of the social context. Should cluster workers work in formal enterprises—and thus have a labor card—they would have, on the one hand, access to social security benefits, and on the other, the formal right to a set of economic programs and services (access to subsidized credit, tax benefits, technical support, banking inclusion, etc.). Such entitlements should allow the self-employed and small enterprises that make up the bulk of the Cluster to boost their garment production levels. In the long run, however, there must be a substantive transformation of the socio-economic reality in the Caruaru Garment Cluster, as a fundamental condition for boosting new niche production of goods and services. The goal must be to promote activities that are not premised on intensive use of low-skilled labor, and that can diversify productive chains to generate value added within the region.

For reasons outlined above, public agencies or corporate buyers are unlikely to jump-start this process in Caruaru. This leaves labor organizations as the most likely catalyst. Given the weakness of local unions within the region, despite the presence of the Pernambuco Union of Seamstresses, successful labor intervention will depend on state-level organizations such as that union, national union federations (such as Força Sindical, the parent federation of the Pernambuco Union; the CUT, the nation's largest federation; and Nova Central), and cross-union entities such as DIEESE. However, there is likely to be employer and even worker resistance to such intervention by "outsiders" and to formalization along with resultant exposure to taxes and regulation. To mitigate resistance, an important first step is dialogue and education about the benefits of formalization and associated upgrading. Thus, the DIEESE-sponsored dialogue in Caruaru is a promising first step on this longer road—but only a first step.

#### **4. Final recommendations**

From our work several proposals to organize and protect home-based workers can be highlighted. First, harking back to the CNTV President's comments on São Paulo, national-level policies can help facilitate such organizing and job improvement. Temporary trade protection against unfair competition can be important in heading off a "race to the bottom" and allowing space for upgrading—but does not by itself improve job quality. Continued increases in the minimum wage and a stronger safety net that offers a viable economic alternative—other than highly precarious work at home or in small workshops—to the poorest, can help raise labor standards across the board.

Beyond such national policies with important but limited impact, better monitoring and enforcement of labor standards in subcontracted and home-based work in the Brazilian clothing and textile sector depends on labor organization involvement. The processes of monitoring and enforcement are hampered by a number of factors. The sector is highly fragmented, with large numbers of small and



micro units that are difficult to find, let alone monitor in ongoing fashion. Large numbers of smaller businesses are unregistered, and in most cases resistant to registration. Workers in smaller enterprises or working in the home are typically unaware of their rights as workers (low education levels and the presence of Spanish-speaking migrants not fluent in Portuguese are contributing factors), and if aware may be reluctant to press for those rights because they may see enforcement as a threat to their current livelihood or to their own options for moving up to run small, informal businesses. Many of the smaller enterprises are economically marginal, meaning that enforcing labor standards without accompanying changes in the businesses would likely lead to large-scale layoffs or business closures. Nonetheless, the Brazilian cases highlight important things that labor organizations can do—especially in association with government agencies.

The specifics of such strategies depend on whether home-based workers sell their products to middlemen who cater to mass markets or to high income markets, notably so in the case of São Paulo, where both demands exist. For those selling to higher-end markets, proposals go in the direction of information campaigns, so as to let the home-based workers know their labor rights, and of the possibility of the CNTV or other unions protecting and representing them. The CNTV and other unions acting in the São Paulo Metropolitan Area have been working together with some municipalities to carry on such information campaigns on workers' rights. Also, the need for a greater number of labor law inspectors must be stressed. Again, union-government cooperation can greatly enhance the effectiveness of the inspectorate.

In the case of areas where small and family firms dominate, for the short term we would point to the two options we outlined for Caruaru: MEIs and cooperatives or other solidarity economy formations. Both approaches bring small and home-based units into a formal status susceptible to monitoring and enforcement, but in return give access to various kinds of assistance as an incentive for such formalization. In the longer run, improving subcontracted and home-based jobs can only be achieved by broader processes of technological and product upgrading and associated formalization of employment on a larger scale. In both the short and the long run, state and national-level labor organizations (unions, federations of unions, multi-federation projects) are the leading candidate for launching restructuring.

Finally, the “social dialogue” process, which brings together firms, workshop owners, local and state institutions, seems of vital importance, not only in the case of low-wage Caruaru-type areas. In the Caruaru cluster, this dialogue has questioned existing employment relations in the region and initiated a series of critical interventions featuring some national leaders who operate in the region through the classroom dissemination of their perspectives and through debates aired on local radio. Such dialogues in urbanized regions such as São Paulo State could also reach out to hard-to-reach groups of workers and smaller businesses. The nationwide National Labor Forum, while not sectorally specific, set an important example of highlighting the presence, importance, and legitimacy of informal businesses and workers, including the self-employed and home-based workers—setting the stage for giving them voice in other regional and sectoral forums. Raising awareness of the problems through worker education and social dialogue, although it is only a first step, is certainly the most important one.

### III. South Africa: Clothing and textile industries in KwaZulu-Natal and the Western Cape

#### 1. Introduction

South Africa's clothing and textile industry has undergone a dramatic shift associated with policies promoting trade liberalization and more flexible labor market, beginning in the mid-1990s. As a result of these policies and resulting changes in markets, work was significantly altered and the sector consciously shifted from predominately large factories, known as full-package manufacturers (FPMs, housing integrated apparel production) to Cut Make and Trims (CMTs, subcontractors specializing in particular parts of the production process), ranging from medium-sized CMTs to home-based survivalist and micro CMTs. Thus, a process of informalization of labor and production in manufacturing started to emerge and intensify. Today, *the majority of factories are CMTs with varied degrees of employment and job security*. South Africa's post-apartheid and progressive labor legislation aimed at protecting all workers. However, as employers deliberately evaded the law and the state had limited capacity to implement and enforce collective bargaining agreements (working hours and minimum wage), vulnerable workers were left neglected.

Various attempts by trade unions and new organizations to organize vulnerable workers have been made but the challenges are enormous. South African union efforts regarding apparel and textile subcontractors have focused on getting them formally registered—a legal requirement, but one often honored in the breach. Registration, in turn, subjects them to the scrutiny of regional labor-management Bargaining Councils and the associated labor inspectorate, which enforce sector-specific labor standards as well as the basic laws. The drive for registration has encountered resistance or avoidance by small shops, Bargaining Councils' frequent failure to tailor policies to the needs of smaller producers, and many workers' reluctance to push for registration for fear of enforcing themselves out of a job. Strategies adopted by unions and other labor movements in the sector have included expanded enforcement, grassroots recruitment, work with small proprietors to promote business and job upgrading, and innovative attempts to organize the self-employed. While there are no overwhelming examples of success in organizing vulnerable workers in South Africa, both traditional trade unions and new organizations recognize the importance of organizing informal and vulnerable workers.

This report aims to present our research on the extent to which worker organizations improve monitoring and enforcement of labor standards in subcontracted and home-based workers (workers in all three types of CMTs) in the clothing and textile industry in South Africa. We first look at the current structure of South Africa's clothing and textile industry. Then, we examine the industry's labor process, followed by a discussion on the current labor standards and compliance with government regulation and collective bargaining agreements. Next, we examine the various labor organizations, including trade unions and alternative organizations, their strategies, and the successes and challenges of organizing subcontracted and home-based workers. The report concludes by exploring the possibilities for future strategies for organizing informal and vulnerable workers. The report is based on research conducted in Gauteng, Western Cape and KwaZulu-Natal provinces. The findings are drawn from secondary material (literature review) and primary data collected through formal interviews, as well as informal interviews and discussions with informants and relevant industry stakeholders. Three FPM factory visits were also conducted in KwaZulu-Natal. The research was conducted from February to June 2013 and a total of 16 formal interviews were conducted including:

- Two provincial union organizers of the South African Clothing and Textile Union (SACTWU)
- A provincial union official of SACTWU
- A national union official of SACTWU
- Two Department of Labor, provincial labor inspectors
- A Local government official
- Eight informal and vulnerable workers (CMT workers / home-based workers)
- A representative of the South African Self Employed Women's Union (SASEWA), an informal worker organization

## **2. Historical context: From import substitution industrialization to trade liberalization**

South Africa's clothing and textile industry has had to adjust to local and international pressure, prompted by changes in the country's macroeconomic policies that encouraged trade liberalization and labor market flexibility. The outcomes of this process of industrial and workplace restructuring were devastating for the industry and workers. Historically, the industry was highly labor intensive, absorbing mostly semi and unskilled workers. From the 1970s to early 1990s, the industry enjoyed heavy state protection. Government-sponsored import substitution industrialization was introduced, with subsidies to South African factories and restrictions on imports. Production was mostly for the domestic market. Large factories predominated, with only a limited number of small and medium factories. The industry was predominantly located in the Gauteng, Western Cape and KwaZulu-Natal provinces.

Employment was relatively high in the sector's three key provinces, particularly in a number of small towns that almost exclusively relied on the industry as the main source of employment. Yet South Africa's labor legislation did not cover the majority of those who worked in this industry. Apartheid spatial planning ensured that most clothing and textile factory towns (and factories) were not expected to comply with labor legislation. As such, many "labor reserves" were created in the former homelands. Trade unions were also not allowed to organize in many of these factories. However, toward the late 1980s there was stagnation and the eventual decline of the industry. The protectionism offered during apartheid allowed inefficiencies to go unchecked. This resulted in a failure to become internationally competitive. Export capacity was not developed and there was a concentration of production in low value-added products. Overall, a number of factors stunted the industry:

- A protectionist economy, offering a buffer to local producers from high input costs and international competitors;
- No investment in new machinery and designs;
- Adversarial labor relations (escalating labor disputes);
- Limited demand (local consumption);
- A crisis of over-production because of distorted consumer demand/mass of low-income workers;
- As a result of all these factors, a primary goal of survival as opposed to growth and profit maximization.

Then in the early 1990s South Africa undertook an expansive trade liberalization program that was overambitious and gave domestic industries a dangerously short time to adjust to international economic pressures. Several international agreements were signed that encouraged South Africa to

adopt particular neoliberal policies. These policies plunged South African industries, particularly the textile and clothing (and footwear) industry, into a crisis.

The signing in 1994 of the Marrakech Agreement of the General Agreement on Tariffs and Trade (GATT), coincided with the end of apartheid, and marked the official start of trade liberalization in South Africa under the auspices of the World Trade Organization (WTO). The agreement set the reduction in the number of tariff lines, phasing out of export subsidies, and reduction in agricultural subsidies by an export-weighted amount of 36 per cent. While trade liberalization was motivated by good policy intentions, the viability of the policy changes was not tested. The Marrakech Agreement was hastily signed with the expectation that many industries would be given ample time to adjust and enjoy state protection. But South Africa decided to lower tariffs much more quickly and did not put measures in place to protect “sensitive industries,” despite the fact that these moderating measures were permitted under the agreement. Trade liberalization was accelerated by the launch of the Growth, Employment and Redistribution (GEAR) strategy in 1996. The objective of this macroeconomic policy was to reduce inflation by constraining aggregate demand, reduce state intervention and increasing exports. Different policy outcomes surfaced. After 1996, production and employment in the clothing, textile and footwear industry fell sharply. Exports declined significantly and the industry was flooded with legal and illegal imports from countries such as China. A detailed account (including quantitative data) of how liberalization policies affected employment and wages in the clothing and textile sectors can be found in Appendix B.

### **3. Structure of clothing (apparel) and textile industry in South Africa**

Changes in industrial and economic policies resulted in the restructuring of the industry and recomposition of labor with a move towards subcontracting and informalization of production. The consequence of trade liberalization was the growth of atypical forms of employment, involving high levels of informalization and labor flexibilization. At the height of neoliberal restructuring, the South African clothing industry was facing massive global competition especially from Chinese imports. In order to match the global competition and to reduce production costs, the South African clothing industry started laying off workers and flexed its industrial labor practices. This resulted in labor outsourcing and subcontracting as well as home-based work. Official statistics measure informality rather than subcontracting or home-based work, but at least in the textile and apparel sector, informality typically takes the form of subcontracting. Heintz and Valodia (2008), examining 2004 data, estimated that informal employment made up 37% of those employed, with the majority of those working for an employer rather than being self-employed.

At the level of firm organization, the relative weight of Full Package Manufacturers (FPMs) and subcontractor Cut, Make, and Trims (CMTs) in the sector shifted markedly. With intense local and international competition, some FPMs have opted to have shut down and relocate to areas where wage rates are cheaper (e.g. rural areas within South Africa or Swaziland and Botswana). The remaining FPMs operate the entire manufacturing process of clothing, outsourcing parts of work to CMT enterprises. They are linked into the value chain for clothing, and are registered and regulated. However, since the value chain is buyer-driven, these FPMs are still controlled by the buyers (the branding houses, retail chains etc.) and are subject to tight competition. They supply large retail chain stores, corporate companies and a few independent boutiques through large-scale contracts, which they compete for based on quality, price, delivery time and design, often in collaboration with the branding company.

The result has been an overall decline in FPMs and a proliferation of medium, home-based, and survivalist enterprises (CMTs) (see Table III.3.1 below). The rise of CMTs has been made possible by the externalization of production (subcontracting and outsourcing) by FPMs. Today, there are more CMTs than there are FPMs. FPMs and employers cite various reasons for the increase and necessity of CMTs. For example, an employer in a FPM factory stated:

*“The rise of CMTs is very important given that the clothing business is so seasonal. Businesses try to hang onto their core staff like sample machinists and patternmakers and let the others go because labor is a fixed cost. The only way to survive is either by having a brilliant production manager, at exorbitant cost, or to retrench and CMT. We took the latter option. We now have the same amount of people employed as before but as owner managers.”* (Interview with FPM employer, Morris & Reed 2008)

The Industrial Strategy Project of the early 1990s by the Congress of South African Trade Unions (COSATU) had proposed the flexibilization of production through reorganizing the production line to enable short-cycle manufacturing and “quick response relationships” to quickly adjust to shifts in customer needs and wants through a more trained and engaged workforce. Employers rejected COSATU’s suggestion and instead opted for the externalization of labor functions to cheapen labor costs. The resultant effect on the value chain has been the insertion of casual and temporary workers, the subcontractors (CMTs) and their intermediaries.

Trade unions and the Department of Labor are aware of the proliferation of production units and the challenges this poses for labor standards. According to trade union officials,

*Yes, subcontracting and outsourcing of work and workers in the clothing and textile industries has actually grown. Because people run away from paying higher wages then they start to contract work and to dark corners and to areas where there's none compliance... (Interview, Union Official #3)*

*There is quite a lot of subcontracting and home-based work in the industry in South Africa, even though it is not visible. We will not see it; it just flows in the dark. (Interview, Union Organizer#1)*

*They do it by employing casual workers on a minimum contract then terminate the contract, and you re-employ them. Alternatively, by downsizing the company into a number of small operations, supplying the same market. (Interview, Union Organizer#2)*

The interdependent relationship between FPMs and CMTs has led to the growth of CMTs as well as continued poor working conditions. This relationship has also challenged the bifurcation of the formal and informal economy. The majority of CMTs are created by the formal sector (FPMs) to bypass labor legislation. Retrenched workers also establish some CMTs as the only means of economic livelihood activity. The economic power relations drive labor standards down at the lower levels of the supply chain. According to a trade union organizer,

*Big employers in South Africa encourage the growth of CMTs but they dictate the price. And they would tell me [the owner] that I want this job done by next week Friday. When he says, he wants this job by next week Friday the owner of the CMT would rush to finish this thing in time so that this big company will be able to come back again to give more*

*jobs so that the employees are able to carry on working. You find that in CMTs workers work Saturdays and Sundays and others work at night which is actually not allowed because there is no shift pattern in the clothing industry unless in the textile industry where there are big machines and so workers have night shifts. But because these small employers are rushing to finish the job they tell people that we will give you extra money, they will work on those arrangements. (Interview, Union Organizer #1)*

**Table III.3.1.** *Types of enterprises in clothing and textile*

<b>Types of enterprises in clothing</b>	<b>Links to the value chain</b>	<b>Workers</b>
<b>1. FPMs (Full Package Manufacturers)</b>	<ul style="list-style-type: none"> <li>• Receive regular orders from large retail chains, branding houses, designers and corporate companies</li> <li>• Registered and regulated</li> <li>• Operating in larger and traditional factories</li> </ul>	<ul style="list-style-type: none"> <li>• Bargaining Council wages</li> <li>• Regular working hours</li> <li>• Unionized</li> <li>• Mostly local workers</li> <li>• Standard employment relationships (SERs)</li> </ul>
<b>2. Medium-size CMTs (Cut, Make, and Trims, i.e. subcontractors)</b>	<ul style="list-style-type: none"> <li>• Linked to a design house, designer or subcontracted by a larger FPM</li> <li>• Usually registered</li> <li>• Operating in smaller traditional factories (often renting space in/close to FPMs)</li> </ul>	<ul style="list-style-type: none"> <li>• Bargaining Council wages</li> <li>• Regular working hours</li> <li>• Unionized</li> <li>• Local and foreign workers</li> <li>• Standard employment relationships (SERs)</li> </ul>
<b>3. Home-based and piecework CMTs</b>	<ul style="list-style-type: none"> <li>• Rely on contracts from bids</li> <li>• Registered/unregistered</li> <li>• Supply designers, small retail chains and corporate companies</li> <li>• Operating from private homes/smaller rented premises (far away from FPMs)</li> </ul>	<ul style="list-style-type: none"> <li>• Paid per piece (piecework)</li> <li>• Irregular hours</li> <li>• Not unionized</li> <li>• Local and foreign workers</li> <li>• Atypical employment</li> </ul>
<b>4. Survivalist CMTs and micro-enterprises</b>	<ul style="list-style-type: none"> <li>• Supply small retail stores, street traders and individual customers</li> <li>• Unregistered and unregulated</li> <li>• Cannot access loans or bids</li> <li>• Operating from private premises/private garages</li> </ul>	<ul style="list-style-type: none"> <li>• Poor, irregular wages</li> <li>• Irregular hours</li> <li>• Not unionized</li> <li>• Mostly foreign workers</li> <li>• Atypical employment, often with close-knit ties (family or friends)</li> </ul>

*Source:* Adapted from Webster and Joynt (2011)

In terms of employment contracts and general working conditions, despite some similarities, there are significant differences in employment conditions among FPMs and the three categories of CMTs. The findings of this research indicate that most workers in FPMs are unionized, work regular hours and are

paid according to the Bargaining Council<sup>10</sup> minimum wages. Nonetheless, many such workers from these factories were disillusioned and frustrated with their wages, which did not stretch far enough. Concerns voiced by FPM workers bring to mind the employment conditions generally experienced by CMT workers, e.g., low wages and long hours of work, usually set at the discretion of the employer (based on the contract deadlines). In some instances, FPM workers' pay was said to be equally irregular. If work was not ready on time the employer would not be paid and the workers in turn would have to wait for their wages. Apart from being given tea and lunch breaks, most other rights provided for in the Basic Condition of Employment Act (1996) and Bargaining Council agreements were not granted to some FPM workers.

The larger, more established CMTs are registered with the Bargaining Council and often provide better wages and working conditions matching largely those of formal industry workers. This is despite the fact that these CMTs sometimes cut corners, with policies such as "no work, no pay" rule, which means that if there was no work, or employees were away due to illness, they were not paid for those hours. Among home-based and survivalist CMTs, whether registered or not, many do not provide all the benefits to which workers are entitled as set out in Bargaining Council collective agreements. This goes undetected by the Bargaining Council. Home-based workers generally did not have very much job security and their jobs depended on them maintaining a good relationship with the owner of the operation.

### **3. Who performs this work?**

In FPMs, almost all the workers are South African men and women. In CMTs, the profile of the workforce is different in each province and city comprising some South Africans as well as foreign nationals. This is consistent with South Africa's spatial and racial history and current reality. For example:

- In KwaZulu-Natal, Durban, almost all workers are South African Black and Indian women workers. Employers are mostly White and Indian men (owners of CMTs).
- In Western Cape, Cape Town, almost all workers are South African Black and Coloured women workers. Once again, mostly White and Indian men are employers (owners of CMTs and design houses).
- In Johannesburg, the majority of CMTs were owned by South Africans or foreigners and employed both South African women and Malawian, Zimbabwean and Mozambican men.

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<sup>10</sup> Bargaining Councils are employer and trade union organizations that negotiate and set industry/ sector wide conditions of service, solve labor disputes as well as make proposals on labor legislation and policy. These councils recently amalgamated to form a national bargaining council. A set of collective agreements now covers the entire country, setting minimum wage levels, maximum hours of work, annual leave, sick leave, as well as provision for a sick benefit fund and a provident fund. Additionally, bargaining council inspectors visit registered firms to ensure that they are complying with the Agreements and to locate unregistered firms within the jurisdiction of the council so that they can be compelled to register and comply with the relevant standards. Bargaining Councils are explained in detail in section 4.2.

## 4. Labor standards

### 4.1. Government regulation and collective agreements

All employers in South Africa are obliged to comply with seven key labor statutes, which include the following:

- Labor Relations Act 66 of 1995 (LRA)
- Basic Conditions of Employment Act 75 of 1997 (BCEA)
- Occupational Health and Safety Act 85 of 1993
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Unemployment Insurance Act 63 of 2001
- Employment Equity Act 55 of 1998

Prior to 2002, all South African workers were protected by the LRA and the BCEA if they had a written contract. Informal workers were thus not protected by the various legislations because they are not registered employees and do not have written contracts of employment. In 2002, South Africa's legislature altered the LRA and BCEA in several ways designed to cover informal workers (Bennett 2003). The two laws now presume that a worker is an employee rather than an independent contractor unless the provider of work can prove otherwise. The BCEA previously allowed the Labor Minister to designate a group of workers as employees for BCEA purposes, and that authority has now been extended to all labor laws. Similarly, the sectoral Bargaining Council can now extend its terms (including collective bargaining agreements) to all in the sector, including informal workers.

However, these laws continue to go largely unenforced. Many employers, especially smaller ones, do not want to comply with labor and enterprise legislation. Employees are not registered, less tax is paid and they deliberately avoid labor inspectors. Often employers are aware when labor inspectors are coming to inspect their premises or are in the area. Most workers are then told to either not to come to work, hide or not tell who the employer is. Employers are aware that they are not in compliance. A representative of small employers stated that:

*"I know that most of our members do not comply with BCEA or are not registering their members [workers]. The problem is the bargaining council. It is very rigid and never tries to understand our position. These small guys are producing a few pairs of shoes but are expected to pay the same rate as big companies. They cannot." (Interview in Mosoetsa 2001)*

Skinner and Valodia (ND, 9) quote the director of the state-level Natal Clothing Manufacturers Association as stating that the large majority of the industry's employers, likewise accounting for the large majority of the employees, fail to comply with industry-level accords on labor standards. Workers are reluctant and or afraid to demand written contracts. A typical worker comment:

*"We cannot complain because they can hire anyone they want. There are many women who are looking for work and the boss knows that he dismisses you he will get another woman quickly." (Interview in Mosoetsa 2001)*



Thus, the emergent structure of operations in the clothing and textile industries of South Africa clearly pose serious challenges with regard to compliance with labor standards as specified in the various government regulations.

#### **4.2. Bargaining councils and registration**

*Luckily, now we have Bargaining Councils that govern the minimum standard. So even if the union is not there but in terms of the Bargaining Council rules, once you have a factory with more than five workers, you are expected to register your business in the bargaining council. If you do not, then that means that the business is operating illegally. The inspectors will be there to prosecute that company. (Interview, Union Organizer #2)*

*As government, our role is to make laws, monitor and ensure compliance. We are doing the best we can. We are aware that there are loopholes in the law. Some employers find these loopholes and get away with it. For example, they do not register their businesses, employees and or do not want to comply with basic labor standards of this country. (Interview, Provincial Inspector #2)*

Clothing and textile wage levels and working conditions (See Table III.4.1) are regulated through collective bargaining. Prior to 2002, there was a dual regulation of labor through regional collective bargaining on the one hand, and wage determinations for rural areas and the former homelands on the other. As trade unions (particularly SACTWU, the majority union in the industry) gained momentum in the clothing and textile industry, it pushed for the establishment of the national Bargaining Council to deal with the regional wage differentials and the loopholes, which existed in the framework. The national Bargaining Council was registered in 2002 against strong resistance from clothing manufacturers.

A bit of background on Bargaining Councils is in order. The Labor Relations Act of 1995 stipulates that each of the major sectors in South Africa should set up Bargaining Councils. In these collective bodies, it is primarily the employer and trade union organizations that negotiate and set industry/sector wide conditions of service, solve labor disputes, as well as make proposals on labor legislation and policy. Historically, there were five such regional councils, which covered much of the clothing and textile industry. These councils recently amalgamated to form three national Bargaining Councils for the clothing, textile and leather sectors. The three national councils are:

- National Bargaining Council for the Clothing manufacturing Industry (NBC)
- National Bargaining Council of the Leather Industry of South Africa (NBCLI)
- National Textile Bargaining Council (NTBC)

A set of collective agreements now covers the entire country. These agreements include a set minimum wage levels, maximum hours of work, annual leave, sick leave, as well as a provision for a sick benefit fund and a provident fund. Additionally, council inspectors visit registered firms to ensure that they are complying with the agreements and to locate unregistered firms within the jurisdiction of the Bargaining Council so that they can be compelled to register and comply with the relevant standards. The agreements generally run for a period of twelve months and are subject to amendment in accordance with the prevailing Labor Relations Act. Another important function of the agreements is the provision for disputes, based on a mutually agreed-upon set of steps including:

- a. The parties try to resolve the dispute through conciliation;
- b. If necessary, they refer the dispute to the Commissioner for Conciliation, Mediation and Arbitration (CCMA) in writing. If conciliation fails, then;
- c. The parties refer the dispute for arbitration;
- d. It is further mandatory that all parties receive copies of any written referrals.

Through Bargaining Councils, consensus must be reached and a collective bargaining agreement signed by employers (registered with the council) and workers must be registered through the majority union. The agreement extends to all employers (including those not registered with the council, the “non-parties”) and all employees (including non-unionized workers and those unionized but whose unions are not represented in the bargaining council).

National negotiations take place annually and most agreements are reached by the 1st July of every year. These agreements are then officially accepted and implemented nationally to party and non-party companies (employers and employees). However, recently, non-party companies have objected to the extension of collective bargaining agreements. Various legal challenges have been launched, petitioning provincial High Courts to set aside the extension of collective bargaining agreements. The judgments of these court challenges have been in favor of employers, with SACTWU (the majority union), appealing court judgments. A labor inspector observed,

*The biggest challenge is compliance. Non-party employers do not want to pay the agreed same wage rates. They either use the law to challenge national agreements and or relocate their business to Lesotho or Swaziland, where there are no labor laws and inspectors. (Interview, Provincial Inspector #1)*

*Some employers are playing hide and seek games with us. We try to find them and force them to comply. All they do is close shop and move elsewhere. (Interview, Provincial Inspector #2)*

In addition, one of the major problems with the collective bargaining process is the enforcement of labor legislation and Bargaining Council agreements. In theory, the Bargaining Council sets up the minimum wages of all workers in the clothing industry.<sup>11</sup> Table III.4.1 gives an overview of the labor regulatory framework in South Africa as applied to the apparel sector. The level of compliance with collective agreements as set by the National Bargaining Council varies based on size of enterprise (as discussed above, see Table III.3.1).

But in reality, actual wage rates do not reflect minimum wage rates set by the Bargaining Council’s agreements. The past few years have seen clothing manufacturers splitting into three regulatory categories: a shrinking number of complying firms; a large number of registered firms that are not compliant; and an unknown number of unregistered firms. A study in Johannesburg cited employers who argued that “unregulated informal establishments present substantial competition to their own business,” while other employers reject the initiative to extend regulation, as they are happy to have low-cost producers to whom they can subcontract work (Joynt and Webster 2011, 15). Our research has

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<sup>11</sup> Those that are not party to the agreement are bound by certain provisions of the collective agreements through the extension of collective agreements to non-parties by the Ministry of Labor. It must be however, noted that the extension framework is under attack. In a recent judgment, the KwaZulu-Natal High Court held in favor of non-compliant firms implies that such firms are not currently bound by the collective agreement.

found that very few home-based operations were registered with the Bargaining Council, especially those falling under the survivalist type CMTs owing to their limited number of employees, as well as random availability of work, which entailed that workers were often working irregularly, and for relatively short periods of time, as required to complete a given contract.

**Table III.4.1. Wages and minimum labor standards in South Africa in 2011**

<b>Standard</b>	<b>SA Metro</b>	<b>SA Non-metro</b>
<b>Minimum weekly wages</b>	R739.90 (USD 75.88)	R489.00 (USD 50.15)
<b>Ordinary maximum weekly hours</b>	42.5	45
<b>Overtime rate</b>	x1.5	x1.5
<b>Overtime limit per week</b>	10 hours	10 hours
<b>Annual leave</b>	15 days	15 days
<b>Sick leave</b>	40 days/year at 50% of wage	30 days paid in full
<b>Annual bonus</b>	3.47% x actual annual wage	1% x standard annual wage
<b>Maternity leave</b>	Max 6 months/3.25 weeks paid	Max 4 months/ Unemployment Insurance Fund benefits
<b>Paternity</b>	3 days unpaid per year	3 days unpaid (via family responsibility pay)
<b>Notice period</b>	Weekly paid = 1 week	0-6 months service = 1 week, 7 -12 months service = 2 weeks. More than 12 months = 1 month
<b>Severance pay</b>	1 week per year of service	2 weeks per year of service
<b>Sick benefits</b>	Yes	-
<b>Provident fund</b>	Yes	Yes
<b>Unemployment Insurance Fund</b>	Yes	Yes

*Source:* National Bargaining Council 2011

One reason cited for low registration rates was that operations were relatively “safe” in not registering because the Council’s inspectors struggled to locate them (as did the union). The number of inspectors employed by the Bargaining Council and the Department of Labor are inadequate to cover the entire sector, especially if inspectors were to ensure that all home-working operations (from large registered CMTs to small survivalist operations) comply with legislation and agreements. Even if located, most owners of home-based operations could argue that they cannot comply with the council agreement because compliance will raise their labor costs so much that they will go out of business. At the one firm visited for this research, the owner of the operation was not registered with the Bargaining Council. However, the council had inspected his operation when he only had five workers, qualifying him for the blanket exemption for small firms (i.e., those with five or fewer employees). But he sometimes increased his employees to above six workers, which meant that technically, he was obliged to register with the Bargaining Council.

In the majority of CMT enterprises, especially in home-based CMTs and micro-survivalist operations, workers were not paid extra for working overtime, nor did they get sick or holiday pay. In particular,

micro-survival CMTs<sup>12</sup> were typically not registered with the Bargaining Council and in the absence of union organization, workers in such operations had little—if any—ability to negotiate better wages or working conditions. Employers in these operations are mostly not registered and therefore not held to the terms of the Unemployment Insurance Act, so the workers are not covered by the Act's benefits.

In addition, home-based CMT operations often had an irregular supply of work, which means that workers had erratic work schedules, working for short periods of time during quiet months or occasionally not working at all for some weeks. However, workers are always expected to be readily available for work if contracts come in, thereby making it difficult for workers to take on other work, let alone plan family activities far in advance. Therefore working hours for the majority of home-workers were determined by the contracts with suppliers: when there was work, they worked; when there was not enough work, they were told not to come in. From three CMT enterprises visited for this study, only in one enterprise did workers report that they were paid for all the time they actually worked. Many, however, reported working regular hours because there was an adequate flow of work.

It is noted that workers in home-based CMTs often work overtime, mostly without receiving the required premium, in addition to weekends, to meet contract deadlines. The pressure on the home-workers is often intense and if the contract deadline is not met, payment from the retailer or design house is not made. It follows that, without payment, workers' wages are not paid. Thus, in enterprises where there was a clearer distinction between the owner of the enterprise and home-workers, the pressure and risks of the business were effectively placed upon workers.

Overall, this research and targeted campaigns by the SACTWU have revealed a blatant disregard of labor regulations by CMT firms. Not only did CMTs prevent the union from organizing workers in the factories, but they also refused access to Department of Labor and Bargaining Council inspectors. This is despite the fact that Skills Development Act 97 of 1998 compels them to adhere to these statutes. In terms of the nature of labor conditions and law, the Bargaining Councils have jurisdiction, comprising a geographical area and an industrial scope under which respective home-based enterprises fall and thus, in theory are required to register with the relevant council, even if it is for the purpose of seeking exemption from the provisions of the council's agreement. However, most enterprises do not register with the council and consequently make it difficult for the inspectorate to monitor unless there is a formal complaint.

The LRA in Section 32 provides that agreements concluded at Bargaining Councils may be extended to non-parties in certain circumstances. Nevertheless, for the reasons noted above, the extension of Bargaining Council agreements to non-parties has not extended regulation to home-based work (and has possibly given impetus to its growth). Although unions and others frequently call for stricter enforcement of collective agreements, it is no simple matter to achieve such enforcement. The enforcement strategy (of taking employers to the Labor Court) that offers some prospect of success would target the contractors and intermediaries, who supply work to home-based enterprises. However, this could raise complex jurisdictional issues. Many contractors or intermediaries would probably argue that they are not part of the clothing industry as such, but provide a service. Furthermore, the FPMs at the top of the supply chain are also not likely to be of assistance in this regard

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<sup>12</sup> As a reminder: Survivalist operations are similar to home-based CMTs, except that they do not have the facilities and sometimes skills to do their own cutting. Furthermore, survivalist operations, unlike many home-based CMTs, have a blurred line that divides owners and the workers who often work alongside each other as home-workers (Godfrey, Clarke and Greenberg 2005).

even though it is a contravention of the agreement for a registered employer to put out work without the authority of the council.

Thus, labor conditions and laws are more readily adhered to in the formal sector as opposed to the informal sector on the primary basis that firstly, formal sector employers are more easily monitored for compliance and secondly the workers are legally able to and knowledgeable to form or join unions. The situation is different for home workers. There is the obvious challenge of identification of the real employer, someone who is liable for breach of legislation, on the basis that there may be more than one intermediary involved and the relationship between the workers. Despite some laws that intend to protect both informal and formal workers, home-based workers, by nature of their work, are often excluded from legislative protection owing to their isolated nature and lack effective representation, unlike formal unionized workers whose trade unions can safeguard such rights on their behalf.

## **5. Labor institutions**

South Africa's labor legislation states that all workers have the right to join a trade union of their choice. The history and current reality of union organizing in South African workplaces is important. South Africa's apartheid regime produced a hostile political environment that restricted the establishment and growth of political movement. Many political organizations, such as the African National Congress (ANC), the South African Communist Party (SACP) and Pan African Congress (PAC) were banned. In response, the South African trade union movement seized this as an opportunity to engage with workers' struggles and extend such struggles beyond the workplace to include community concerns. Many trade union officials played a dual role of shop floor and worker demands and political mobilization of communities. This kind of "social movement unionism" became important in linking workplace struggles about higher wages and discrimination to broader community struggles for democracy. Thus, in the absence of political organizations, such as the ANC, the South African trade union movement led these political, social and economic struggles. However, with the advent of democracy and the unbanning of many political organizations, trade unions lost their impetus and slowly withdrew from community struggles. The "social movement unions" of the 1980s disappeared and "business unionism" was born in the late 1990s (Buhlungu 2006). Trade unions retreated to their traditional forms, and adopted new structures of consultation and social dialogues at workplace and state level. The tripartite political alliance that governs South Africa is led by the ANC, which is the ruling party, and is comprised of SACP and Congress of South African Trade Unions (COSATU). The alliance offered trade unions the hope of engaging differently with government, thus social movement unionism was perceived to be irrelevant. The tripartite alliance offered COSATU the possibility to influence state policy and thus advance workers' demands in government. This is possible when trade union leaders are co-opted into senior government positions. One recent example is the appointment of the South African Clothing and Textile Workers Union (SACTWU)'s general secretary as Minister of Economic Development. However, there is much debate about the actual extent of labor's (COSATU's) influence in the alliance.

One of COSATU's affiliates is the South African Clothing and Textile Workers Union (SACTWU), which is the majority union in the clothing and textile industry in South Africa. SACTWU and the South African Self Employed Women's Association (SASEWA) have attempted to organize informal or CMT workers but their campaigns have so far been erratic and patchy, with no large-scale successes.

### **5.1. Standard trade unions: South African Clothing and Textile Workers' Union**

### 5.1.1. Background

SACTWU is the dominant union in the fashion manufacturing industry with a reported membership of 85,000 (constituting more than 85% of the workforce in the industry). The union organizes workers in the clothing, textiles, leather, footwear and allied distribution industries. It organizes workers from various operations in the industry including, spinning mills, CMT operations, footwear factories, cotton gins and even (reportedly) home-workers. SACTWU, as a mainstream union, mainly focuses on providing support to workers in formal employment. The key function of SACTWU is collective bargaining, in which it negotiates wages, terms, and conditions of employment for workers in the bargaining council. SACTWU also provides numerous social benefits for its membership such as the awarding of higher education scholarships for members and their dependents. The union also initiated a Worker Health Program in 1998; an HIV and AIDS worker education program that offers various services related to prevention, treatment, and support. This includes a HIV and AIDS counseling and testing for members, life skills training, home-based care, stipends for children with special needs, and a funeral and retirement fund.<sup>13</sup>

One important piece of background in the garment industry is the Industrial Strategy Project proposed in the early 1990s by the Congress of South African Trade Unions (COSATU), SACTWU's parent federation. As noted above, COSATU advocated with employers for a "quick response"-oriented flexibilization of production, but employers instead opted for labor externalization and casualization. However, COSATU and SACTWU have continued to be interested in ways to work with employers to add flexibility to production while preserving job quality.

Registered (formal) enterprises are generally easier to organize as they are likely to comply with labor law, tax and occupational health and safety measures and are easier to identify. As noted above, the union *has* persuaded the Bargaining Council to extend its agreements to cover wages and working conditions nationwide, including those of workers in informal enterprises. In principle this means minimum protection and minimum conditions of work for all workers in the clothing sector, regardless of whether they belong to the union or not. But the expansion of subcontracted and home-based work has resulted in a multitude of challenges that SACTWU faces in its ability to effectively organize home-based workers and in general, informal workers.

### 5.1.2. Challenges

SACTWU identified several specific challenges that make organizing home-workers exceptionally difficult:

1. High mobility and flexibility of small enterprises. Small enterprises are able "to pack up and move the next day in order to evade union membership".
2. The employer-employee relationship is often blurred. "Many of the managers are also sitting at the machines working alongside the other workers"
3. Loyalty to the manager. "Often the designers are also the employers"
4. Resistance to joining trade unions amongst home-workers because they do not pay taxes and do not have to pay travel costs.
5. Workers disillusioned with trade unions because of their failure to defend their rights.

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<sup>13</sup> Source: SACTWU

6. Irregular working hours and income. "They may have to work this week. Suddenly they might start working in the evenings to finish off orders but then next week there is no one there because there is no work." This also makes it difficult to locate and contact workers.
7. Workplaces located in homes or garages and deliberately placed in backyard factories. "This makes them difficult to locate and track down to organize."<sup>14</sup>

A major challenge in organizing workers is their invisibility to the outside world as well as to each other. From the interviews carried out, there is no evidence of any interaction between the home-based workers at the operation and others in the industry. Thus, it is difficult to bring home-based workers together. In addition, every organization is supposed to have common collective issues, but "developing a set of common or collective" demands is often very difficult. In practice, it is crucial to have a clear understanding of the home-workers as an entity.

SACTWU's organizing drive for workers in the informal economy started around 1999 but by mid-2001, the union had only recruited approximately 148 workers of which 72 were paid-up members. According to a SACTWU official,

*SACTWU started a project to organize informal workers. We took a resolution mid-2000 to organize in the clothing informal sector. But unfortunately, we have not really done a lot. We did identify quite a number of areas in Cape Town to be unionized. So we have not really done a lot. (Interview, Union official)*

Notwithstanding, whatever momentum SACTWU's drive had gathered, it appears to have vanished. Most of the home-workers interviewed were doubtful of the prospects of SACTWU effectively organizing home-workers. For instance, none of the interviewees had any knowledge of the project that SACTWU had launched to organize home-workers. Furthermore, it was found that there was fear among those who were employees (those working for the subcontractors) that they would be dismissed if they joined the union or tried to organize themselves as home-workers. Although the sample used in the research was small, it nonetheless provided a useful picture of home-workers' attitude towards trade union/formal organizing.

The following attitude towards formal organization emerged from the interviews carried out. Almost all the workers interviewed were aware of the existence of the union, however, when asked if she would join a union, one female employee replied:

*I cannot join any organization and I would not want to be a member of any organization. I have two small kids I need to take care of. I do not have time for any of that stuff. (Interview, CMT worker #1)*

Further, all the workers interviewed felt that the union was unable to meet their needs. Another apparent theme in the interviews was that of the need to balance domestic and work responsibilities and the attractiveness of homework in providing such balance. Thus, any form of organizing was not only seen as a waste of time but one that would upset the balance. As noted by yet another female employee interviewed:

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<sup>14</sup> Interview, SACTWU's Official: Vlok, 2011 in Webster and Joynt (2011, 14)

*No, I am not a member of any organization. I would not want to be a member of any organization. I have no time for such organizations; my husband is not feeling well so I do not have time to be going to other places. (Interview, CMT worker #2)*

Another reason for not joining unions was that most of the home-workers did not view themselves as employees but rather as self-employed. As discussed above, home-workers can usually be sub-divided into two categories with differing needs: owners of home-working operations and employees. But for many employees, the line is blurred. For instance, in one interview conducted, when asked what form of assistance one of the home-working operation owners needed, she replied as follows:

*I require support to become my own person, to work on my own, buy my own material. All I need is just a push. The design house provides everything from the material to the designs; it is very hard to do your own things. If there was business support, it would be better. (Interview, CMT worker #2)*

Evidently, her perceived needs were mainly business-related and linked to the prospects of growing her business further. From the other interviews conducted, the needs of the home-workers were not as clear but appeared to be centered on a degree of flexibility along with the ability to earn an income. Thus, any efforts to organize the workers in the industry need to take into account these unique attributes of home-based work.

In addition, some of the home-workers were not willing to join the union because they did not want to lose their money through contributions to the union while most of the workers felt they had nothing to gain in being members of unions or any other organization. Only one home-worker was willing to entertain the prospect of other forms of organization, notably the possibility of community organizations such as women's support groups in the area.

For trade unions, it was easy to organize visible workers as opposed to informal workers:

*People that are like sort of clearly visible are employees in bigger enterprises with 20 or more employees. Those that cannot, perhaps operate...we call it cottage operations, that is where you work on your backyard. They are also very scared to join the union. (Interview, Union Organizer #1)*

*There are also family CMTs and businesses. The husband, the wife, the daughter and three or four of them work on the machines. They all work together. You normally find this in the Indian community. So it becomes difficult for the union to organize this family business because the moment you join the union it means that the family relationship might actually break. (Interview, Union Organizer #2)*

*CMT workers love the union, they love the union deep in their hearts. But they have to choose between joining a union that will demand high wages, and unemployment. They would rather be paid poor wages to pay for their bread and butter every day. They will tell you, "even if I get two hundred rand as long as my daughter can go to primary school in the morning. I like what the union is going to do for me because they have done a. b. c. d. for us. But the moment you come here, once he [the owner] knows that there is a union here he will make sure that the business closes." (Interview, Union Official)*



The above statements signal the challenges facing trade unions in their efforts to effectively organize the informal sector—including difficulty in getting businesses to register, and difficulty in recruiting workers in unregistered, but also registered, businesses at the informal end of the spectrum. Regardless, there have been some efforts on the part of the union towards resolving this.

#### *5.1.3. New union strategy: Needs of informal workers*

SACTWU in recognition of the differing needs of informal workers has introduced new organizational strategies and modes of representation in a bid to attract this sector. Some of these include the introduction of easily accessible clinics, optometrists, and dentists as part of the healthcare fund. Others include medical aid, funeral benefits, HIV/AIDS testing, education and a pilot anti-retroviral (ARV) program. Additionally, SACTWU has endeavored to offer education scholarship programs for workers children. Contributions towards these benefits are made by the employer and sometimes by the workers as part of their union membership fees. SACTWU also assists some owners and managers of CMTs by providing services such as managing books for finance in order to ensure that the CMTs are conforming to legislation.

#### *5.1.4. One strategy: Faith-based networks and moral pressure*

The only type of association that has deep support amongst subcontracted and home-based workers is faith-based associations. To harness this power the union would need to form coalitions of mutual interest with churches and mosques. This would be similar to the prevailing situation in which faith-based organizations are assisting individual members, mainly immigrants, with various services ranging from job referrals and legal advice. The trade unions would similarly tap into these networks and foster strengthened coordination, which would in turn aid them to garner more power.

The form of alliances between worker organizations and faith-based allies can be said to be mainly of a solidarity nature. In the instance of SACTWU, it recognized the need to form strategic partnerships with the community, with the obvious point of entry and the potential source of power being faith-based organizations. Such coalitions possess a number of attractive resources for the unions, such as possessing expertise upon which unions can draw on. Religion is a potential complementary source of organization and power, not only for immigrants in times of economic and social exclusion, but also for local South Africans, many of whom are experiencing economic hardship. There is a large following of Pentecostal churches, and other religious organizations that provide spiritual, social and financial support and networks. These faith-based organizations often provide legal advice and job referrals—functions one would expect unions, labor brokers, legal advisors and other organizations to provide.

#### *5.1.5. Another strategy: Membership structure*

Another effort to spark organizing of home-based workers is that of the SACTWU Congress of 2010, which introduced a new membership category consisting of associate membership for six sets of workers, namely retired workers, retrenched workers, family members, students, designers, and home-workers. Of these, the most successful initiative has been with the students, who have formed the SACTWU Students Union. In the case of such home-workers, the aim is to set up a special unit that would give these home-workers benefits, for example, not having to pay dues, which would usually be 1% per week with a minimum and a maximum amount.

### ***5.2. Informal workers' organizations: South African Self-Employed Women's Association***

The South African Self-Employed Women's Association (SASEWA) is a revival of the Self Employed Workers Union (SEWU) that functioned from 1994-2004. SEWU collapsed due to internal organizational

challenges. SASEWA, based in Durban, the capital of KwaZulu Natal, organizes different women workers in the informal sector ranging from those working with traditional herbs, dressmakers working from home, home plowing, to those who are doing craft such as beadwork, baskets and grass mats. The goal of SASEWA is to assist these women to collectively deal with the challenges they face in their various businesses.

*SASEWA is affiliated to Streetnet and has in the past had some contact with unions such as COSATU through its alliance with other similar interest groups referred to as the Ubumbhano, which was formed to offer representation at the municipality level. Notably, the work of SASEWA primarily focuses on those small time home-workers working for themselves or those employing less than three employees. Thus their organizing strategy is more of a personalized nature relying on the referral system. (Interview, SASEWA representative)*

SASEWA is primarily a women's organization that registers women from the age of eighteen upwards and includes children that are unable to complete their studies and opt to work as home-workers. The members of SASEWA mostly work independently with occasional contracts. The recruitment and organizing method involves door-to-door visitations and distribution of information pamphlets that explain the organization's work. In the long term, the organization aims to assist workers in obtaining financing opportunities for their businesses, and set up funeral insurance for its members, who mainly work in the streets and lack adequate resources to pay for insurance policies, through pooling their contributions towards this policy. SASEWA's strategy is to provide these benefits through partnerships with other organizations.

According to SASEWA, the organization has been able to encourage women to come together and collectively find solutions to their common problems that are specific to their type of work. Additionally, SASEWA has been instrumental in helping its members acquire networking opportunities to further their businesses through meetings arranged, for instance, with municipalities. SASEWA has assisted members to access higher education through sponsorships awarded based on their membership in the organization. However, SASEWA faces some challenges in its operations, especially in terms of funding, human resources and adequate office space for its many members who have no proper trading places.

As was illustrated in the case of the inner city Johannesburg Fashion District, workers in the informal sector tend to form alliances mainly with religious groupings (Webster and Joynt 2011). Through such networks, they can access new business/clients, premises or sometimes links to financing for their businesses as well as employment in some instances. In the case of the informal sector organizing group SASEWA, alliances have been formed with other like-minded organizations in order to have stronger recognition, as well as representation for instance with the municipality and with bigger established unions, such as the COSATU.

Alliances have equally been sought with international solidarity organizations in terms of funding for capacity-building for worker organizations. For example as noted by SASEWA representative, their organization has been a beneficiary of international solidarity organizations:

*Hivos is an organization from Netherlands with an office branch based in Johannesburg. They came to check what we have done in the past year with the funds they gave us. We again filled in the forms that they required and so there is hope that our funding will be renewed. We have that hope even though we are not sure it will happen but they have*

*promised us.* (Interview, SASEWA representative)

SASEWA notes that while it has in the past attempted to forge alliances with political organizations in order to enhance its operations, the results have been disappointing. For example, the organizations representative recalls a particular incident,

*When the ANC came, we had many members from KwaZulu [where the ANC was historically weak]. Women from the ANC came to speak to our members. That was the end. The ANC wanted to get in to KwaZulu because it did not exist there at that time. So with the arrival of the ANC, some of our members from eShowe, eMpangeni [cities in KwaZulu] joined the ANC. The ANC was only campaigning and never helped us in anyway. Our organization fell apart after this ANC campaign. They did it for themselves and did not help us in anyway.* (Interview, SASEWA representative)

For SASEWA, the need to form strategic alliances is even more pertinent given the complexity of involving informal sector workers. To this end, the Ubumbano alliance of SASEWA and ten other organizations, which include Achib, Asiye, The Eye, Simunye, and Sayiwa, gives the organization a much-needed voice. As noted by the SASEWA General Secretary;

*Forming Ubumbano was to prevent the municipality in Durban from dividing and ruling us. For example if I as SASEWA go to the municipality and speak to them, the municipality have a tendency to divide street vendors. There are those that they favor and those that they do not. So when we go to negotiate with the municipality we go together. We do not want the municipality to separate us.* (Interview, SASEWA Representative)

### **5.3. Worker cooperatives**

In addition to SASEWA, there has been a proliferation of worker-owned production cooperatives in recent years. As compared to companies (factories), cooperatives are governed by a piece of legislation, separate from the Labour Relations Act. The Cooperatives Act of 2005 defines co-operative workers as "shareholders" and "members." On the face of it, worker-owned cooperatives are a step in the right direction in terms of workers organizing themselves, forging alliances and owning factories. The problem though in South Africa, is that workers do not own the majority of these co-ops. These sham cooperatives are in reality factories with standard employment relations (i.e., the employer-employee relationship), and the coops are simply created to by-pass legislation and collection agreements. Changing the legal status of a factory (CMTs or FPMs) from a private company to a cooperative means exemption from labour law and collective bargaining agreements (such as paying minimum wages). These pseudo-cooperatives are on the increase as factories are conveniently converted into cooperatives, and workers become "shareholders." This phenomenon is on the rise in many parts of KwaZulu-Natal. SACTWU is aware of the rise and challenges of these types of cooperatives and it resolved to organize these workers, regardless of their factories' legal status. A SACTWU national official stated that

*We are aware that there are many bogus cooperatives in the industry and we agreed to stop them by going into these factories and organizing workers. These cooperatives are created to circumvent our labour laws and we are telling workers to be aware of this*

*latest trend in undermining worker rights.* (Telephone Interview, SACTWU National official)

SACTWU and other COSATU affiliates have successfully lobbied the government to amend the Act. A government process has started to amend the Co-operatives Act by limiting co-operative exemptions to co-operatives with fewer than 50 members. This amendment might not resolve the problem (especially for organizing), because many pseudo-cooperatives with more than 50 workers may opt to split and become even more hidden (because of their size) and further undermine the collective power of workers. The amended Act will however specify that all cooperatives must comply with labour legislation and the Act will be aligned with the International Labor Organization's (ILO) Recommendation 193 of 2002 for the promotion and strengthening of cooperatives. The revised Co-operatives Act is expected later this year (2013).

## **6. Implications for possible and future strategies**

The South African Clothing and Textile Union's (SACTWU) campaigns to organize home-based/CMT workers have had some notable success in established and visible CMT operations. The example of SACTWU vs. Feltex (below, Box 1), provides a useful example what is possible when organized labor (SACTWU) implements its resolution to organizing vulnerable workers and thus challenges employers to comply with collective agreements. However, this case has not deterred other employers from deliberately evading the law and not wanting to comply with collective agreements. SACTWU has continued with this strategy of taking employers to court, with varied results. It is not surprising therefore, that the number of such Labor Court cases has increased over the years.

### **Box 1: Campaign against labor brokers: SACTWU vs. Feltex**

In 2000, SACTWU and Feltex concluded a collective agreement on wages and conditions of employment. The company then decided to outsource a large part of its labor to a labor broker. These "outsourced" workers were paid less than the rates prescribed in the wage agreement. The union took up the matter and argued that all employees (including the "outsourced" labor) must be paid the same rates as set out in the collective agreement. The union won the matter at arbitration at the CCMA in 2001. The company took the award on review to the Labor Court, but lost with costs. They then took the matter further, to the Labor Appeal Court but lost again. Not satisfied, the company took the matter to the Supreme Court of Appeal. The Supreme Court of Appeal ruled on the matter in late 2005. This Court also dismissed the matter with costs against the company. The SACTWU vs. Feltex case provides important wage and other conditions of employment rights to workers employed under labor brokers.

*Source:* SACTWU 2006

The success of SACTWU vs. Feltex and others (for additional examples, see Appendix B, Table B.5.) have meant that some of these CMT workers, mainly in medium enterprises, are now organized and/or exposed to trade unions. A major concern is for "invisible" workers, working in backyard garages and in survivalist operations. Both trade union organizers and labor inspectors are unable to reach these operations. Given the additional challenges of organizing CMT workers (discussed earlier) such as reluctance to join the union, mistrust of trade unions, job insecurity, limited resources, and many others; it seems that trade unions have to adopt two organizing strategies, one more traditional and one more innovative. These two strategies should be employed concurrently, for maximum benefits.

Though we categorize these as a "traditional" and an "innovative" strategy, both strategies can be described as a combination of traditional and new trade union strategies.

Before we describe these strategies, it is important to examine the basis for both strategies: the fact that success in organizing informal workers is tied to employment security. Even though some home-workers may in theory be able to exercise their rights as employees against such a nominal employer, in practice it is difficult to do so. This is because the person who ultimately determines their security of employment is the person giving out work, or from whom the intermediary receives work. The term "triangular employment relationship" is used to describe this kind of relationship, although it is more appropriate in the case of labor brokering than home-working, where there may be several intermediaries between the worker and the "real" employer.

Thus, greater employment security could be achieved by elaborating the rights of workers in a triangular employment relationship vis-à-vis the "real" employer. Workers of a labor broker, for example, currently have no recourse against the client who, for whatever reason, may decide not to utilize their services. The client is only jointly and severally liable for breaches of legislation by the broker as the workers are not part of the formal contract with the client. Thus, home-worker is in an even more insecure position. At any point the person giving out work can shift to another manufacturer, whether home-based or not, without even the inconvenience of giving the home-worker notice. In this event, the work will simply cease. In theory, the home-worker, if an employee, would have recourse against the owner of the home-working operation for severance pay as well as any other monies owing. In practice, however, it is unlikely that the owner will be in a position to pay. Keeping in mind these conditions, below we explore the traditional and new strategies that could increase the effectiveness of organizing subcontracted and home-based workers.

### **6.1. Traditional union strategies – "business as usual"**

Traditional trade union strategies such as SACTWU may work best in established CMT operations. These strategies use the existing resources and infrastructure (financial and organizing tactics). What is needed are **ongoing and not incidental or ad hoc organizing strategies** for CMT workers.

- Given the capacity (albeit dwindling) within the trade union and federation, unions could take on the role of monitoring outsourcing contracts by FPMs and ensuring that labor standards are enforced in contracts. A database of such contracts and CMT recipients would be useful to track potential trade union members.
- SACTWU could use the existing legislation and various collective bargaining forums. The union could initiate a **tripartite forum** (labor, employers and government) to discuss and reach some consensus about common concerns. Indeed the employers and trade unions do not necessarily have common interests, but common ground could be sought for the "benefit of the industry." This could encourage compliance with collective bargaining agreements, reduce "unfair competition" between employers, and union membership could increase.
- Effective monitoring against non-compliance is essential in the industry. At present, the Department of Labor's inspectors rely mostly on SACTWU's information in tracking non-complying companies. This close working relationship between labor inspectors and trade union official is important. Based on the interviews conducted with labor inspectors, it was clear that often their responsibility to monitor was affected by lack of capacity, skills and

resources (human and financial). FPMs also have vested interest in ensuring that there is universal compliance to eliminate unfair internal competition. From the various successful labor court victories by SACTWU, labor institutions (particularly the Labor Courts and CCMA) also have a role to play in ensuring compliance and thus protecting worker rights. A deliberate and formal alliance against non-compliance between labor (SACTWU), government (Department of Labor's inspectors) and employers (registered FPMs and CMTs) can be established. This has the potential to shift industrial relations in this industry from being adversarial to cooperation. Such a forum would also propose measures to deal with employers who would want to retaliate. Compliance favors all stakeholders in the industry. For employers, unfair competition will be eliminated if all employers comply. For workers, better working condition, including the right to join a trade union, and standard wages can be achieved. For government, improved industrial relations could mean economic growth.

### **6.2. Non-traditional union strategies – “thinking outside the box”**

For workers in small-scale home-based and survivalist operations, non-traditional organizing strategies have to be sought. For example, trade unions can recruit these members as **“non-paying members.”** This would cater for their casual employment status and low wages. This strategy will increase the union's visibility in the whole industry not just in FPMs. For those who are retrenched, unemployed and former members of the union, a new category of membership could be established – “friends of SACTWU.” This strategy would also cater to family businesses where the distinction between the employer and employee is blurred. SACTWU and other new workers' organizations such as SASEWA could, as part of their strategy perform an oversight and monitoring functions of subcontracting and outsourcing done by FPMs. Therefore, because employers will continue to outsource some of their activities, trade unions could use this space to encourage better wages and working conditions for all CMT workers. Finally, as noted above, worker organizations could also fruitfully collaborate with religious organizations, which enjoy higher levels of trust and participation by informal workers.

## **7. Conclusion**

In conclusion, the possibility of organizing informal and vulnerable workers is dependent on a number of factors. Firstly, the size of the enterprise is the most important factor. The larger the firm, the greater the chances that it is registered, easy to locate, in compliance, workers are registered, and easily organized. This is challenge in South Africa, given that the majority of enterprises are small (with less than 50 employees). As expected, large FPMs are more likely, as compared to Survivalist CMTs, to be registered and have a unionized workforce. Secondly, the status of the enterprise is important. If the enterprise is registered, there is a possibility to organize or at least to enforce collective bargaining agreements. But, most of these enterprises bypass collective agreements by applying for exemptions based on their size. Thirdly, some enterprises that are not unionized have standard employment relations, meaning workers have employment contracts. Levels of insecurity for these workers are relatively low and they thus could be persuaded to join a union. All of this depends on workers' willingness to be organized and the trade unions' capacity to recruit outside their traditional base, or of alternative organizations like SASEWA to achieve stable growth. For traditional trade unions such as SACTWU, the recruitment of informal workers will require new and unfamiliar strategies and structures, which are likely to require extra resources. Alternative organizations, while grounded in innovative strategies and structures, face a South African society in which labor institutions, allies, and consciousness are focused overwhelmingly on trade unions. Notwithstanding the prevailing set of

difficult circumstances in organizing informal and vulnerable workers, the findings of this research indicate that there are possibilities for successful organizing strategies.

## IV. India: From standard unions to SEWA

### 1. Introduction

Of all the countries under study, India has the greatest preponderance of informal workers (operating as subcontractors and as home-based workers). The textile and garment industry was important before and during the colonial era, and it remained an engine of industrialization in the country after independence. Although the industry was often touted as a symbol of India's participation in the modern global economy, its growth *always relied on subcontracting and home-based work*. Under colonialism, the export-oriented, demand driven production structure demanded substandard labor conditions. After independence, Indian capital undermined the growing labor organizations by turning to unregulated small-scale powerlooms for production. In recent years, the garment industry's reliance on informal work has been amplified by the country's liberalization reforms and return to export-oriented production. Through these periods, a variety of workers' organizations have emerged to protect the diverse group of Indian garment workers. Toward the end of colonialism, formal mill workers organized into powerful unions that continue to exist today. In the 1970s, new organizations emerged to focus specifically on the home-based workers that were left out of the formal mill workers' unions. Finally, and perhaps most surprisingly, since India's formal liberalization efforts, more organizations have emerged to protect subcontracted workers in the industry; during this period the older organizations (for formal workers and for home-based workers) have also continued to expand and innovate on strategies.

The following report is based on a literature review conducted in the fall of 2012 and a field visit (conducted by Rina Agarwala in January 2013). During this visit, Agarwala interviewed government officials in the Delhi Labor Ministry and the national-level offices of Employees' State Insurance (ESI), as well as leaders and members of textile/garment unions. Union interviews included:

- Traditional politically-affiliated unions (AITUC and CITU—at local, district, and national levels)<sup>15</sup>
- Independent unions (GAWU—at Head Office and local levels)<sup>16</sup>
- Independent unions for informal workers (LERN/MKS and SEWA—at Head Office and local levels)<sup>17</sup>

#### 1.1. Prevalence of subcontracted and home-based labor in India

Various forms of informal labor are endemic in India, amounting to 93 percent of total workers and 82 percent of nonagricultural workers (Agarwala 2013). Within this, WIEGO (2012) estimates India's home-based workforce at 16 percent of the total workforce. Moreover, between 2004 and 2010 the number of contract workers increased by 76% while the number of regular workers was nearly stagnant (Sethuraman 2011). Subcontracting has been "officially endorsed in the recommendation of the Indian National Commission of Labour...which recommended the use of contract work in view of uncertain demand from global markets" (Sen and Dasgupta 2009, iv). Textile and garment production conform to these national patterns, as we spell out below.

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<sup>15</sup> AITUC is All India Trade Union Congress and is affiliated to the Communist Party of India (CPI); CITU is Congress of Indian Trade Unions and is affiliated to the Communist Party of India-Marxist (CPM).

<sup>16</sup> GAWU is the Garment and Allied Workers' Union.

<sup>17</sup> LERN is The Labor Education and Research Network; MKS is the *Mahila Kamgar Sangatam* (or Women Workers Union); and SEWA is the Self-Employed Women's Association.



## 2. Structure, labor standards, and labor organization

### 2.1. Textile production and labor in the colonial era (1800s-1947): Handlooms and mills

India's textile production and labor organization began during the colonial era, and contemporary structures of production and organization still retain many marks of this history. Unlike many colonies, India not only provided cheap raw materials to fuel England's growing textile and apparel industries, it also engaged in its own textile manufacturing. This took place through rural-based handlooms (which emerged before colonialism) and urban-based textile mills (which grew during the colonial era). By 1900, there were 86 textile mills in India; by 1926, Mumbai alone had more than eighty textile mills, which employed 125,000 workers—or 25 percent of the city's working population at the time.

#### 3.1.1. Foreign vs. domestic ownership structure

Interestingly, although much of the investment for Indian textile mills came from British investors during colonialism, the owners were primarily part of a burgeoning class of *Indian* capitalists (such as C.N. Davar in Bombay). Even after independence, Indian textile mills (and today's garment factories) tend to be owned by Indian capitalists, not foreign capital. This has important implications on labor organizations' strategies today (see below).

#### 3.1.2. Foreign vs. domestic consumption market

Not surprisingly, Indian textiles in the colonial era focused primarily on production for export—beginning with yarn (for China) and moving toward finer products and increased technological sophistication during the early 1900s. However, by the 1930s the global depression (which reduced foreign demand for Indian products) coupled with the Indian independence movement (which called on Indians to purchase Indian-made products) forced Indian textile mills to rely more on domestic demand. As part of the nationalist sentiment just after independence, Indian textiles continued to focus on the domestic market until the 1980s (see below). It was this turn to the domestic market under colonialism that forced the Indian textile industry to expand outside the traditional centers (such as Bombay) to include the smaller centers (such as Ahmedabad and Chennai) that continue to form important hubs of textile production today. As shown in the Appendix to this report, most textile employment today is concentrated in the states that house the three cities of Bombay, Ahmedabad, and Chennai (Maharashtra, Gujarat, and Tamil Nadu respectively).

#### 3.1.3. Labor structure

During the colonial era, Indian textile mills were labor intensive and notorious for little capital investment; machines were usually imported and used until they collapsed. Production was intensely competitive and relied on short-term demands. As a result of this structure, the industry relied on a largely informal workforce that enjoyed little protection and regulation.<sup>18</sup> Informal workers were recruited and disciplined by “jobbers”; deputy managers, who tended to be skilled craftsmen, in each mill department oversaw jobbers and served as intermediate authorities; and mill managers remained largely removed from the labor force, analyzing market demand and coordinating department production. This decentralized labor structure is not unlike the present day scenario.

#### 3.1.4. Labor organization

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<sup>18</sup> Wage differentials were determined less by skill and more by-product, so weaving fine fabric held greater prestige and thus higher wages than weaving regular fabric.

Labor unions formed during the colonial era and became increasingly militant alongside the growth of the independence movement. Given the large percentage of informal workers in the industry, these unions followed a familiar Western model of collective bargaining and focused on attaining formal protections and regulations for all workers in textile mills. At first, they served as “respectable” advisory bodies that could mediate specific issues between capital and labor (Chandavarkar 1994, 405). In 1928, when the textile industry faced an economic crisis due to overproduction, Japanese competition, and limited investment from the colonial state, N. M. Joshi and R. K. Bakhle organized the communist party-affiliated *Girni Kamgar Union* (Mumbai Textile Labor Union) to fight for increased wages and formal protections. *Girni Kamgar* dominated Mumbai’s labor movement and became one of India’s largest unions. Between 1929 and 1940, the union led eight general strikes, and hundreds of smaller strikes. As part of a larger Indian union movement, *Girni Kamgar* attained some substantial successes in that it attained formal regulations and protections for India’s industrial workers under law (see below on labor laws). Although the union is smaller today, it forms the basis of the main politically-affiliated garment workers’ union in India today (under AITUC). Although it retains its traditional focus on formal workers, it is also one of the few traditional, politically-affiliated workers’ unions in India that has *begun to examine the industry’s informal workers as well (see below)*.

## **2.2. Textile production in independent India (1947-1991): The rise of powerlooms**

The post-independence era led to a few important changes in India’s textile industry. Until the 1980s, the Indian economy was guided by a policy of import-substituting-industrialization (ISI), a strong emphasis on self-sufficiency, and a state that owned essential industries and regulated all industries. As a result, the largely rural handloom sector was not prioritized and declined substantially.

Ironically, despite the heavy focus on urban industrialization, the Indian textile mills in urban centers also declined during this period. On one hand the Indian state supported textile mills. State entities, such as the Industrial Finance Corporation of India (IFCI), Industrial Credit and Investment Corporation of India (ICICI), and the Industrial Development Bank of India (IDBI), gave 56% of their “soft loans” to the textile industry until 1982 (van Wersch 1992). On the other hand, however, the state’s refusal to import capital from abroad hurt textile mill development. As the Indian government noted, the intent of the textile industry was not to modernize and use the most efficient technology; such technology “...may not be appropriate for the country” (Jain, 1981, cited in (RoyChowdhury 1995). As a result of this policy, most mills became what are popularly known in India today as “sick.” From 1951-1987 total cloth production from mills declined from 79% to 48% (RoyChowdhury 1995).

In place of handlooms and mills, a powerloom sector began to grow. Powerlooms operate in largely extra-legal, small-sector establishments that are loosely protected by the state (RoyChowdhury 1995). Powerlooms emerged to produce cloth on a subcontract basis for mills and help avert shortages in cloth production for the domestic market. Today they provide cloth for the ready-made garment factories that we explain below. Some are also involved in dyeing, finishing, or printing textiles. Laborers in powerlooms are paid less than in mills (and handlooms) and are thus thought to undermine labor power in the textile industry. As the powerloom sector grew, the government began to treat larger powerlooms like mills in terms of labor and tax regulation. To by-pass the regulation, powerloom owners split their operations into smaller units.<sup>19</sup> Between 1956 and 1974, the share of small-scale, unregulated powerlooms (as a percentage of productive units) in Bombay increased from 23% to 90%

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<sup>19</sup> Small, unregulated powerloom establishments are defined as those with less than 4 powerlooms, employing less than 20 workers.

(Chandrasekhar 1982, cited in Van Wersch 1992). *Labor in the powerloom sector was (and remains), therefore, largely informal.*

In the 1980s, India began its initial liberalization efforts—with some de-licensing and deregulation. As part of this effort, the government implemented the 1985 National Policy on Textiles (Hirway 2010). This policy aimed to save the floundering mills by lessening state control, increasing credit assistance, ending state takeovers of bankrupt mills (which had been done for the sake of employment preservation) and opening the market to the import of technology and machinery (RoyChowdhury 1995). This was considered a major shift in the government's involvement in textile mills. During this period, the Indian government also followed World Bank recommendations to set up some textile mills that were entirely export-oriented (van Wersch 1992). Although mill owners celebrated the relaxation of imports and some mills did expand due to increased exports, efforts were limited by the confines of the Multi-Fibre Arrangement. Therefore, the decline of mills continued while powerlooms continued to grow (RoyChowdhury 1995).<sup>20</sup>

Although total employment in the textile sector expanded by 25% during the 1980s, *some reports argue that most of this employment came from the unregistered powerloom sector, while regulated, formal employment declined during this period* (Government of India, cited in RoyChowdhury 1995).

The growth of the powerloom sector is often credited in India for undermining the historic 1982-83 textile mill strike in Bombay. This strike, which was led by the *Girni Kamgar* Union for formal mill workers, is said to have marked the end of Bombay's textile industry and the end of the textile union. Although powerlooms continue to exist today, *we have been unable to find any organization that has attempted to organize the informal workforce in powerlooms. To the best of our knowledge, these workers remain unorganized.*

### **2.3. Garment and textile production in neoliberal India (1991-present): Export factories and homework**

In 1991, India officially institutionalized its version of neoliberal reforms—furthering state deregulation of industry, increasing privatization, and opening its borders to global markets. By this time, textile mill production was relatively low, and the large urban mills were beginning to close down. In their place, garment factories for ready-made clothes were emerging outside city centers. By 2001, garments contributed to 4% of India's GDP and 20% of its industrial output. Although garments constituted a relatively small share of total exports (less than 10%), it should be noted that they constituted 30% of export earnings (Commission 2001). This indicates the high value-added component of textiles.

Despite the high value-added component of Indian garments, employment in the garments industry is largely informal. According to our field interviews, *the liberalization reforms further exacerbated the informal, unprotected nature of textile work in India by not only encouraging more subcontracted and*

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<sup>20</sup> The 1974 Multi Fibre Arrangement (MFA) was an international quota regime that restricted the ability of developing countries to export textiles, yarn, and apparel and was designed to protect the textile industries of developed countries. The MFA limited trade negotiations to the bi-lateral level. In 1995, the MFA began to be phased out through a ten-year plan (Chadha, Rajesh, Sanjib Pohit, Robert M. Stern, and Alan V. Deardorff. "Phasing out the Multi-Fibre Arrangement: Implications for India." Global Trade Analysis Project (GTAP) at Purdue University <https://www.gtap.agecon.purdue.edu/resources/download/3505.pdf>.)

*homework, but also weakening enforcement of labor regulation among the so-called “formally” employed contract workers.* In 2001, garments employed 38 million people in India (Commission 2001). However, scholars argue this figure underestimates total employment (especially among women), since it omits most informal work conducted in sub-contractors’ workshops or at home. Some argue that 89% of workers in garments and 93% of women workers in garments work informally in either sub-contractors’ workshops or their own homes (Hirway 2010). Since the textile/garments industry has turned increasingly to informal subcontracting work, many formal workers have been laid off and become unemployed and relied on a spouse’s income (for example in *bidi*), rehired in garments on an informal basis, or turned to other forms of informal employment (such as street vending). A study in Mumbai found that out of 60 street vendors, 58 of them turned to street vending after either they or their spouses lost a job in the formal textile industry (Bhowmik 1999).

Among the most significant liberalization policies to affect Indian textile/garments are the following:

- In 1998, textiles were moved to the Open General License list, which meant that the import of textiles was liberalized (Sivadasan 2006). Until then, textile imports had been heavily regulated and restricted by the state.
- In 2000, the National Textile Policy was implemented to facilitate the growth of Indian textiles for export by increasing competitiveness, encouraging FDI and R&D to make necessary technological improvements, and sustaining traditional craftspeople in the industry. The policy aimed to increase textile (and garment) exports to US\$50 billion by 2010.
- In 2005, the 1974 Multi Fibre Arrangement (MFA) was fully phased-out.

As a result of these policies, Indian textile labor now operates in two broad groups: export-oriented producers, and home-based producers serving a domestic market. We address each in turn.

### *2.3.1. Factories that produce garments for export*

These factories operate in areas where the state government has embraced liberalization and globalization as twin economic strategies that promise to improve state productivity and employment. The factories operate in institutional settings specifically designed to attract investors by offering employers exemptions on taxes and duties, license requirements, import/export restrictions, and foreign direct investment rules. These new settings are usually self-contained entities that boast advanced infrastructure. They include: industrial estates, new economic hubs, special economic zones (SEZs), industrial model townships and theme parks. Many of them began in the late 1980s, when India first began to liberalize its economy, and the government donated land for the operations. They have grown in number since the 2000s. As a result of these new settings, most textile and garment factories have exited from the traditional urban centers.

According to a recent survey of ten export-oriented textile factories in the northern district of Gurgaon, conducted by an advocacy group (*Mazdoor Ekta Manch* or Workers’ Unity Platform) and a New Delhi-Based think tank (Society for Labour and Development), each factory employs between 300-2500 workers. They produce ready-made clothes for major global brands including: GAP, Tommy Hilfiger, Marks & Spencers, Miss Sixty, Monsoon, Next, Debenhams, Wal Mart, Calvin Klein, and Land’s End, Nordstrom, Banana Republic, Kim Rogers, Coldwater Creek, J.Crew, Lane Bryant, DKNY, Chico’s, Sean Jean, Alfani, Great Girl, Halomen, Sonoma, Soma, Avenue, Essentials, Garfield and Marks, New Looks, Empire Stores, 3 Suisses, Camif, Claire, Ellos, Kappahl, H&M, Levi’s, Adidas, Inditex, Ann Taylor, Charles Voegele, WE, Miss Etam and Debenhams (Bhattacharjee 2012). In other words, while the factories are

Indian-owned, they operate at the low end of a buyer-driven commodity chain, where production quantity, form, and quality are determined by foreign buyers (i.e. retailers).

Although all labor laws technically apply to these settings, enforcement is notoriously weak. SEZs have been given “Public Utility Status”, which means workers’ ability to use strikes are limited and litigation is discouraged. In some SEZs, the Labor Minister does not have jurisdiction and all labor laws are enforced by the Customs Officer or the SEZ Development Commissioner. As the Deputy Development Commissioner of NOIDA’s SEZ (NSEZ), openly stated to Agarwala:

*We act as the Labor Commissioner for NSEZ, so all labor disputes come to us, and we serve as the mediator. It’s a single window method of dealing with everything at once. That is what makes the SEZ attractive. Wednesday is my labor day, where I listen to all labor problems. They don’t get payment on time or they are fired without notice. I talk to management, and then they fix the problem. But sometimes leaders of small unions form, and they are immediately taken out of work.*

Although all workers in SEZs are legally entitled to their right to organize, the Commissioner was candid about workers’ inability to organize in practice in SEZs.<sup>21</sup>

The Commissioner also acknowledged that SEZs do subcontract work outside the factory premises, but only factory workers approach him with complaints—thereby, further reconfirming subcontracted workers’ invisibility and vulnerability. Although export factories operate in the high-value added sector, they rely on cheap labor and low-end technology. As shown in the Appendix to this report, this strategy has resulted in negative productivity growth in many states. In recent years, global retailers have increasingly demanded that they deal with smaller numbers of large producers. In response, many producers in India have formed umbrella organizations to meet the massive demands of major retailers; but the umbrella organizations do not preclude the smaller members from retaining an informal workforce. High value producers have increased their size through vertical integration. In addition, because garment production for exports relies on buyer’s orders, it is highly seasonal, increasing during festivals and holidays and declining at other times. This leads to increased reliance on a flexible workforce.

Based on our initial fieldwork, we found that export-oriented textile factories have three groups of workers: permanent, **contract**, and **piece-rate workers**.

**Permanent workers** are considered formal workers. They comprise a small percentage of workers who deal with advanced tasks. Unions reported that many permanent workers in export factories have been routinely denied their basic rights to organizing into unions, overtime pay, leave, appointment letters, minimum wage, timely payment of wages, illegal deductions from wages, and failure to contribute to workers’ pensions and insurance. Perhaps the most common complaint among permanent workers is that employers terminate their employment without warning or cause. Most of the remaining work is outsourced to contract workers and piece workers.

**Contract workers** are those working for subcontractors. *Contract workers are considered informal workers, because nearly all contract workers are hired through chains of sub-contractors, thereby absolving the employer of any legal evidence of an employee relationship and any responsibility of labor*

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<sup>21</sup> Interview, January 14, 2013.

*regulation.* Contract workers hired through sub-contractors are not protected even under the Contract Labour Law. Although they are informal and thus unregulated, they operate on the factory premises or in sub-contractors' workshops. According to our interviews with the AITUC-affiliated Garment Workers' Union in the NOIDA Special Economic Zone in Northern India and with SEWA in Gujarat, export factories do not provide work to home-based workers.

Of all the workers in export factories, contract workers are the most common and the most exploited. According to recent reports, they tend to be women (Hirway 2010); they tend to be first- and second-generation rural-to-urban migrants (Jenkins forthcoming); and the number of *dalits* (members of the lowest caste in India) and minorities (such as Muslims or tribal members) among them are disproportionately higher than the national level and most of them are semi-literate or illiterate (Bhattacharjee 2012). In our interviews, some unions mentioned that workers' illiteracy prevented them from identifying the brands that they worked for, which made it difficult for unions to identify the commodity chain.

**Piece-rate workers** are viewed as self-employed (and are thus informal and unregulated). According to our interviews, they tend to be skilled, better compensated and consist mostly of men. They often work seasonally, relying on agricultural income during parts of the year. Initial reports indicate that they work at home. We were not able to get much information about these workers during our first field visit, because they do not appear to be organized in the unions we interviewed. In addition, the government offices for labor do not interact with them much. As the Additional Labour Commissioner of Delhi explained:

*95% of our complaints come from unskilled contract workers. The temporary nature of the export business means employers have to outsource work to contractors, and they lack supervision. Without prosecutions, employers will violate laws. This is the nasty side of humans. Enforcement is the mother of social entitlements. But piece-rate workers rarely complain. They are more skilled, and they can work for multiple factories at once, and they earn twice as much as permanent workers!*<sup>22</sup>

During our field visit, we found that a few unions have emerged to organize the permanent, contract, and piece-rate workers *who work in the export factory premises*. Again, these workers include formal and informal workers. These organizations do not yet organize contract and piece-rate workers operating in contractors' workshops or at home.

### *3.1.1. Home-based work that produces garments for domestic markets*

This is the second category of workers in the contemporary textiles/garments industry. These workers are all informal. These workers are largely women, although several interviewees mentioned that men are increasingly entering this sector. Men are usually employed to conduct more skilled work, such as embroidery. Women do the lower skilled work such as cutting cloth, dyeing cloth, the needling sequence, the washing sequence, and threading. Although they are labeled as "unskilled" and paid as "unskilled", women also sew full garments (from models provided by the contractor). Some are recent migrants from rural areas; recent migrants tend to be young and live together in a rented shack. Others are second or third generation migrants who own or rent homes in a slum; this group comprises of multiple generations within a family. Some home-based workers operate through sub-contractors, who are often members of their local slum or kinship networks.

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<sup>22</sup> Interview, January 14, 2013

Home-based workers include two types of workers:

- **Contract workers** who work for “micro-factories.” These workers operate in their homes or in sub-contractors’ workshops. The micro-factories are small and often unregistered and unregulated.
- **Piece-rate workers** who work for wholesale and retail shops. These workers sometimes work through sub-contractors and sometimes work directly with shop owners. This is the group of workers that SEWA organizes (see below).

Several organizations, such as SEWA and LERN/MKS, have emerged to organize these workers in innovative ways (see below).

#### **2.4. A note on the carpet industry**

The carpet industry in India is classified within textiles (see industrial classification in the Appendix). The carpet industry has traditionally been done based on sub-contracting/putting out from home-based work (Seidman 2007). In the 1980s, the carpet industry became more export oriented and began to grow. To facilitate this growth, the government of India created training centers.

Although the centers were limited to workers over age 12, many younger children were trained. In 1981, the government had 600 centers producing 30,000 weavers under age 15 per year. At the time, the Indian government actively encouraged child labor to meet the growing export demands. International NGOs, particularly in the US, responded with a pressure campaign to eliminate child labor that resulted in the Rugmark certification, which we will discuss below.

### **3. Labor laws**

There are no labor laws specific to garment or textile workers in India. Rather, garment and textile workers in India are protected under the nation’s general laws for all industrial labor. On paper, these laws are relatively expansive. In reality, however, they cover only 7% of the nation’s workforce. Below is a review of these labor laws.

Perhaps the most famous of Indian labor law is the 1947 Industrial Disputes Act, which requires large, formal, industrial establishments to obtain government permission for layoffs and closures. This Act (along with the Indian Constitution) also protects workers’ right to form associations and unions. For garments and textiles, this law only applies to large mills, not powerlooms. The law does not apply to casual/contract/or informal labor. Although this law only protects a minority of India’s workers (i.e. those who are formally employed), this law has been one of the main targets of criticism from advocates of neoliberalism and labor reform.

To regulate working conditions in factories regarding sanitation, safety, and other health-impacting issues, the Indian government passed the 1948 Factories Act. The 1948 Minimum Wages Act protects workers’ wages, according to skill level, and the 1965 Bonus Act guarantees a bonus to those working for more than 30 days. Finally, the 1948 Employees’ State Insurance Act and the 1956 Employees Provident Fund and Miscellaneous Provisions Act provided workers with old-age pension and insurance

in the case of sickness, injury, maternity leave, and death. In some states, additional local laws supplement these national-level labor laws.

To avoid all of these laws, as noted above, many mill employers splintered their operations into smaller units or powerlooms that were not covered by these regulations.

The 1970 Contract Labor Act aims to extend basic health, safety, sanitation standards (restrooms, first-aid facilities, etc.), and some wage regulations to contract workers. This law is notorious for being weak and overtly ignored by the state and employers. Moreover, this Act applies only to principal employers. Therefore, if principal employers use sub-contractors to hire contract workers, the sub-contract is held responsible. As a result, almost no employer hires contract workers directly; rather they rely on long chains of sub-contractors to easily avoid this law. As V.S. Arya, Joint Labor Commissioner for South District, Delhi and the License Officer for the Contract Labor Act, explained, “Outsourcing is not in the favor of workers. Nowhere. Section 10 of the Contract Labor Act says the government can abolish outsourcing. But it has become a necessity with the recession.”<sup>23</sup> In other words, even the primary enforcement official of the Act openly admitted that enforcement was thin.

Lastly, the 1986 Child Labor (Prohibition and Regulation) Act, forbid the employment of children below 14 years of age in factories.

Industry-specific legislation in textiles in India is limited to regulating the process of nationalizing “sick mills.”<sup>24</sup> For example, the 1972 Sick Textile Undertakings Act stipulates that employees in the nationalized sick mills become employees of the National Textile Corporation. This guarantee from the state meant that workers would be entitled to steady wages, pensions, and other benefits. There were minor amendments made to this policy in the years that followed, with the final amendment coming in 1995. Interestingly, this coincides directly with the time that the 10-year period to phase out the MFA began, furthering the liberalization of the textile industry both internationally and domestically.

Perhaps the most innovative institution that has emerged in India for garment workers in some states is the *Welfare Board*. Welfare Boards are tripartite institutions, where state governments, employers, and workers have representation and contribute funds. Employers’ contributions come from a tax on production, while workers’ contributions come from their membership dues. To become a member of a Welfare Board, workers must prove their informal work status; unions normally educate workers about welfare boards and provide confirmation for workers’ informal status. Welfare Boards are currently trade-based. Perhaps the most famous are those for bidi (hand-rolled cigarette) manufacture and construction—both of which I have extensively analyzed elsewhere (Agarwala 2013). Garment workers also have welfare boards; they appear to be relatively active in Gujarat, inactive in Maharashtra, and non-existent in Delhi. In return for workers’ membership dues, Welfare Boards provide trade-specific benefits to informal workers. In addition to offering material benefits, Welfare Boards help consolidate the identity of informal workers and provide a forum for their concerns. In the section on SEWA, I describe the benefits allotted to informal workers in the garment industries. Further analysis on the extent and effectiveness of these boards on garment and textile workers has yet to be conducted.

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<sup>23</sup> Interview, January 16, 2013

<sup>24</sup> Sick mill is a term used in India to describe mills that are not growing or attaining any profit, where the machinery has not been updated, and where few investments have been made. Before liberalization these mills were able to survive due to government support.



#### 4. The role of trade unions in textile and apparel in India

Based on our initial fieldwork, we find that there are *three* distinct forms of unions organizing textile workers' in India. As detailed below, these organizations differ in terms of their target membership and their primary organizing strategy. Significantly, despite their diverse membership and organizing strategies, *all three union types are legally registered under Indian law*. The relationship between these three types of unions is often tense (especially between type #1 vs. types #2 and #3). This section ends with a short note on NGOs, whose approach is very different from that of the unions.

The three forms are:

- **Traditional unions that are affiliated to political parties.** These unions primarily organize formal workers, although some have recently begun to organize informal workers. Membership is limited to workers operating in factory premises (particularly in export-oriented factories),
- **Independent unions.** These unions more explicitly organize formal *and* informal workers. Like traditional unions, their membership is limited to workers operating in factory premises (again, with a particular focus on export-oriented factories). Because they are not affiliated to any political party, their strategies differ from traditional unions, and they tend to exercise something closer to "social movement unionism."
- **Independent unions for informal workers.** Like type #2, these unions are not affiliated to any political party. Unlike type #1 and #2, however, their membership is limited to *informal workers only*. Their members operate outside factory premises (in sub-contractors' workshops or homes). These workers tend to produce textiles for the domestic market.

##### 4.1. Type 1: Traditional, politically-affiliated unions

The oldest and perhaps most typical textile unions in India are those affiliated to union federations, which in turn are affiliated to major political parties in India. This has been a typical union organization strategy for formal workers in India since the independence movement formed under colonialism. Because the textile industry was so crucial to colonial rule in India, textile workers were instrumental in the independence movement. The first "traditional" union of textile workers to form in India was that affiliated to AITUC. As the list below indicates, since independence, several additional affiliated unions have arisen alongside the rise of new political parties. Today these unions include:

Federation All India Trade Union Congress (AITUC), affiliated to the Communist Party of India (CPI)

- Unspecified textile unions/federations
- Unspecified jute unions/federations

Federation Indian National Trade Union Congress (INTUC), affiliated to the Indian National Congress Party (INC)

- Indian National Textile Workers Federation
- Indian National Jute Workers Federation

Federation Centre of Indian Trade Unions (CITU), affiliated to the Communist Party of India-Marxist (CPM)

- All India Jute Workers Federation
- Unspecified textile federation/s

Federation Hind Mazdoor Sabha (HMS)

- Unspecified textile unions, totaling 61

Federation Bharatiya Mazdoor Sangh (BMS), affiliated to the Bharatiya Janata Party (BJP)

- Unspecified textile unions, totaling 236
- Unspecified clothing unions, totaling 36
- Unspecified jute unions, totaling 54

These unions greatly benefit from their historical experience, their institutional recognition, their political-party affiliations (and the resources that come with such affiliation), and their massive, national-level scale. They also tend to be the most recognized institutional form by the Indian government. Although government officials must mediate between unions and employers, they usually spoke of unions as their partners. In Agarwala’s interview with the Additional Labour Commissioner of Delhi, for example, he exhibited a high respect/fear of traditional, politically-affiliated unions, and spoke at length about their “joint” action against employers. In contrast, he belittled unions that are unaffiliated to parties:

*Non-affiliated trade unions are too small, they don’t have bargaining power. They have no membership. They can try to pressure consumers, but that is small. We use the law and the courts. We mainly pressure the employers.<sup>25</sup>*

Similarly, the Joint Director of the Employee’s State Insurance Corporation, explained, “Trade unions are my friends, because they help me carry out my duty. We don’t have enough social security officers to inspect all factories, so we need to rely on other sources.”<sup>26</sup> Because the ESI Act only applies to formal workers, Tripathi only partners with traditional, politically-affiliated unions. Only the district level Labor Commissioner for South Delhi, was more candid, “Trade unions are a pain.”<sup>27</sup>

Although traditional, politically-affiliated unions were extremely active in organizing textile workers after independence, many of them became inactive after the failure of the 1982 Mumbai textile strike, which involved 240,000 workers, lasted eighteen months, became renowned for being one of the largest and longest strikes in Indian history, and ultimately ended with the closing of India’s largest textile mills. With the exception of AITUC (see below for more detail), we found these unions to be relatively inactive in the textile and garments industries of Delhi, Gujarat, and Mumbai (i.e. the traditional textile centers). In many ways, the challenges facing the larger labor movement in India (and elsewhere) are undermining these unions’ impact on textile and garment workers.

Perhaps most importantly, these unions have in the past focused on organizing formally employed (and thus legally protected) workers in registered enterprises. These workers were highly concentrated on the shop floor, and they lived in nearby tenements, which facilitated organization. As we have shown, subcontracting has increasingly shifted textile and garment production to informally employed (and thus unprotected) contract workers (who may operate in the factory or in a smaller, unregistered unit) and

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<sup>25</sup> Interview, January 14, 2013

<sup>26</sup> Interview, January 15, 2013

<sup>27</sup> Interview, January 16, 2013.

home-based workers. These workers are not only scattered by work environment, they are also scattered by residence. Despite these changes, however, most traditional, politically-affiliated unions have been unable and/or unwilling to alter their organizing strategy to accommodate the swelling, decentralized, and scattered informal workforce. None of the traditional politically-affiliated unions spoke of finding creative ways to organize informal workers or organizing informal workers in their place of residence (which is sometimes also their place of work). Rather, they bemoaned the changes to informal work as a fatal attack on union organizing. As Mohammed Isha, President of the CITU-affiliated Readymade Garments Union in Delhi explained,

*We used to have 2000 workers across 7 factories in our local union. In 2009, one of the largest companies gave us everything we demanded (a phase-wise minimum wage and a 20% bonus), because the company was doing well. But in 2011, the garments industry faced a major crisis, and the Delhi-companies closed. The companies split into smaller units and employed home-based workers and moved out of Delhi. Some went to Bangalore and Haryana, others to Pakistan, China, and Bangladesh. All these places have much lower minimum wages than us. To be honest, we are having trouble forming unions anymore.”<sup>28</sup>*

As the Additional Labor Commissioner of Delhi reiterated, “Employers are now leaving Delhi for neighboring states, like UP and Rajasthan, where salaries are lower and land is subsidized. Employment is down in Delhi, so strikes are also down.” In other words, workers’ bargaining power is viewed as arising from their legal right to strike (a right reserved only for formal workers), and capital flight is seen as neutering workers’ power.

As researcher Agarwala has argued elsewhere, this trend is not unique to textile and garment unions (Agarwala 2013). Traditional, politically-affiliated unions across industries in India routinely argue that the Indian state’s overt sanctioning of informal labor and capital mobility, coupled with the world’s changing structures of production, have undermined unions’ collective bargaining power (which relied entirely on a formally protected labor force). Although these unions do not resist the turn toward export-orientation, they continue to make traditional demands to the employer for workplace benefits that employers can provide. For example, the main demands of the AITUC and CITU-affiliated unions that Agarwala interviewed in Delhi in January 2013 are:

- Minimum wages
- Provision of insurance and pensions (under the ESI and Provident Fund schemes),
- Permanent contracts for all workers
- The eradication of sub-contractors and employers’ direct employment of contract workers (in the minority of cases where contract work is justified).

In other words, these unions are demanding a formal workforce, because they believe that informal workers’ only hope for protection involves an alteration to their employment status.

It is important to note that although at the local level, AITUC’s textile union strategies are limited to demanding formal protections for all workers by using existing conciliation strategies, at the national level, AITUC leaders offer more creative insights on informal workers’ organization.

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<sup>28</sup> Interview, January 2, 2013

#### 4.1.1. Bargaining Strategy

Traditional unions initially made their demands by employing strikes against an employer on the shop floor. Strikes spiked just before independence, and then trended up from the 1950s until the early 1970s. However, beginning in 1974, the Indian government stopped reporting the figure, instead reporting industrial disputes in the manufacturing sector as a whole. Not surprisingly, disputes in manufacturing as a whole dropped drastically after the Indian government initiated liberalization efforts in the 1980s; they dropped further when liberalization was officially implemented in 1991.

According to our interviews with AITUC and CITU unions in January 2013, strikes are rarely used today, because workers are afraid that factories will shift location; India's federal structure, where wages are determined at the state level, empowers capital over labor with the threat of capital flight. In such cases, CITU unions have become relatively inactive. AITUC unions, on the other hand, have remained more active, and they are unique in their efforts to organize the formal *and* informal contract workers operating in the factory premises of SEZs. Instead of using strikes, AITUC uses existing conciliation channels. They repeatedly emphasized to Agarwala that their actions are not antagonistic and they operate *within the law*.

To recruit members and discuss grievances, they meet workers at the factory gates during tea and lunch breaks. They never hold meetings during the workday inside the factory premises, and they never meet or recruit workers in their neighborhoods (this is very different from the other two forms of unions; see below). Then they write a letter of demand to the employer. If the employer does not agree to negotiate, they may hold a demonstration at the gate. They then turn to the state and write a complaint to the relevant government office (such as the Labor Commissioner, Labor Inspector etc.), who in turn will begin the dispute resolution process, which may eventually end up in the labor court or even the high court. This process takes *years*. AITUC (and CITU) shared records and files that were still in process after 15 years. Because most factories have moved to states with lax labor law enforcement, unions tend to take labor matters up with the national government offices.

Despite the delays, these unions defended this strategy as their only option and a fairly effective one. As Pramod Rajput, Deputy General Secretary of AITUC-Delhi and President of All India General Mazdoor Trade Union, explained:

*Since 2008, jobs have declined by 60%. Now workers just want jobs. They don't want to do demonstrations. We don't have factory-level strikes. We have a system. We file a complaint with the proper office. For minimum wages, we go to the Labor Department, for ESI or PF, we go to the national government ESI or PF offices, for overtime, we go to the Factory Inspector. Then they come to inspect the company. The government listens depending on the strength of the union leader and whether the complaint is filed legally. We are a strong union with strong leaders and we always follow the law. The government helps us, because they know that.<sup>29</sup>*

Indeed, Agarwala met several government officials (including the Delhi Labor Commissioner and the ESI Officer) who were all respectful, even fearful, of AITUC. Nevertheless, the claims of effectiveness were likely exaggerated, and AITUC's commitment to acting within the law did not offer any solutions to workers *within* their informal status. To the extent that AITUC is addressing unregulated, informal contract workers, they are demanding that they be formalized.

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<sup>29</sup> Interview, January 11, 2013

In addition to mobilizing workers to fight for legal labor protections, traditional, politically-affiliated textile unions have also engaged in political mobilizations designed to alter public policy. In particular, they have been fighting for a common minimum wage for workers across Indian states and industries. In this endeavor, they work with each other, but also the independent unions described below.

#### 4.1.2. A note on other critiques: Gender and party affiliation

In addition to critiquing traditional, politically-affiliated unions in India for failing to accommodate the needs of informal workers, some scholars critique them for their male dominance and relatively small female membership. Scholars and feminist groups argue that as the workforce becomes increasingly informal and feminized, this lack of attention to women workers is precluding traditional unions from organizing the new, more vulnerable labor force. Sankaran and Madhav (2011) and Venkata Ratnam and Jain (2002) argue that traditional unions are male-dominated because they have overlooked women's issues. To be sure, my January interviews with CITU's Garment Union reiterated union leaders' gendered stance toward organizing. Ninety-five percent of CITU's Garment Union members were male. "Women don't want to organize. They are too scared to fight," declared Mohamed Isha, President of the Union.<sup>30</sup>

While concerns about male-dominated unions' ability to represent a largely female workforce are valid, they do not lend much insight into why women workers have failed to push women's labor concerns onto traditional unions' agendas. Moreover, they overlook the efforts that many women *are* indeed making to incorporate women's labor concerns into mainstream labor agendas. Thirty to forty percent of AITUC's textile union in the NSEZ, for example, is female (which sits in stark contrast to the CITU Delhi Textile Union's five percent female figure). Naem Ahmed, General Secretary of AITUC's Textile Union in NSEZ, was matter-of-fact about their female membership, "We have female members, because females are working in these factories."<sup>31</sup> AITUC leaders view these critiques of sexism as wrongful attacks stemming from their opponents. For example, Amarjeet Kaur, (a female) Secretary of AITUC, noted,

*In the 1960s we fought to prevent women from being employed during nightshifts in factories, because the shifts were not safe for women. Globalization, however, pushed the government to liberalize this law in the export sector, and we found that in fisheries and garment factories, women's night shifts have increased. But employers have not made any provisions to ensure women's safety, like transport or guards. So women are facing a lot of violence. We argue that women's night work should be their choice, but it must be safe. And our critics are turning our argument against us, accusing us of being paternalistic and denying women the right to work!*<sup>32</sup>

Scholars have also critiqued these unions' historical affiliation to political parties for fragmenting the labor movement and impeding unified mobilization (this is characteristic of all major sectors in India, not just garment and textile). In the face of such a severe onslaught on labor's basic rights in the

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<sup>30</sup> Interview, January 2, 2013

<sup>31</sup> Interview, January 2, 2013

<sup>32</sup> Interview, January 16, 2013. We should note that researcher Agarwala had a lengthy interview with Kaur, where she identified AITUC's involvement in drafting the Home-based Workers' Convention that ILO eventually accepted, lobbying the Indian government to sign it, organizing women through their women's organizations (National Federation of Indian Women and Working Women Forum of AITUC), and organizing informal workers including 10,000 domestic workers in Mumbai.

contemporary era, however, we found significant evidence for unified mobilization among traditional, politically-affiliated unions in India. These unions consistently engage in joint action to protest against economic liberalization or agitate for a higher minimum wage at the national level. On February 2, 2013, all traditional, politically-affiliated unions joined independent unions to have a first-ever nation-wide general strike for 2 days to demand an all-India minimum wage of Rs. 10,000/month to unite workers across states and industries; currently employers in India can move to states with lower minimum wages. “We don’t engage in factory-level strikes, but we always engage in joint action with other unions for general strikes,” explained Rajput of AITUC.<sup>33</sup>

Despite the debates surrounding the strengths and weaknesses of traditional, politically-affiliated unions in India, it is clear that their demands for a formally regulated and protected workforce, while laudable, have long failed in India. It is for this reason that alternative unions have emerged in India to fill the growing needs of the entrenched and expanding informal workforce.

#### **4.2. Type 2: Independent unions for formal and informal workers**

The second form of organization that is emerging among textile/garment workers in India is the “independent union for formal and informal workers.” Examples of such unions are:

- Garment and Allied Workers’ Union (GAWU) in the Delhi region and
- Garment and Textile Workers’ Union (GATU) in Bangalore
- Munnade in Bangalore

GAWU and GATU emerged in 2007 to fill the void left by politically-affiliated unions in the garments industry. GAWU’s membership today is 4,176. These unions are independent, and are thus not affiliated to any political party. GAWU and GATU are, however, affiliated to the National Trade Union Initiative (NTUI), the only federation in India of independent unions. Like traditional unions, they tend to organize formal and informal contract workers operating *in the factories*; they do not organize workers operating in powerlooms, subcontractor’s workshops, or at home. Sixty percent of GAWU members are permanent and 40% are informal contract workers. These unions also target the more marginal population of workers that many critics argue are often left out of traditional, politically-affiliated unions (i.e. women, tribals, Dalits, migrants, etc.). Given their membership and their organizational ‘youth’ (which means they are not yet well-known), we argue that they employ more innovative bargaining strategies than traditional, politically-affiliated unions.

It should also be noted that because these unions are new and small (relative to traditional unions), they lack the resources and scale, and thus the political heft, of traditional, politically affiliated unions.

##### **4.2.1. Bargaining strategy**

Perhaps most significant to us was that we found these unions rely on a broader bargaining strategy, akin to “social movement unionism.” This strategy better accommodates the vulnerable status of unprotected contract workers who occupy the most marginal social positions in India.

As Anannya Bhattacharjee, President and Founder of GAWU and GATU, noted, “We do a lot of civil rights work, work on civic amenities, and cultural work. We are not just engaged in labor. We’re not

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<sup>33</sup> Interview, January 11, 2013

here to throw workers out of work. And we see unions [as] one aspect of organizing.”<sup>34</sup> In other words, these unions recognize that contract workers (and even many permanent workers today) are afraid of demonstrating, because they are afraid of losing their jobs. Therefore, these unions attempt to assist workers in improving their livelihoods not just at the workplace, but also in their civic and home lives. To do so, they often organize at workers’ homes.

At the same time, these unions engage activities similar to the traditional, politically-affiliated unions. Said Bhattacharjee, “Unions have a legal entity, which is important. And through them we fight for wages, freedom of association, sexual harassment, crèches, [elimination of] ‘wage theft’, nonpayment of wages, and forced overtime. There is no doubt a tendency toward bondedness in the garment sector.”<sup>35</sup> Like the traditional unions, they go to factory gates during tea breaks to organize workers. They also follow a similar bargaining strategy to traditional unions in that they first contact management with grievances, then the labor department, and then the labor court. Unlike the traditional unions, however, they also recruit workers at their place of residence. In fact, before approaching management, union organizers spend considerable time establishing personal relations with workers, training them, and visiting their homes. Because managers often threaten workers who visit GAWU with employment termination, GAWU often holds meetings in workers’ residential colonies.<sup>36</sup> This strategy is very significant, and different from that of traditional, politically-affiliated unions, because it enables independent unions to complement their civic and civil work with their labor organizing efforts. Finally, to collect information on the problems being faced, GAWU and the think-tank Society for Labor and Development gather data using the government program, Right to Information (RTI).

To distinguish their activities from traditional, politically-affiliated unions, Bhattacharjee explained, “The politically-affiliated unions mainly just provide legal services. For example, they help with the wrongful termination and reinstating contracts. But we try to get more to a state of power.”<sup>37</sup> To distinguish their activities from social service NGOs, Retu Singh, Treasurer of GAWU explained, “We are not an NGO. We don’t provide services. We fight. We need a union status.”<sup>38</sup>

In addition to their civic and factory-level efforts, these unions engage in political mobilizations designed to alter public policy. One important current campaign is the Asia Floor Wage campaign (led by Bhattacharjee), which seeks to win a continent-wide minimum wage of US\$475/month (in Purchasing Power Parity terms) for garment workers. Bhattacharjee (2009, 14) stated that as of 2009, the Asia Floor Wage Alliance included over 70 organizations in 17 countries in Asia, Europe, and North America—including trade unions and “labor and human rights organizations, development NGOs, women’s rights organizations, and academics.”<sup>39</sup> According to Bhattacharjee, the Asia Floor Wage is “aspirational.” She also supports other minimum wage campaigns, including the All-India General Strike for a common minimum wage in India, alongside traditional unions. Finally, unlike traditional unions, these unions also use brand pressure to campaign for buyers to bear some responsibility for the payment of minimum wages.

### *3.1.1. A note on Munnade*

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<sup>34</sup> Interview, January 3, 2013

<sup>35</sup> Interview, January 3, 2013.

<sup>36</sup> Interview with GAWU organizers January 11, 2013.

<sup>37</sup> Interview, January 3, 2013.

<sup>38</sup> Interview, January 11, 2013

<sup>39</sup> Interview, January 3, 2013.

Another union that appears to fit this category is Munnade (short for Garment Women Workers' Front). According to Jenkins (Forthcoming) Munnade is an organization of rural-to-urban migrant women garment workers in Bangalore, in the south Indian state of Karnataka. The women work in factories. The minimum wages offered to them formed a *ceiling* for their rates rather than a floor, and they faced other serious labor standards problems, as well as dealing with the combination of paid work and care-work duties. The organizers behind Munnade, who came from Cividep-India, a small labor rights NGO, first set up a self-help micro-savings organization for these women in order to keep a low profile. Having built the self-help organization, they used it to launch the independent, majority-women Garment and Textile Workers Union, which grew to over 2,000 members in 2009. Like GAWU and GATU, Munnade has won complaints for non-payment and demands for improved health and safety conditions. This example suggests that, as in Brazil, there are most likely a large number of similar localized cases across India.

### **4.3. Type 3: Independent unions for informal workers**

India is perhaps most unique for its third category of unions—independent unions that specifically *target informal workers only*. The first is the Self-Employed Women's Association (SEWA). The second such union that we discuss below is LERN/MKS (which is affiliated to the SEWA federation). We also briefly discuss the HomeNet alliance.

#### **4.3.1. SEWA**

The Self-Employed Women's Association (SEWA), India's leading organization of informal workers, has been registered as a trade union since 1972. In 2011, SEWA attained the status of a legally registered union *federation* (similar to AITUC and CITU).<sup>40</sup> Because its membership is comprised entirely of informal workers, its bargaining strategies are unique and differ from the vast majority of Indian unions, who primarily target formal workers and employ what I call "traditional models of collective bargaining."

SEWA counts over one million members in over 100 trades (Chen and Doane 2008). Chen and Doane (2008) profile home-based apparel workers in Ahmedabad, in Gujarat state. Home-based garment workers now make up 4% of SEWA members, 13% of urban members, and 23% of home-based workers within SEWA; their numbers have grown to the point where they now outnumber bidi workers in the membership. According to Agarwala's interviews in January 2013, men are also beginning to enter the home-based garments industry, because there is no other employment alternative.<sup>41</sup>

It is important to note that SEWA's home-based garment workers are *piece-rate workers who produce garments for the domestic market*. Unlike union types #1 and #2, SEWA does not organize workers (*even informal contract and piece-rate workers*) connected to export factories. "SEWA is never going to organize contract workers [for export factories]. This is beyond our focus. We organize the self-

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<sup>40</sup> A union federation is a central organization that has unions as members. In SEWA's case, its largest union member is the original union in Gujarat. In addition to SEWA-Gujarat, there are 6 other (smaller) SEWA unions in India. LERN/MKS is also a union member of the SEWA federation. SEWA attained federation status to increase its presence and power in international and national level policy decisions. SEWA was the first (and to date, the only) non-traditional union federation to attain this status. To attain union federation status, SEWA faced much resistance from traditional union federations and ultimately had to engage in a major legal battle. As a result of SEWA's efforts, the majority of existing union federations altered the rules to qualify for federation status to be more stringent. Now, to qualify for legal registration in India, a union federation must have legally registered union affiliates across 8 states in India.

<sup>41</sup> Interview with Zetunben, Home-based Workers' Field Coordinator, January 19, 2013.



employed [who produce for the domestic market].” declared Ela Bhatt, Founder and Chairperson of SEWA.<sup>42</sup> As Manali Shah, Head of the SEWA Union, further explained, “We thought about going to the workshops for export factories, and we tried it a bit. But it didn’t work.”<sup>43</sup> This focus has important implications for SEWA’s organizing strategy, which we detail below.

When SEWA first began organizing garment workers in the mid-1970s, women were picking up textile scraps from the mills and making cheap dresses or quilts that they would sell in local markets. When the mills began to close, however, the mill managers turned to the ready-made garments sector and became the owners of local wholesale and retail shops. These shops hired women to produce the ready-made garments in their homes. Because all the shops are small, they are not regulated under existing labor laws. In some slums, shop owners rely on sub-contractors to communicate with the home-based woman workers; in other slums, shop owners interact directly with the home-based women workers. In both cases, workers are given the cut cloth, and they must buy/rent their own sewing machine and tools (including scissors and thread). Each neighborhood specializes in a different set of clothing.

SEWA’s garment workers are primarily Muslim women. Within one family, several women across generations are engaged in garment production and are members of SEWA. Garment workers reside in slums in Ahmedabad. Most are first or second generation migrants who have settled in the slums of Ahmedabad. They own or rent a home in the slum. The relationship between workers, sub-contractors, and shop owners is complicated by the fact that they all reside in the same neighborhood, are often related, and are always part of the same community and kinship network.

#### SEWA’s bargaining strategy

SEWA has launched several extremely innovative strategies to meet the diverse and complicated needs of home-based garment workers. Underlying all their efforts is recognition of informal workers’ status as a permanent status. Like all unions, SEWA’s main contribution is empowering and educating workers to fight for their rights to dignified work. Unlike other unions, *SEWA does not fight to formalize informal workers. Rather, SEWA fights to improve work and livelihood conditions for workers within their informal labor status.*

#### Wages

Unlike union types #1 and #2, SEWA does not fight for traditional minimum wages based on time of work (i.e. rupees/month). Rather, they fight for minimum wages on a piece-rate basis (i.e. rupees/shirt made). As Manali Shah explained, “This is how women are paid on the home basis, so this is how we should determine the minimum wage.”<sup>44</sup> At present, SEWA works with employers to negotiate a minimum wage on piece-rate basis. Once an agreement is reached, they report it to the State Labor Commissioner. It is revised every 2 years. While this is indeed a major improvement, SEWA is simultaneously fighting for a policy-level minimum wage that can be more universal (across more employers and covering more products). SEWA is not yet part of the state-level minimum wage advisory committee, but they are part of the national-level minimum wage advisory committee.

In addition to organizing home-based women workers who sew garments, SEWA organizes women who transport garments from shop to shop and onto vehicles to transport outside of Gujarat. This work is

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<sup>42</sup> Interview, January 19, 2013

<sup>43</sup> Interview, January 20, 2013.

<sup>44</sup> Interview, January 20, 2013

done by carrying parcels on their heads or pulling handcarts. These women used to transport cloth, but now they transport only ready-made garments. In 2010-2011, SEWA's headloaders had a major strike in one of the largest cloth markets in Ahmedabad to demand a revised wage since products had changed from loose cloth to packed garments (which are heavier). Shop owners called SEWA to stop the strike, and they agreed to negotiate a new wage rate. In response, SEWA held a meeting in the courtyard of the market to publically recognize the employers' association and give each shopkeeper a shawl as a sign of their respect and their intention to establish constructive relations. Shah explained, "Industry workers need to work together. Currently, different areas have different wages, depending on the relationship we create with the employers."<sup>45</sup> SEWA is currently mapping all the cloth shops in Ahmedabad, so they can extend the wage to other areas.

In addition to fighting for piece-rate wages, SEWA ensures that all workers in an area are receiving the same wages. For headloaders, SEWA also fought to ensure that women and men headloaders received the same pay.

In general, the members Agarwala interviewed during the field visit reported that employers were indeed giving them their agreed upon wages. "The shop owners give us our money, and we can increase our wages more by coming together to increase our work. But we need pensions, health insurance, education scholarship, government identity cards," said Karunisa, a home-based garment worker and long-time SEWA member.<sup>46</sup> The headloaders Agarwala interviewed said their main complaint is that they don't have access to private space (because they work in the public space of the street). Their demands included a place to eat during the day and a place to go the bathroom. Their demands also include a home for the workers and their families to live in, because many members do not own a home.<sup>47</sup> SEWA leaders reiterated this point. Ela Bhatt, Founder of SEWA, said, "Minimum wages and these things are out. We need pensions and social security."<sup>48</sup> "Our members are receiving their wages due to our efforts. Wages are not our main problems. Our problems are different. Our members don't have full year employment and we need to improve their skills," explained Shah.<sup>49</sup> This trend is very similar to what researcher Agarwala has found and analyzed among informal workers in other industries (such as bidi and construction).

### Cooperatives

Perhaps SEWA's most interesting approach is its use of cooperatives. Cooperatives complement SEWA's union efforts against employers by giving informal workers an alternative source of income that draws from group-based support. Shah provided an illustration for garment workers:

*For the last three years, we were not able to increase our wages. Employers couldn't, or wouldn't do it. So we did it in another way. During the festival season, there is more work and more designs and they get more wages. But they have to buy their own raw materials. Therefore we said they should buy the raw materials in bulk. So we registered a cooperative, a Thread Facilitation Center, where SEWA buys raw materials in bulk and sell them back to our members. We used to have two shops, but now we only have one, because our shops put pressure on the other shops to decrease their*

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<sup>45</sup> Interview, January 20, 2013

<sup>46</sup> Interview, January 19, 2013

<sup>47</sup> Interview with headloader members, January 19, 2013

<sup>48</sup> Interview, January 19, 2013

<sup>49</sup> Interview, January 20, 2013

*prices! So eventually we just closed ours down. Therefore, wages couldn't increase but we did this to help our members increase their real incomes.*

SEWA has made similar such coops in various trades (including nurseries, wastepickers etc.). “When women used to collect textile scraps from the mills and sell them to shop-keepers [who would hire women to turn the scraps into cheap quilts and dresses]], we created a *chindi* (or scraps) cooperative that gave women higher rates for their scraps, explained Shah, “Other shop keepers were furious, and this made some women nervous. But one of our scrap-pickers, Karimaben, started the cooperative, and her brother was a shop owner. This gave others confidence to fight. Organizing is hard, but people get confidence by seeing each other.”<sup>50</sup>

#### Welfare boards

As detailed in Section 3 above, Welfare Boards are tripartite institutions that are implemented by the state or central government and are funded by governments, taxes on employers, and membership fees from workers. In return for being a member of a Board, workers are entitled to a variety of welfare benefits. Currently, Welfare Boards in India are occupationally based and benefits differ according to trade. Welfare Boards have become an increasingly popular protection mechanism among informal workers' organizations in India.

SEWA has fought for Welfare Boards for home-based garment sewers and self-employed headloaders. Because work environments differ between these trades, so too do the Welfare Board benefits. The headloaders welfare board provides medical and education materials. The garment sewers welfare board offers a sewing box with scissors, a table, and other tools; Rs. 1200 for medical needs; and skills training. In 2009, all self-employed workers were given identity cards from the Welfare Boards. Women members appeared most excited about this card. “The government now knows we are workers! This was a great learning for the Labor Department,” said member Zetunben.<sup>51</sup>

Said Shah, “Our approach is a campaign approach. Every three years we decide the most important issue. We decide on a long-term campaign and a short-term one. The Welfare Board was part of our short-term campaign. Welfare Boards give members *something*, and that gives them strength to fight for more. Our motto is: Take something and fight! Take something and fight! Take something and fight!”

#### Private company

In 2003, SEWA launched the Trade Facilitation Center (TFC), which is registered as a non-profit company where workers are shareholders. The TFC serves as a mediator between garment workers and buyers. Buyers place orders through TFC. TFC then provides workers with training on designs and sewing; they currently employ 40 stitchers and 100 paid staff. Many of the sewers are daughters of SEWA garment worker members. TFC has 56 machines. These women assemble the cloth in the TFC. Additionally, the TFC sends the cloth and a toolbox to their rural members to complete the embroidery (a local skill-based craft). “I was working with rural women members in agriculture and animal husbandry, and their main complaint was the lack of water. This was a problem for drinking, but also for income generation. So we tried to generate income from their embroidery,” explained Savita Patel, CEO of TFC.<sup>52</sup> The rural embroiderers are organized into 225 groups, totally 15,000 embroiders (7,000 are considered A-grade).

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<sup>50</sup> January 20, 2013

<sup>51</sup> Interview, January 19, 2013

<sup>52</sup> Interview, January 18, 2013

Today, TFC owns two retail shops in India. The majority of their products are sold through the retail shops and during exhibitions. They also complete some orders for domestic and foreign retail brands. TFC also conducts trainings for foreign garment workers.

#### 4.3.2. HomeNet

SEWA was the chief initiator of HomeNet, “the network of home-based workers of South Asia,” who are estimated at 50 million, 80% of them women (HomeNet 2012). HomeNet, officially launched in 2002 with the Kathmandu Declaration, groups 290 organizations across Bangladesh, Indian, Nepal, Pakistan, and South Asia. HomeNet India in particular includes 29 organizations in 13 states, with over 85 thousand members. HomeNet seeks to increase the visibility of home-based workers, advocate for national policies, strengthen grassroots organization of home-based workers, and develop networking across these organizations. HomeNet collaborates with other regional entities, such as the South Asian Association of Regional Cooperatives (SAARC), a business association of home-based workers. HomeNet’s website emphasizes efforts to bring organizing in other countries in the region up to the level of SEWA.

#### 4.3.3. LERN/MKS

The Labor Education and Research Network (LERN), based in Mumbai, was registered in 1998 as an NGO under the Indian Societies Act, to examine the concerns of informal workers. “At that time, we were trying to get NGOs to work together to understand the problems,” explained Sharit Bhowmik, founder and President of LERN.<sup>53</sup> Unlike unions, NGOs in India have the added advantage of being able to receive foreign funds. In 2009, LERN registered a sister trade union, called *Mahila Kamgar Sangatam (MKS)* or Women Workers Organization, under the Indian Trade Union Act. Today, MKS is a member of the SEWA Federation. LERN/MKS has also been active with HomeNet.

MKS is registered as a state-level union in Maharashtra. Currently, it has 6000 members in 5 regions of Maharashtra (including Nasik, Sholapur, Mumbai, and New Mumbai) and a few paid staff. Its members are restricted to women informal workers only. Sixty percent of the members are Muslim and “Other Backward Castes”—thereby indicating their very marginal status in the Indian social hierarchy. Many are migrants from the South Indian city of Chennai. All members live and work in the slums; half own their own homes, and the other half rent homes. In addition to organizing street vendors, domestic workers, service workers, microfactory workers, and rag pickers, MKS organizes home-based workers. Garment workers comprise a significant portion of the home-based workers; some male garment workers also work in microfactories.

MKS emerged to fill a deep void in organizing this invisible and highly marginalized population. “Before we came, they had religious and caste organizations. But no one organized as a worker,” said Bhowmik.<sup>54</sup>

#### LERN/MKS’s bargaining strategy

As Indira, a senior analyst at LERN, explained, “First we have to convince women that they are workers.”<sup>55</sup> Once they are convinced, they can then begin making demands as workers. *One of the*

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<sup>53</sup> Interview, January 17, 2013

<sup>54</sup> Interview, January 17, 2013

<sup>55</sup> Interview, January 17, 2013

*most important manifestations of this is the identity card.* This card certifies their status as an informal worker and is distinct from members' other identity cards, such as their voter identification card or their ration card for the public food distribution system. MKS helps them fill the paperwork to create a trade union identity and a ration card for the public food distribution system. Many members are denied the ration card, because they don't own their homes, or their slum shack is an unregistered address. MKS, however, as a registered union, can verify their members' addresses and help them attain the card. As researcher Agarwala has detailed elsewhere, getting an identity card is one of the most important benefits informal workers receive from organizing (Agarwala 2013). It not only gives them a state-sanctioned certification that they are indeed workers,<sup>56</sup> it helps them "enter the system," so they can then make further demands on the state. Women members that Agarwala spoke to in MKS reiterated that the identity card and the health camps were huge benefits for them. Some organizers said they want to create a specific garment union identity card, but this has not yet happened. Laxmi, an organizer at MKS, explained to Agarwala:

*Getting women to simply join the union was our first problem. We are workers! But we had to have multiple meetings to convince them that we deserve something. And we had to make our own organization, because unions would just remove us from their unions. Even after the work we did we were told we are just servants and women. But we should get as much respect as them. Our women didn't know anything, not even the alphabet. Now they can read and can grab their respect.<sup>57</sup>*

After getting an identity card, workers then mobilize to demand higher wages. In addition, if they learn that women are receiving different wages for different labels, they stop work until the wages are equalized. In terms of piece-rate work, MKS has convinced contractors to give workers half-pay for rejected pieces. Like the other types of unions, they agitate to cut the contractors and allow workers to interact directly with the principal employer. Interestingly, unlike the other 2 forms of unions, MKS never targets the Labor Commissioner for these demands. "There is no point going to the Commissioner, because the law does not apply to these workers," explained Bhowmik.<sup>58</sup> Instead, MKS targets the contractor for these demands. Contractors allow workers to interact with MKS, but they do not allow them to speak during the work hours. Therefore union meetings are held at night or on Sundays. However, making demands to the contractors has been difficult, since they are often connected to the workers through kinship networks.

Significantly, MKS also demands things for workers' communities (since the workplace is also their home). These demands include sanitation, healthcare, improved grain quality in the public distribution system. To make these demands, they have to interact with the state. But before going to the state, they hold several area-wide meetings in the slums where workers live to gather information on the problems. Like GAWU, they also collect information using the government's Right to Information Initiative (RTI).

Finally, MKS provides training for various trades. For example, for garments, MKS is training some members to improve their designing skills; for domestic workers, they are training them to make food for diabetics. Recently, some members did a financial training class at a local college (called Safai

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<sup>56</sup> The card does not qualify such workers for protection under the labor laws described above or entitles them to formal recognition from the employer. But it does give them recognition as workers from the state.

<sup>57</sup> Interview in MKS offices, January 17, 2013

<sup>58</sup> Interview, January 17, 2013

College); in return a group of college students came and did a study at MKS. MKS recently established a training center with 13 laptops on the second floor of their one room office (located in Dharavi, the largest slum in the world). They teach the women how to use computers, and they also provide training to members' children. Recently, they conducted a childcare training with the hope that those trainees can soon form a childcare center.

Bhowmik spoke of these services with mixed feelings:

*We are trying to convince the HomeNet folks that we need a trade union, not an NGO that just does service delivery. Service delivery can be a recruitment tool...sewing, training, healthcare—all this helps convince people to join when their husband says 'no'. But service delivery also makes members just expect goods and services, and if they don't get it, they complain that they haven't received anything from the union. Women stay with the union and continue to pay dues not because they receive something, but because of the group. The group makes them stronger.*<sup>59</sup>

#### **4.4. A note on type 4: NGOs**

Child labor in Indian rug-making came under scrutiny when the working conditions of children became an acute issue in the 1990s with the growth of human rights discourses. There were many government initiatives in the US and elsewhere to prohibit the import of goods produced by children; these came as a result of consumer outcry. As part of this trend, Rugmark emerged as the first organization started in India by Indians to introduce socially labeled goods. These movements targeted consumers to improve working conditions. The state was rarely involved. According to Seidman (2007), however, Rugmark's impact on child labor is debatable.

## **5. Conclusions**

The growth of India's textile and garment industry has *always relied on subcontracting and home-based work*. The presence of informal workers, therefore, is not a new aspect of this industry. Rather, what has changed since the birth of India's textile and garment industry during the 1800s to the present day is the *form and mission of textile and garment workers' unions*. Textile and garment workers' unions today are more aware than ever before of the entrenched nature of informal work and the need to launch innovative ways to organize informal workers.

Under colonialism and during the first decades after independence (until the 1980s), several, powerful, unions emerged to provide formal protections to textile mill workers. These unions were large and greatly benefitted from their affiliation to major political parties. These unions succeeded in attaining protections for a minority of workers that the employer formally and legally recognized; but employers continued to employ the vast majority of workers in the unregulated sector through unregistered powerlooms, contractor's workshops or at home. To save their declining membership, some of these very same unions are launching new efforts to organize formal *and* informal workers in the budding factories producing garments for export (detailed above as 'Type 1'). In the 1970s, new, independent organizations emerged to focus specifically on the home-based workers that were left out of the formal mill workers' unions (detailed above as "Type 3"). These associations (some of which became

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<sup>59</sup> Interview, January 17, 2013

recognized as unions) launched innovative strategies that organize home-based workers within their informal work status, rather than trying to formalize them. Since the 1990s, these organizations have not only proliferated, they have attained increased recognition and status by the Government of India and the international labor community. Finally, since the 2000s, a new set of independent unions has emerged to protect sub-contracted workers in export-oriented, garment factories. Unlike traditional unions, these unions are independent of political parties, and they offer innovative strategies that address informal workers' civil and labor rights (detailed above as "Type 2").

In sum, Indian unions and other worker organizations offer a diverse range of strategies to extend protections to informal workers, even in the current era of liberalization and globalization. Their efforts, however, have not yet reached scale, and they do not yet cover all informal workers (especially in the export sector). If the different forms of organizations for informal workers work together, we may witness a change in the future of labor movements in India.

### III. Chinese labor NGOs: A grassroots approach to the challenges of informality

#### 1. Introduction

Thirty years of economic reform have not only turned Mainland China into “the world’s factory,” but also have led to a tremendous shift in the employment structure. More and more Chinese workers, including apparel workers, are now being pushed into and kept in the informal labor market (Park & Cai 2011; Cooke 2008). The growing informal sector has negatively affected employment security in several ways. First, informalization has made it difficult for the government to enforce protective regulations for workers to ensure safe working environments. Second, an informal economy does not provide social insurance or benefits. In particular, rural migrant workers, one of the major populations that make up the informal economy’s worker population, have suffered from exploitative conditions of informal employment: low and unpaid wages, excessive overtime, no contracts, poor working conditions, exclusion from official trade union structures and lack of labor rights and social security protection. For instance, according to a ILO report drafted by Li Shi (2008), 79% of migrant workers had no signed contracts with their employers in 2004; over 80% of workers worked seven days per weeks; over 70% worked nine hours or more a day; and only 5% were covered by unemployment insurance. In response to a lack of support from the state or trade unions at various levels, alternative forms of labor organizing, namely labor-related nongovernmental organizations (labor NGOs), have emerged in China regardless of formidable challenges to their existence. With a particular focus on the Yangtze River Delta (YRD) Region, this report attempts to examine the role played by China’s labor NGOs in combating the negative impacts of increasing informalization. More specifically, we will examine whether or not grassroots labor NGOs can contribute to monitoring working conditions and defending workers’ rights and labor standards in the YRD. If so, then how?

Before we begin examining the role of labor NGOs in monitoring and enforcing labor standards in the garment sector, we will get a glimpse of the extent of informalization among textile and garment workers so as to better understand the background of labor NGO development in the region. By *informal*, we apply a version of the definition proposed by Gallagher, Lee and Kuruvilla (2011): “employment that is not stable or secure, that lacks a written agreement or contract, and that does not provide social insurance or benefits.” In other words, the term “informal labor” refers to those workers who: (1) lack a labor contract; (2) lack a labor contract and social insurance; (3) have labor contracts but on a short-term basis or without social insurance; or (4) are employed via employment agencies.<sup>60</sup> Thus, we argue that informal workers in China’s textile and apparel sectors usually refer to factory workers who are subcontracted and employed on a fixed short-term basis and those who toil in small workshops, family workshops or unregistered workshops.

This introduction continues with more detailed information on the context in which unions and labor NGOs operate; growth of subcontracted and home-based work; and the character of the textile and

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<sup>60</sup> These workers are commonly known as “*paiqiangong*,” or dispatch workers. As required by the Labor Contract Law of 2008, a labor dispatching company must comply with the Company Law and the registered capital must not be less than RMB two million. Labor dispatching is a common employment practice where workers enter into employment contracts with labor dispatching agencies (equivalent to temporary agencies in the US), and are then sent to another company. Dispatch workers are highly vulnerable to exploitation and infringement of labor rights due to unclear and under-specified legal obligations. They are usually not paid wages commensurate with their counterparts who are directly hired by host companies and their safety and health are not well protected.



garment industry. The remainder of this chapter is then divided into four sections. The first part will briefly describe our data collection procedures and highlight the significance of the study area. The second section will describe the spatial and social organization of production as well as the extent and nature of informalization in the garment and textile industries in the YRD. The third part will critically evaluate the effectiveness of government inspectors, trade unions and corporate codes of conducts in checking misbehavior of garment enterprises and protesting interests of garment workers. Lastly, we will provide a summary of the existing labor NGOs in the YRD and then take a more critical look at the work of the organization ABC (name withheld), the first and only NGO experiment initiated by garment workers in the region, and their impact on the regulatory regime. While ABC supports not just garment workers but more broadly migrant workers, we believe that it is an important institution to examine as it demonstrates the limitations labor NGOs face in labor law enforcement and monitoring.

### **1.1. Labor organizing in China**

To help gain a more clear perspective of our field work and survey results, it is important to set the overall context of worker organizing and unions in China. The conditions in which Chinese workers' organizations operate are much different than in Brazil, South Africa and India. The All-China Federation of Trade Unions (ACFTU), the one and only trade union federation in the country (Domoney 2007), is closely linked to the Communist Party of China and the state. Indeed, unions in China, rather than being independent, function as an appendage of government or of private employers (Yang 2006). In almost every case, enterprise management controls both the appointment of union committee members and the financial capacity of the union (Chan 2012). Some local governments have adopted policies to the contrary. According to the Guangzhou municipal government's "Methods for Enforcing the Trade Union Law" approved in 2007, the chairperson of a company trade union cannot be a manager, and similarly, in Shenzhen city, the "Implementing Regulations" specify that top management should not hold union committee positions. In many state and non-state firms, however, union leaders are concurrently board directors, personnel department heads or senior managers who normally stand with management rather than with workers (Tong 2012). Within this subservient structure, the workplace union branches are worse than weak. They almost invariably take a pro-management stance in mediation and pre-empt workers' organizing efforts. Thus, they cannot represent the interest of the workers and no collective bargaining can take place (Yang 2006, 28). Strikes, although neither formally forbidden nor allowed by law, in practice are frequently repressed (Cornell University 2000 and Chen 2004 via Domoney 2007, 4).

Labor NGOs attempt to address worker concerns, but NGOs are difficult to establish with government recognition. The most significant challenge is the registration system. This system is known as the "dual management." Under this system, organizations are required to obtain the sponsorship of a "professional leading agency" such as a government ministry or provincial government agency first, and then seek registration and approval from the Ministry of Civil Affairs or a local civil affairs bureau. This is very difficult for a NGO to do, thus leading many to register as business or commercial entities. As commercial entities, NGOs do not have the official endorsement of the government as they would if they were registered as social organizations, thus are more susceptible to government scrutiny and can be easily shut down.

Furthermore, labor NGOs largely focus on a broader group of workers (often migrant workers as a whole), rather than on workers within a specific sector. They aim to improve the overall conditions for workers through services and advocacy and help them build a community, as opposed to strictly addressing labor rights issues and actively organizing workers. This strategy is less antagonistic to the government's stance on worker organizing and helps labor NGOs keep their doors open.

Generally, the development of labor NGOS can be divided roughly into three phases (Xin 2012):

1. 1996-2003: Labor NGOs first emerged as an alternative form of labor organizing in the Pearl River Delta (PRD) in China's southeast region, with some external help especially from Hong Kong;
2. 2004-2007: Labor NGOs mushroomed in the PRD and gradually developed in the Greater Shanghai area and Beijing when deeper capital-labor conflicts observed. Migrant workers themselves began to fight for their own rights and interests;
3. 2008-2012: The state has imposed stricter control or co-optation of labor NGOs, favoring those organizations that provide social services rather than direct advocacy or organizing. About ten pro-labor rights NGOs in Shenzhen were suppressed and forced to close their workers' centers in the first half of 2012. Labor NGOS have been strictly monitored and subject to differential treatment, resulting in each NGO focusing on distinct campaigns and reducing cooperation.

Thus, labor NGOs originated in the PRD and only recently spread to the north. PRD-based NGOs typically provide a mix of social services, worker education, and outright advocacy for workers' rights (including campaigns to receive unpaid wages, ensure that minimum wage and overtime are paid, and rectify workplace safety problems, sometimes bringing Hong Kong-based and even global advocacy to bear). The degree to which labor NGOs actually organize workers is variable but on the whole limited, since the Chinese authorities tend to be suspicious of independent worker organizations outside the official union structure (Xin 2012; Zhao 2012). Labor NGOs in the PRD have at times been involved in worker protests and even strikes, but this kind of activism is exceptional, not ongoing.

Some researchers hold pessimistic views of the role of China's labor NGOs in facilitating independent labor movement. For instance, Lee and Shen (2011) criticized some labor NGOs in PRD and Beijing for being co-opted and trapped by state patronage. Despite their potential for the nurturing of workers' self-organizing capacity or democratic citizenship, many labor NGOs confirmed their roles as government liaisons and undermined worker solidarity through their activities, Lee and Shen argued. Some labor NGOs "endorse only a strictly legalistic means of rights protection," which protects the rights that are only mentioned in the labor law and condemn collective action as illegal behavior (Lee and Shen 2011). On the other hand, there are NGOs that aim to serve the needs of migrant workers through cultural and entertainment activities that facilitate their integration into the host community instead of advocating for their rights (*ibid*). In addition, Froissart (2011) argued that while migrant workers were more aware of their rights and were granted greater negotiation and bargaining abilities through legal workshops offered by such NGOs, negotiation and mediation rather than confrontation were preferred by the pragmatic labor NGOs. These institutions serve as channels for addressing social tensions and public discontent through indirect means and limited mobilization of workers. Froissart identifies this as a "slight correction of inequality and peripheral systemic changes," (2011, 25) which helps promote stability and durability of the regime. In terms of the advocacy by labor NGOs, a typical example is the ongoing campaign by Students and Scholars Against Corporate Misbehavior (SACOM), a Hong Kong based labor NGO. SACOM has pressured Apple supplier Foxconn to improve safety conditions and adopt more humane work schedules (SACOM 2013a).

Even within the PRD, where authorities tend to be more tolerant, the victories of labor NGOs are typically limited—e.g. gaining unpaid back wages or overtime pay. However, their presence as observers and critical voices alongside more independent-minded unions and some regional officials

who lean in favor of workers' rights, have created a general environment in the PRD in which terms and conditions of employment have somewhat improved. Labor NGOs outside the PRD are in general less outspoken and have an even more limited record of accomplishment.

Little is known about labor NGOs that serve garment workers in particular (though certainly some NGOs do address their issues; a current campaign by SACOM and others targets hazardous sandblasting of denim in jean production [SACOM 2013b]). To our knowledge, findings from our fieldwork in the YRD represent the first such examination.<sup>61</sup>

## **1.2. The rise of informal and subcontracted work**

The structural reforms that began in the 1970s have transformed the Chinese economy and have had an impact on the working conditions and labor rights of the new working class. The Chinese working class has been remade through decollectivization, industrial privatization and export-oriented industrialization (Andreas 2012). This new working class is composed of the urban poor, who have suffered from the breakdown of the “iron rice bowl” system (the earlier socialist set of guarantees of income, services, and social security), and the rural migrant workers who have become the second generation of *dagongzai/mei*, internal migrant workers. Industries such as construction, garment and textiles rely heavily on rural migrants, who are often exploited due to Chinese migration and labor laws. Under China's *hukou* (local registration) laws, migrants officially remain residents of their rural regions of origin, entitled to social benefits only in those regions and not in the cities where they currently reside. This restrictive “rural citizenship” is passed down from parent to child, so even the second generation (and potentially later generations as well) born in the cities of rural parents lacks—even in adulthood—the right to schooling, health care, and other basic services.<sup>62</sup>

In China's new capital-labor relations, informalization and casualization are two major processes that occur throughout the labor market, regardless of the nature of the companies (foreign-invested companies, joint ventures, private companies or state-owned enterprises) and irrespective of industry or sector. This means that manufacturing, service and construction sectors are all using informal laborers as well as formal ones. Flexible employment, lack of written employment contracts, and absence of social insurance were often the norm in the 1980s and 1990s. China's initial Labor Law, implemented in 1995 (Ministry of Commerce 2007), laid out basic rights for all employees including the right to a written contract and other basic provisions regarding compensation, benefits, collective bargaining, and access to social insurance. It included provisions for regional minimum wages and a

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<sup>61</sup> Indeed existing literature mainly investigates the state-society relations and examine whether the development of labor NGOs indicates the growth of civil society in a libertarian sense. Thus, most of them only regard grassroots labor NGOs as entities serving migrant workers as a whole, but not conducting a thorough analysis of their constituents and impacts on labor standards.

<sup>62</sup> The *hukou* system was first introduced in 1955 to cope with demographic pressures in the course of rapid industrialization. Under the *hukou* system, the majority of rural population was confined to the countryside and entitled to few rights and benefits that the state conferred on urban residents, such as housing and educational opportunities for children. The *hukou* system served as an important mechanism in distributing resources and determining life chances in China. As suggested by Wu and Treiman (2007), *hukou* status can be viewed primarily as an ascriptive attribute, since it is assigned at birth on the basis of the mother's registration status. Those whose mothers have urban status automatically acquire the same status themselves. Mothers who have rural status must compete for urban status through very limited channels. In other words, the child with non-local *hukou* could not enjoy services delivered by the local government even though they might be born in the city.

labor inspection system.<sup>63</sup> But the Labor Law had little effect on actual employment practices. However, with the introduction of the Labor Contract Law (reinforcing the requirement of written contracts with all employees, mandating key benefits, and establishing a path to permanent employment<sup>64</sup>) in 2008, there has been substantial progress in providing written contracts, social insurance, and in general regularizing employment in the manufacturing sector, including the garment sector—though to a lesser extent. Manufacturing has experienced progress largely because so much of the sector is comprised of formal factories, in which workers have some coverage under labor laws. We emphasize that both the Labor Law and the Labor Contract Law apply to *all* employees, regardless of the size of the enterprises or the site of work (subcontracted and home-based employees are included).

The recent literature on work informalization in China sheds added light on the changing institutional and economic environment shaping subcontracted work in the textile and clothing sector. *From Iron Rice Bowl to Informalization: Markets, Workers, and the State in a Changing China* (2011) raises an intriguing issue observed in China's official statistics. There is a substantial group of "missing workers" who are actually rural migrants working in various informal sectors—surely including garment manufacturing, though perforce the lack of statistics makes it difficult to estimate the size of this or any other group. With regard to the effect of legislation, Gallagher and Dong (2011) suggest that despite the significant increase in workers' protections offered by the law, the manner of implementation and enforcement are weakening the overall impact of the new Labor Contract Law and other labor protection laws. This reflects internal disagreements between the central and local governments. The adoption of the new Labor Contract Law coincided, unfortunately, with the onset of the global financial crisis. Hence, there has been less central government support for legislation that can increase employers' operating costs. Local governments in coastal manufacturing centers have already taken their own regulatory measures that aim to dilute the impact of the law on local economies. These observations enable us to understand the changes in the nature of the market and the state at a time when the Chinese economy is highly governed by the global capitalist logic.

Cooke (2008) identifies how Chinese workers engage in informal employment. She claims that informal workers can be found in three types of organizations: (1) organizations operating in the formal sector; (2) organizations operating in the informal sector; and (3) loosely formed informal employment organizations. In other words, informal employment in China incorporates non full-time, temporary, seasonal and casual work in the informal sector; full-time temporary work in formal organization; self-employment; and those employed by the self-employed. Our field research shows that subcontracted clothing and textile workers occupy all three of these spaces. Cooke (2008) suggests that the proportion of workers in informal employment is relatively low in the state-monopolized industries and monopoly service industries such as telecommunication and finance, but is much higher in competitive industries that are labor intensive such as retail, catering and community services. With the expansion of

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<sup>63</sup> Article 3 gives a sense of the scope and generality of the law: "Laborers have the right to be employed on an equal basis, choose occupations, obtain remunerations for labor, take rests, have holidays and leaves, receive labor safety and sanitation protection, get training in professional skills, enjoy social insurance and welfare treatment, and submit applications for settlement of labor disputes, and other labor rights stipulated by law."

<sup>64</sup> The Labor Contract Law, which applies to all employees, among other provisions: imposes significant penalties for failure to provide a written contract; mandates automatic transition to open-ended employment for those who have completed two fixed-term contracts or ten years of work with an employer; requires minimum standards such as minimum wage and overtime; and places restrictions on termination and adds severance pay requirements (Troutman and Sanders LLP, n.d.). Though compliance is uneven, the Law appears to have led to an increase in written contracts as well as an increase in formal complaints by employees to arbitration panels and courts (Becker and Elfstrom 2010).

subcontracting in apparel, this sector has gravitated toward the latter profile. Again, our field research confirms (for one region) that following the expansion of the private sector in smaller cities and towns in inland China, informal employment has become a major mode of employment. Cooke then argues that the majority of informal workers will continue to be disadvantaged owing to: (1) the fact that private employment agencies function as labor subcontractors facilitating the avoidance of labor regulations; (2) the absence of a social security system for workers in informal employment; and (3) the lack of effective enforcement of employment related regulations.

Generally speaking, informal laborers in China, though in many cases nominally covered by labor laws, are largely unprotected by the state and seriously lacking in organization. With the uneven implementation of the Labor Contract Law, the emergence of a two-tier labor market across sectors is witnessed, evidenced by the growing percentage of dispatch workers (workers hired through an employment agency) used in firms and the rising incidence of capital-labor conflicts that accompany the informalization process.

## **2. Data collection**

### ***2.1. Choice of study area***

Our fieldwork was conducted in the Yangtze River Delta (YRD) Region of Eastern China. The YRD is China's industrial heartland that encompasses Shanghai municipality, southern Jiangsu and northern Zhejiang Province (Figure V.2.1). There are many reasons for choosing this region as the field study site.

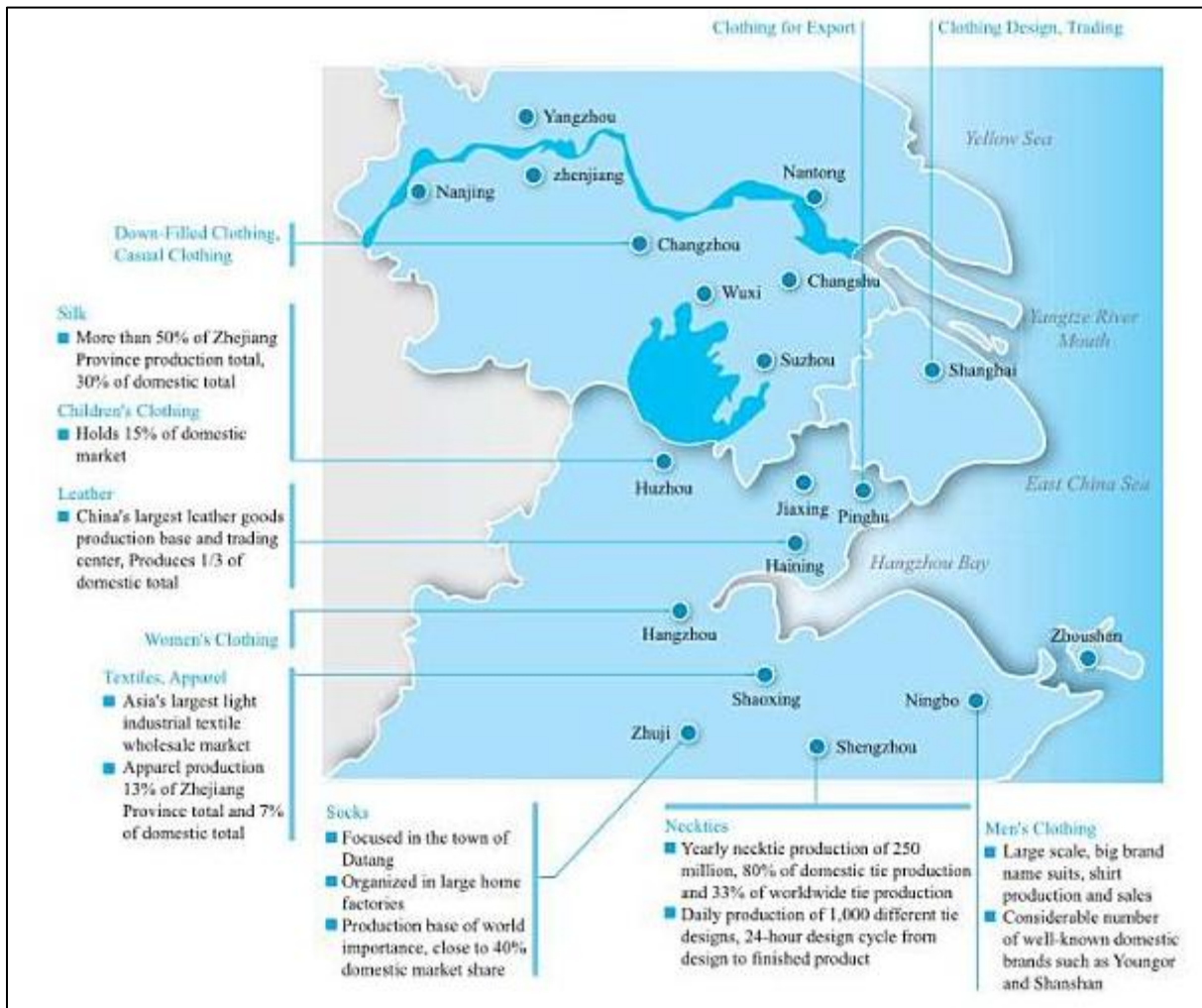
First, the YRD is one of the major textile and apparel manufacturers and exporters in Mainland China. In 2012, garment manufacturers in Jiangsu, Zhejiang and Shanghai produced yearly 3949.81, 3654.74 and 504.41 million pieces of clothing, ranking second, third and fourteenth, respectively (Table V.2.1). Overall, garment enterprises and workshops in the YRD contributed about one-third of China's annual volume of garment production.

Secondly, the apparel industry in the region has been well developed, exhibiting a high degree of specialization and division of labor among enterprises. As shown in Figure V.2.1, the industrial cities and towns in the YRD specialize in manufacturing different types of apparel. For instance, Pinghu mainly produces clothing for export, Huzhou specializes in making children's clothing and Hangzhou focuses on producing women's clothing. In addition, the region has experienced heightened efficiency brought about by a complex division of labor among enterprises. For example, there are more than 3,000 enterprises in the industrial cluster of Zhuji that solely produces socks. Most of them are small- and medium-sized factories specializing in different segments of sock production (Li & Fung Research Centre 2010). In short, the region is populated by diverse garment production units, which vary in size and output type. A more comprehensive picture of the process of informalization can be depicted, as the survey samples are not limited to a specific type of manufacturer.

Last but not least, studying informal worker organizing in the YRD will fill a major vacuum in existing literature. Being one of the major economic hubs and new export-oriented industrial zones in China, the YRD has become a major host region for Chinese migrant workers. However, labor NGOs are not given their due weight in research. Most research focuses on labor organizing in the Pearl River Delta Region (PRD), located in Guangdong province, not the YRD. For example, the research carried out by Deng and Wang (2004) and Yue and Qu (2007) respectively on Panyu Dagongzu Wenshuchulibu (Panyu

Workers' Service Centre), a migrant workers' NGO in Panyu, Guangdong China, summarized the activities and services provided by the center. These activities and services include the provision of legal aid, cultural and entertainment services, offering occupational safety and health education, and the promotion of corporate social responsibility. Similarly, Huang (2006, 2012) discusses in his research legal consultancies, advocacy, training courses on various issues, cultural activities and occupational safety and health education as major functions of labor NGOs in the PRD. Our research attempts to supplement the inadequacy of past research and aims to provide a preliminary analysis of the role played by the YRD's labor NGOs in monitoring and enforcing labor standards, supported by fieldwork on one particular labor NGO.

**Figure V.2.1.** Spatial specializations of textile and apparel industry in the Yangtze River Delta Region



Source: China Industrial Map Editorial Committee (2006, 26)

The trend in garment manufacturing is to build factories in smaller cities, towns or even villages, in order to lower the cost of labor and fixed assets. As a result, only a few sizeable garment factories still exist in Shanghai City, except trading companies and retailers' sourcing offices.<sup>65</sup> We selected several towns and

<sup>65</sup> Trading companies, which are usually based in Shanghai, have played a significant role in the flow of manufacturing orders. Indeed, the YRD's garment enterprises rarely have direct contact with their foreign

cities in the YRD for our research including the Shanghai City Proper, Changzhou, Hangzhou, Pinghu, Huzhou and Ningbo.

**Table V.2.1.** Total number of garment pieces produced in China in 2012 (By Province/ Municipality)

Province/ Municipality	Pieces of Clothing (Million)		
	Dec 2012	Jan - Dec 2012	Jan - Dec 2012 (Percentage)
Guangdong	518.77	5371.84	20.10%
<b>Jiangsu</b>	<b>365.02</b>	<b>3949.81</b>	<b>14.78%</b>
<b>Zhejiang</b>	<b>361.82</b>	<b>3654.74</b>	<b>13.67%</b>
Shandong	356.62	3604.65	13.49%
Fujian	312.71	3293.91	12.32%
Jiangxi	129.63	1193.31	4.46%
Hubei	105.96	987.59	3.69%
Anhui	78.24	806.95	3.02%
Henan	76.84	758.17	2.84%
Hebei	63.59	697.30	2.61%
Liaoning	40.28	621.84	2.33%
<b>Shanghai</b>	<b>44.43</b>	<b>504.41</b>	<b>1.89%</b>
Hunan	29.38	264.97	0.99%
<b>Total</b>	<b>2570</b>	<b>26728</b>	<b>100%</b>

Source: Zhongguo Chanye Xunxiwang (2013)

## 2.2. Methodology

In this research, the main data collection methods applied include questionnaire surveys, in-depth interviews and secondary data analysis. Between March and August 2012 and in January 2013 we conducted a survey of garment workers. The purpose of the survey was to analyze garment workers' living and working conditions and the extent of informalization in the region. We collected information from a total of 357 workers with the assistance of several graduate students of Peking University and local scholars. Among the respondents are 223 workshop workers and 134 are factory workers.<sup>66</sup> We applied a convenience sampling method because no sampling frame was available.

There are two major ways to approach factory worker samples: waiting at entrances of factories and asking workers to fill in the questionnaires; and seeking factory managers' assistance. We chose to seek factory managers' assistance to provide access to workers on factory grounds. Most of them allowed us to enter into worksites and pick respondents ourselves while only a few selected the pool of potential interviewees for us. Although the management helped arrange access to interviewees, our respondents

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customers. They usually obtain manufacturing orders for international apparel brands from Shanghai's trading companies. Acting as independent domestic middlemen, the trading companies usually assume the responsibility for moving clothing overseas. Thus, strictly speaking, YRD manufacturers principally use domestic channels to obtain production orders and distribute garments abroad because there are no dealings abroad with a foreign customer.

<sup>66</sup> Factory workers are directly employed by bigger (more than 50 employees) and registered garment production units. Workshop workers are those who work in family workshops or unregistered workshops. Each workshop usually comprises fewer than ten workers.

felt free to fill out the questionnaires outside the presence of the managers. They were provided a questionnaire that contained 124 questions and were asked to fill out the questionnaire on their own immediately with the assistance of the researchers. The topics covered by the survey included, but were not limited to, family background and migration status; conditions of work and employment; living conditions and entitlements; and labor organization and collective action. Workshop worker samples were collected during our visits to urban villages in the YRD wherein family workshops and unregistered workshops cluster together. Due to the limitations of convenience sampling, we could not make any generalizations about the total population from our samples.

The research team also conducted in-depth interviews with frontline workers, factory owners and managers in July 2012 and January 2013 to obtain a deeper understanding of the labor process, employment practices, and spatial and social organization of production in the region. In total, we studied 34 textile and apparel enterprises in the region, approaching them through our personal networks and assistance of local scholars in Shanghai.

In order to explore informal worker organizing and its impacts on labor standards in the region, the research team conducted a thorough case study in January 2013 of ABC (name withheld), a labor NGO. ABC is the first and only labor NGO founded by garment workers in the region that is committed to defending labor rights. In the field study, we interviewed the founder, three full-time staff members and eight core members to gain a comprehensive picture of daily operations, the decision-making process and mobilization strategies of the organization. With the help of ABC's staff, the local trade union cadre and official labor inspector were also interviewed, so as to examine the partnership between the organization and external parties. We also briefly examine other labor NGOs in the YRD and their impact on improving labor conditions and monitoring.

### **3. Labor protections for garment workers under Chinese labor laws**

#### ***3.1. Protection offered by Chinese labor laws***

The Labor Law of 1994 and the Labor Contract Law of 2008 are two major laws regarding labor standards. The Labor Law of 1994 is the first comprehensive labor standards law in Mainland China. It covers minimum wage, child labor, working hours, protection of women, collective contracts, rest and vacation, the settlement of labor disputes, the role of trade unions, labor protection, labor inspection system and many other areas. The major aspects of the Labor Law of 1994 are summarized in Table V.3.1, below.

The Labor Contract Law defines requirements of employment contracts and informs both employers and workers of their rights and obligations. It is the first national law governing employment contracts (Wang 2009). The Labor Contract Law aimed to increase worker protection in response to China's capitalist-style economic growth. For instance, Article 14 of the Labor Contract Law mandates open-ended contracts after two fixed-term contracts, which makes the termination of workers much more difficult.<sup>67</sup> In addition, layoffs have become more difficult in terms of new procedural requirements involving the trade union and local authorities. The amendment of the Labor Contract Law, which went into effect on 1<sup>st</sup> July 2013, further improves protection of dispatch workers. The amendment requires employers to hire the majority of their workers directly and strictly controls the number of dispatch

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<sup>67</sup> Open-term employment contract is a contract for which the employer and the employee have agreed not to stipulate a definite ending date.



workers. Moreover, the law clearly states that “equal pay for equal work” requires employers to compensate dispatch employees in the same manner as direct-hire employees who hold similar positions.

**Table V.3.1.** *Key areas of labor protections offered by the Labor Law of 1994*

<i>Overtime Pay</i>	<ul style="list-style-type: none"> <li>• 1.5x for over 44 hours per week</li> <li>• 2x for weekends</li> <li>• 3x for national holidays</li> </ul>
<i>Maternity Leave</i>	<ul style="list-style-type: none"> <li>• Paid leave for at least 3 months</li> <li>• A half hour breast feeding time, up to twice during working hours</li> </ul>
<i>Holidays</i>	<ul style="list-style-type: none"> <li>• Shall arrange rests for workers during 11 days of official national holidays including the New Year Day, the Spring Festival, the International Labor Day and the National Day, etc.</li> </ul>
<i>Employment Involvement</i>	<ul style="list-style-type: none"> <li>• Worker’s Congress for state-owned enterprises, but not required for private enterprises</li> </ul>
<i>Labor Disputes</i>	<ul style="list-style-type: none"> <li>• No right to strike</li> <li>• Mandatory arbitration before taking legal actions</li> </ul>
<i>Wages</i>	<ul style="list-style-type: none"> <li>• System of guaranteed minimum wages</li> <li>• Specific standards on minimum wages shall be stipulated by provincial people’s governments</li> </ul>
<i>Social Insurance</i>	<ul style="list-style-type: none"> <li>• All employees shall be covered by social insurance schemes</li> </ul>
<i>Supervision and Inspection</i>	<ul style="list-style-type: none"> <li>• The labor administrative departments at or above the county level shall supervise and inspect efforts by the employer to abide by laws and regulations, and have the power to stop any behavior that runs counter to labor laws and regulations and order correction.</li> <li>• The supervisors of the labor administrative departments shall have the right to go to the employer to make investigations about the employers’ implementation of labor laws and regulations, consult data they deem necessary, and inspect labor sites.</li> </ul>
<i>Child Labor</i>	<ul style="list-style-type: none"> <li>• Legal working age is 16</li> </ul>

### **3.2. Coverage of labor laws**

According to Article 2 of the Labor Law of 1994, the law “applies to enterprises, individually-owned economic organizations (hereinafter referred to as the employer) and laborers who form a labor relationship with them within the boundary of the People’s Republic of China.” The labor laws cover those entities, which (i) comply with the legal definitions of “laborer” and “employer”; and (ii) get involved in provable employer-employee relations. In other words, labor standards set by this law do not apply to workers who are employed illegally. Illegal workers are among the groups excluded from both labor law and labor statistics, along with juveniles under the age of 16, family labor in home-based units and undocumented foreign workers. Significantly, the category of “illegal workers” also includes workers who are employed by unregistered economic organizations. Thus, the availability of evidence(s) for a valid employer-employee relation (e.g. having a copy of written employment contract) is important to determine whether or not workers are protected by Chinese labor laws.

Although China's labor laws do not cover garment workers who work for unregistered manufacturing units, this does not mean that state labor inspectors do not have jurisdiction in the unregistered sector. Some of the articles of the Labor Law of 1994 give the state inspectors powers to investigate issues in workshops. For instance, Articles 5, 6 and 7 of the Labor Law of 1994 enable state inspectors to monitor labor safety and sanitation, check against the use of child labor and wage arrears in all workplaces, regardless of the non-existence of evidence proving an employer-employee relationship.

#### **4. Spatial and social organization of production**

In this section, we will briefly describe how work is structured in the textile and apparel industries and workers' living and working conditions in the YRD. According to the surveys we conducted in July 2012 and January 2013, there are several crucial differences in labor standards between garment workers in the region. This depends on whether they are hired by large factories as core or contract workers, or hired by small garment workshops. Thus, our analysis will consider the labor process and standards in the industry separately for the two groups (factory workers and workshop workers). Their living and working conditions will be briefly described and compared thereafter.

##### **4.1. Work structure**

###### *4.1.1. Technologies*

Facing fierce competition from other less developed countries in low-end product markets, the garment enterprises in the region have been forced to innovate and adopt new technologies in order to raise productivity (China National Garment Association 2012). For instance, computer-aid design (CAD) system has been widely used in the YRD's garment sector. Its usage has reached 100% among "enterprises above designated size."<sup>68</sup> Computer-aided manufacturing (CAM), for example taking the form of auto-cutting machines, is also increasingly used due to the problems of labor shortage and soaring labor costs.<sup>69</sup> It is estimated that the use of CAM will increase to 15% in 2015. In addition, advanced sewing technologies have been introduced into established enterprises in the region. The production by sewing machines with electronically controlled functions has rocketed by over 40% and flexible manufacturing systems (FMS) were also used in about 2,000 production lines in the year 2011. In contrast to enterprises above designated size, small factories and home-based workshops lack capital to invest in new machinery or technological innovations from abroad. They have no choice but to use simple domestic machines doing low value-added manufacturing tasks.

###### *4.1.2. Firm Sizes*

There are no official statistics on average firm size in the region. The National Bureau of Statistics of China only reports on "enterprises above designated size." Hence, the official statistics exclude data on small and medium-sized garment enterprises (SMEs), as well as home-based workshops. As shown in Table V.4.1, there are 4,162 enterprises counted in the Yangtze River Delta, larger numbers in outlying

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<sup>68</sup> "Enterprises above designated" size is a statistical term used by the National Bureau of Statistics of China. The term refers to industrial enterprises with annual sales revenues of RMB 20 million (about \$3.2 million) or above.

<sup>69</sup> In recent years, the development of the textile and garment industry has encountered a bottleneck brought about by the soaring labor costs, which could be attributed to the population structure of China. Although the number of people in the labor force is increasing, there has been a decrease in the ratio of young people. As export-oriented factories in China's Sunbelt tend to hire young migrant workers from rural areas, the salary levels of frontline workers have increased sharply with the worsening shortage of young workers.

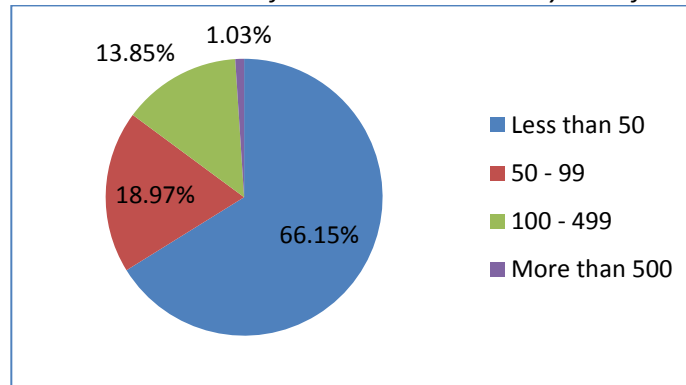
Jiangsu and Zhejiang Provinces and the smallest number in Shanghai proper. They have assets totalling RMB 350 billion (1 RMB is currently equivalent to 0.16 USD) and employ 136 thousand people (out of China's total apparel employment of 334 thousand, in larger enterprises). On average, an enterprise above designated size in the region has about 310 employees and assets of RMB 86 million. The figures show that the YRD's apparel enterprises have a scale larger than an average Chinese firm.

**Table V.4.1.** Economic indicators of apparel enterprises above designated size in Shanghai, Zhejiang and Jiangsu Provinces and the Yangtze River Delta as a whole

	Number of Enterprises	Employees (10000 persons)	Gross Output Value of Industry (RMB 100 million)	Total Assets (RMB 1000 million)	Average Number of Employees	Average Assets (RMB 1 million)
Shanghai	430	11.50	440.35	395.67	267.44	920.16
Zhejiang	1499	47.25	1468.37	1417.87	315.21	945.88
Jiangsu	2233	77.44	3033.92	1763.00	346.79	789.52
YRD	4162	136.19	4942.64	3576.54	309.81	859.332
<b>China</b>	<b>11168</b>	<b>334</b>	<b>13823.77</b>	<b>7369.71</b>	<b>299.07</b>	<b>659.90</b>

Source: National Bureau of Statistics of China (2012), China National Garment Association (2012)

**Figure V.4.1.** Distribution of workers interviewed by size of enterprise



With regards to SMEs and home-based workshops, we can only get a preliminary and non-conclusive estimate of their scale. This is due to a lack of large-scale surveys of manufacturing units with annual sales revenues below RMB 20 million. In the survey we conducted in 2012 and 2013, most workers came from SMEs and home-based workshops. Figure V.4.1 shows the distribution of workers by size of their garment-manufacturing units from our survey. More than 65% of respondents work at small-scale workshops, which employ less than 50 workers, and about one-fifth of workers are at firms with an employment size of 50-99. In contrast, large-sized enterprises are relatively rare in our sample. Only 2 of the 195 respondents who gave a valid response to the firm size question work at large garment enterprises that have more than 500 workers.

#### 4.1.3. Contracting relationship

Manufacturing orders received by garment production units in the region have to pass through several steps, including but not limited to trading companies, first and second tier factories, small home-based units and home workers. Figure V.4.2 is a simple visualization of the apparel supply chain we found in YRD. It depicts the contracting relationship between the four tiers of garment manufacturing units, retailers and middlemen. It is noted that a model with four tiers of manufacturers shown in the figure

does not simply imply that every order has to pass through the same chain. Indeed, the length of the supply chain varies according to different sizes and types of orders. Longer chains are generally found in large export orders, which usually come from global brands, while smaller export orders and domestic production have smaller chains. The latter type may begin in tier 2, 3 or 4 depending on the size of orders.

The first tier is the manufacturer contracted to make the garments. They are large-scale manufacturers, also known as enterprises above designated size, which obtain manufacturing orders indirectly from trading companies or directly from sourcing offices of larger brands. Some tier one factories are wholly controlled subsidiaries of larger brands or partially owned joint ventures, and thus they do not need to compete for orders. The large manufacturers (contractors) at tier one usually have up to three vertical tiers below them and many manufacturing units form horizontal chains at each tier. In other words, the structure of the supply chain is rather similar to a pyramid: the higher the level of tier, the fewer manufacturing units there are.

First tier manufacturers may further subcontract to a number of smaller locally owned garment factories and subsidiary plants in neighboring industrial towns in the region thus, forming the second tier supply chain. Most of the second tier manufacturers are middle-sized factories that employ more than 50 workers. They are usually long term sub-contractors of tier one manufacturers.

Tracing down the chain to the third tier production units, we find that they are small garment workshops that the second tier manufacturers subcontract to when the orders cannot be finished on time. They are small-scale factories or workshops that are found in the same neighborhoods as the second tier factories, but with less infrastructure, and sometimes based in homes. Due to relatively outdated machinery used in tier three workshops, they usually take up simple production processes for domestic orders and seldom manufacture garments for larger brands.<sup>70</sup>

The third tier workshops further subcontract to even smaller home-based workshops that employ ten workers or fewer workers. These fourth tier subcontractors are unregistered business entities that do not pay taxes and use electricity at the lower price for household consumers. These workers often times work from home but can choose to work from other precarious locations.<sup>71</sup>

Third tier production costs are generally lower than registered factories nearby. The manager of the firm NY (firm names have been replaced by codes) said,

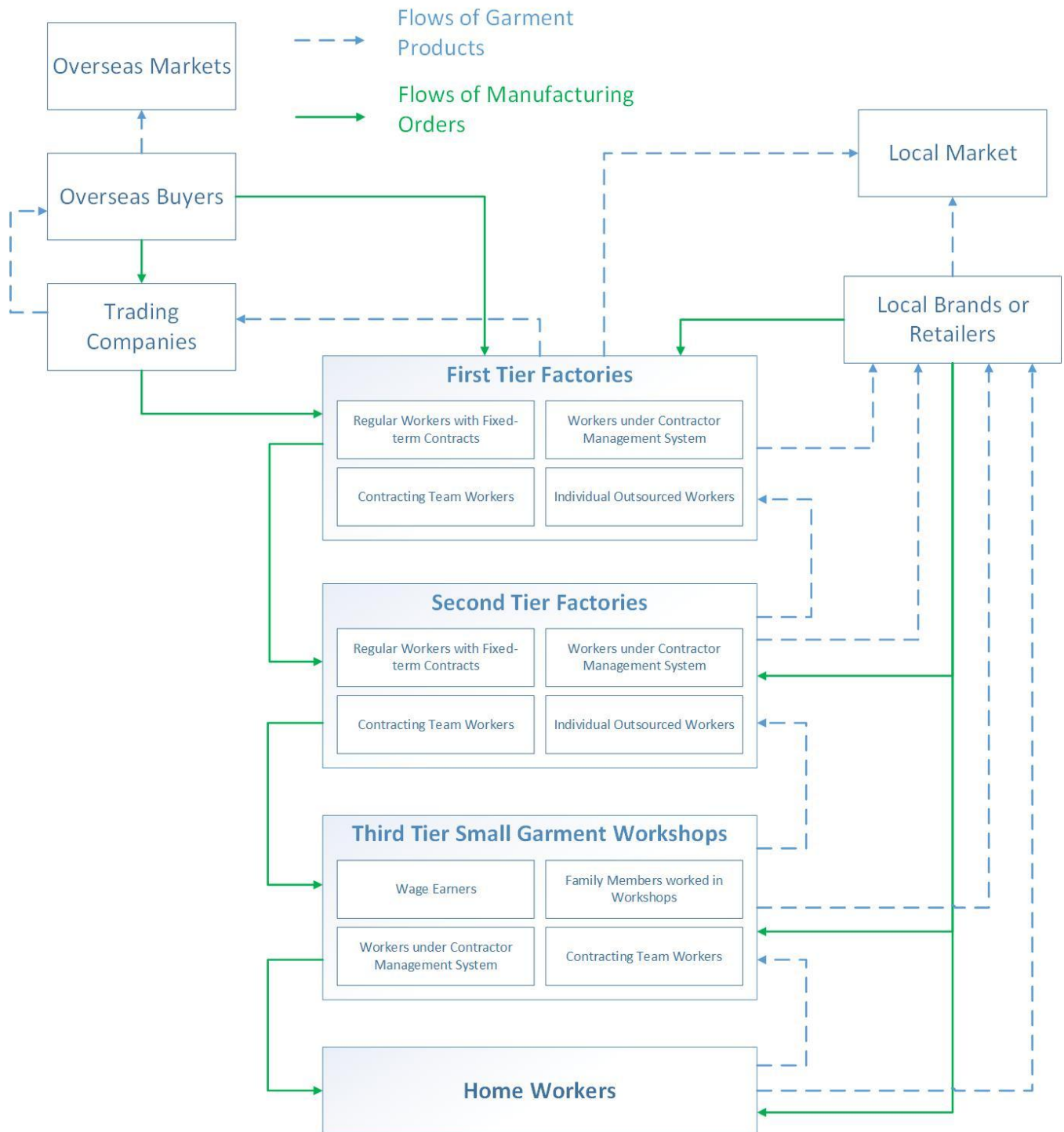
*Clothes can be produced at much lower costs in home-based workshops. Let's take electricity as an example. The home-based workshops and standard factories are charged at different rates for electricity consumption. As the skilled workshop workers produce garments in home settings, they only have to pay electricity bills at prices for domestic consumers, which are far less than industrial electricity prices. Also, the self-employed status of workshop workers greatly reduces their public pension expenditures.*

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<sup>70</sup> The second tier producers seldom subcontract production orders for global brands to tier three workshops. If they cannot finish orders on time, they will subcontract to other second tier manufacturers instead of lower-level workshops.

<sup>71</sup> The home workers at fourth tier are subcontracted working for an employer, intermediary or subcontractor for a piece rate in their homes or in other premises of their own choice. In contrast, employees of the third tier home-based workshops do not carry out production in their homes but in employers' workplaces in home-based settings.

**Figure V.4.2.** Simplified supply chain showing manufacturing subcontracting relationships in the Yangtze River Delta Region for overseas and local markets



These third tier small workshops usually produce low-end garments for the domestic market, in particular, clothing sold at Taobao Marketplace (a Chinese language website facilitating consumer-to-consumer retail, much like eBay in the US). They also do the labor-intensive processes that cannot be mechanized such as trimming or making knots.

Different from early years of reform, entities along the garment supply chain are no longer concentrated in the city proper of Shanghai. Most manufacturing units, particularly tiers 2, 3 and 4, are now located in neighboring industrial towns in the YRD like Pinghu and Huzhou or even in newly-developed industrial zones in inland provinces. Trading companies that contract directly with foreign buyers and sourcing offices of larger brands usually stay in metropolitan areas like Shanghai and Hangzhou. To account for the decentralization of apparel industries in the region, soaring production costs and policies of local governments should be taken into account. It is found that many Shanghai garment enterprises are negatively affected by the soaring land rents in major cities. For instance, rising land prices in Shanghai have forced the firm HR (firm names have been replaced by codes) to move its production lines to Yangzhou, Jiangsu. The company has rented out its old factory building in Shanghai at 1.7 million RMB to Home Inns Co. as a budget hotel. Apart from high land prices, the production line reallocation is also caused by high labor-related costs in metropolitan areas. Ten enterprises that we visited have set up 15 factories (most of them are tier two manufacturers) in small industrial towns in the region and inland provinces. For example, the firm DHT has opened a new factory in Hubei to cope with the rapid increase in production volume:

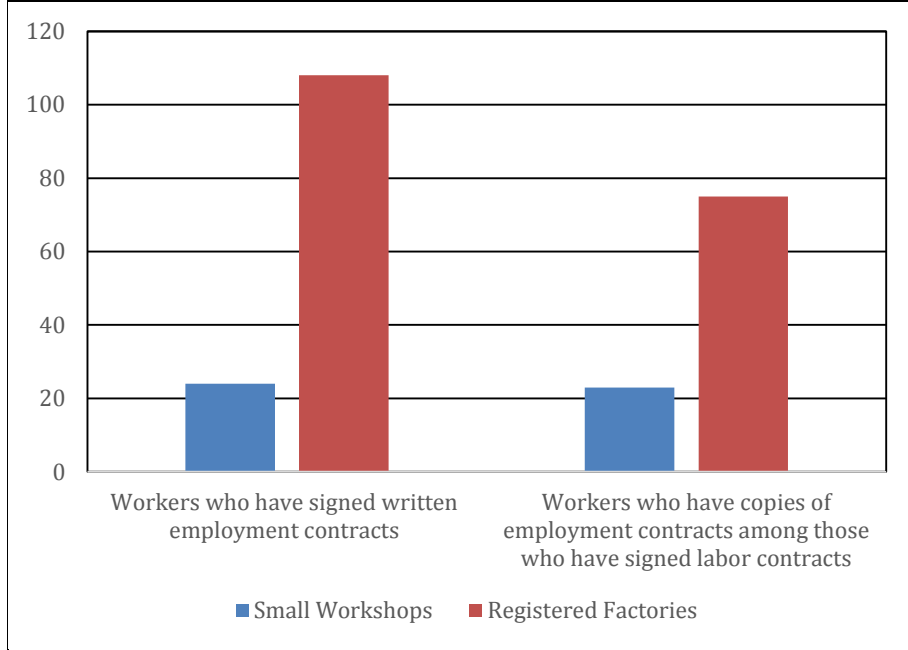
*If this trend (moving production inland) continues, the proportion of the migrant workers in our plants will continue to drop. Hubei migrant workers who originally worked in coastal provinces like Guangdong could choose to work in their hometown. The reallocation of factories to Hubei has greatly reduced our labor costs from 100 RMB to 50 or 60 RMB per worker per day.*

#### 4.1.4. Prevalence of employment contracts in our sample

In the survey we conducted in 2012 and 2013, there is a great difference in employment contract signing rates between factory employees and workshop workers. As shown in Figure V.4.3, 81% of factory workers interviewed through this study have signed written employment contracts with their employers, while 11% out of 223 respondents from garment workshops said that they have signed written agreements. The low signing rate of employment contracts among workshop workers (who are in theory covered by the Labor Contract Law like all employees) indicates that a vast majority of them are informally employed in the strictest sense, even when the term “informal labor” is limited to those who lack labor contracts.

The prevalence of employment contracts among factory workers (about 81%) in our sample does not necessarily mean a relatively high degree of employment security in China’s apparel factories overall. Indeed, as suggested by Liu (2011), most factory workers with labor contracts are contingent workers, who work under contracts for fixed periods of 1 to 2 years. In addition, the mere existence of written employment contracts is not sufficient to ensure proper protection of workers’ rights and interests because some workers are not allowed to keep copies of their contracts. In our sample, only 56% of factory respondents who have contracts said that their employers provide copies of employment contracts (Figure V.4.3). In short, the results of our survey suggest that garment workers in the region lack employment security even though the contract-signing rate is high in formal factories.

**Figure V.4.3.** Percentage of garment workers in the study sample with employment contracts



To those respondents who said they did not sign employment contracts, we asked why (see Figure V.4.4). Respondents were provided five options.<sup>72</sup> The majority of those who had not signed contracts, about 64%, indicated, “I never requested an employment contract and my employer never asked me to sign an employment contract.” This may indicate that workshop workers are generally unaware of how to protect their rights and interests. Proving the existence of an employer-employee relationship is always the first step for a worker in order to legally challenge his/her boss for labor law infringement. Thus, garment workers who do not sign an employment contract or do not have a copy of the contract are very likely to be “excluded” from the rights entrenched by labor laws, particularly when the firms deny that a worker is an employee.

#### 4.1.5. Factory work without a contract: *Baogongtou* and *Baogongdui* subcontract labor

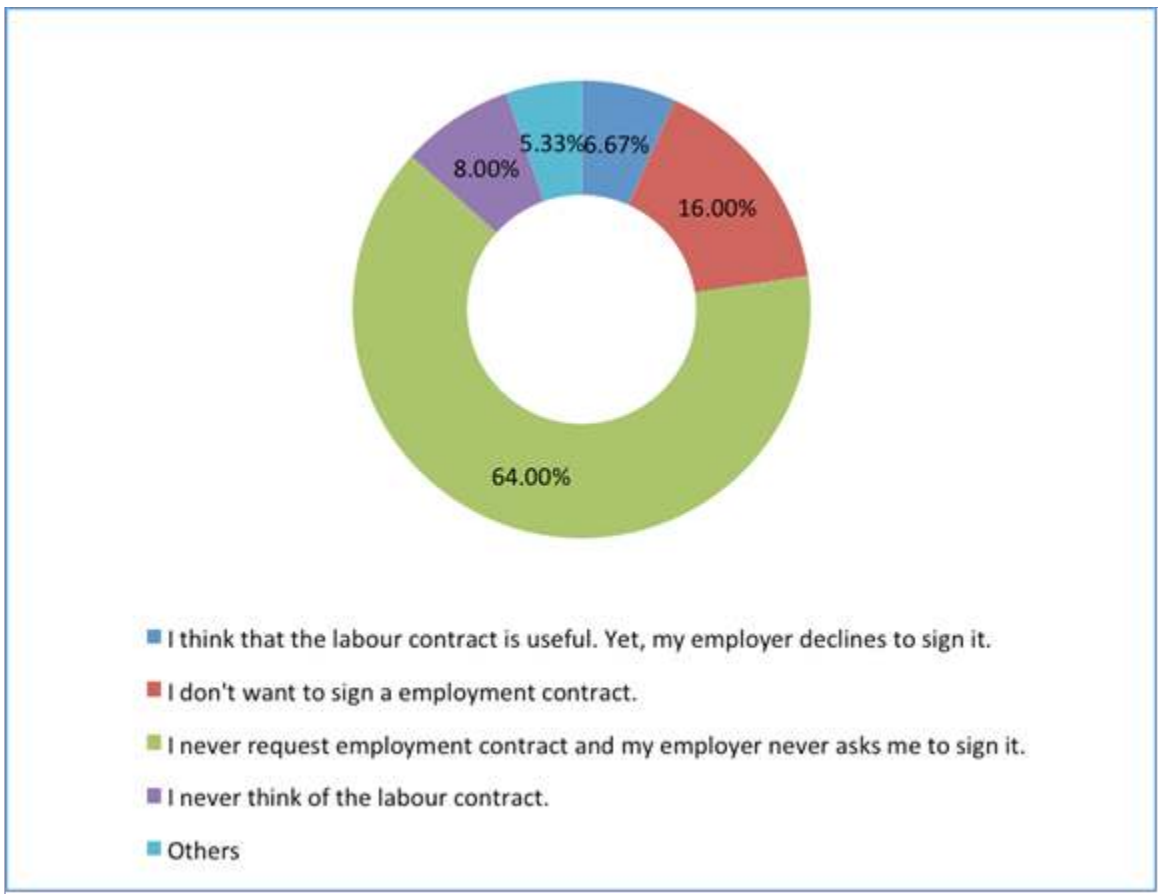
As found in our survey, a small proportion of factory workers have not signed employment contracts with the factory owners. In some cases this may be because the workers – especially factory workers – are subcontracted labor working for *Baogongtou*, labor contractors, or *Baogongdui*, a workshop contracting team that performs the work of the factory workers. It is noted that the subcontracted laborers do not have employment contracts with the *Baogongtou*. This is because labor contractors are not the workers’ bosses in a legal sense.<sup>73</sup>

<sup>72</sup> The five options provided were:

- “I think that the labor contract is useful. Yet, my employer declines to sign it”
- “I don't want to sign an employment contract”
- “I never request employment contract and my employer never asks me to sign it”,
- “I never think of the labor contract” and “others”

<sup>73</sup> According to the Company Law of the People’s Republic of China, labor supply subcontractors do not have corporate status and hence do not have a legal status to employ workers.

**Figure V.4.4.** Reasons for lacking employment contracts among workshop workers



**Baogongtou: The contractor management system**

Workers under the contractor management system are frontline workers who are controlled by labor contractors (*Baogongtou*), instead of factory managers. One interviewee from the firm AT mentioned that some of the company's employees are directly managed and supervised by labor contractors.<sup>74</sup> It is believed that the emergence of the *Baogongtou* management system is related to the recent recruitment difficulties of migrant workers in the Greater Shanghai Region. *Baogongtou* recruit workers from rural families in the countryside and supervise the fulfillment of production tasks. They may also serve as workers' representatives in negotiations with management. In return, the garment enterprises pay labor contractors management fees that are calculated at a rate of 100 RMB per person, per month. From the factory manager's perspective, the *Baogongtou* system is associated with many benefits, in particular, reducing the direct confrontation between the management and the employees and lowering the possibility of labor strikes.

<sup>74</sup> The *Baogongtou* system is similar to the "Number Ones" system depicted by Elizabeth Perry. In the book titled *Shanghai on Strike: The Politics of Chinese Labour*, Perry suggests that in the early twentieth century, unskilled factory workers labored under the stern control of the "Number Ones" (Naomowen). They were women workers who had won promotion by force of personality. A Number One, who supervised the labor process and had the power to fine or punish those who violate the rules, managed each workshop or work group.



### Baogongdui: Contracting team

A contracting team (*Baogongdui* in Chinese) is comprised of workshop workers who go to factories together as a team for temporary production tasks. We found that some skilled garment workers in the YRD region have joined hands to establish their own neighborhood workshops. They usually get subcontracted orders and produce clothing for the nearby garment factories. If these workshops lack sufficient subcontracting production orders, the workers organize themselves into free contracting teams, entering factories or larger workshops to undertake production tasks. The manager of the factory NY said,

*When the workshops suffer from lack of orders, the workers would form contracting teams to engage in production at garment plants. On average, the factories would pay the contracting team members 170 RMB a day. During the peak season, we certainly need to hire these skilled workers and their salaries could rise to 200 or even 250 RMB per day.*

Once a work order is complete, the charges received for subcontracting would be shared equally among its members. As these contracting teams are autonomous associations of garment workers who voluntarily cooperate for mutual economic benefits and there is no hierarchy, one could thereby regard them as rural-cooperatives.

Factory managers in our sample expressed a generally negative attitude towards these contracting teams because workers' associational power is greatly strengthened. It certainly improves the workers' bargaining position in salary negotiations. However, managers usually have no choice but to outsource parts of the manufacturing process to contracting teams, particularly during the peak season. The manager of JF said,

*In recent years, many workers hired in local garment factories belong to contracting teams. The representatives of these baogongdui approach the management every day to negotiate their salaries. If they cannot come to a consensus, the contracting team members would slow down the pace of production or even leave the factories.*

## **4.2. Labor processes and standards**

### **4.2.1. Wages and working hours**

#### Wage level, salary payment and overtime pay

An average garment worker in our sample earns RMB 2900.10 a month (about USD 470). Workshop workers on average earn more than their factory counterparts. Workshop workers, who responded to our questionnaire, earn an average monthly income of RMB 3045.11, whereas, factory workers in our sample earn RMB 2719.69.

We also asked factory and workshop workers whether they are paid on time and whether they are paid in full. About 62% of our factory respondents indicated that their salaries are always paid on time, while 29% stated that they sometimes or always receive late payments. The remaining 9% did not answer the question. Regarding whether factory workers receive full payment, 68% of the respondents said that they are always paid in full while about 18% sometimes receive partial payment. The remaining 14% did not answer the question. The situation of our workshop respondents is even worse. It is found that nearly 35% of workshop workers surveyed have been paid late and about a quarter of them receive

partial payment. These figures show that late and partial payments are not rare, threatening the income security of garment workers in the region.

With regard to overtime pay, majority of our respondents (about 51.5%) claimed that their overtime pay is at a normal weekday rate, while only about 16% stated that they are paid at a higher rate.<sup>75</sup> In other words, most garment workshops have violated the labor laws as their employees work overtime without extra pay.<sup>76</sup> As stipulated under the Labor Law of China, employees shall be compensated at a higher rate for overtime work. The overtime compensation rate depends on the day when the overtime work is rendered: 150% for overtime work during workdays, 200% for overtime work during weekends and 300% for overtime work during public holidays, for example Spring Festival.

#### Working hours and number of holidays

On average, garment workers in our sample have to work 9.8 hours per working day and they have 2.53 days off per month. When asked whether they get days off on public holidays, more than 95% of our respondents said they do not work on Labor Day and National Day and 85% have days off on New Year's Day and Tomb-sweeping Day (a traditional Chinese festival). A majority of workers said that they could have public holidays off. But none of them receives holiday pay and all workers reported that holidays are sometimes counted as part of their leave benefits. While most workers may not be required to work on public holidays, they are not given the day off as a paid holiday.

#### Labor segmentation

Labor segmentation has prevailed in the YRD's garment industry. The garment industry workforce can be divided into broad low-skilled and high-skilled groups. High-skilled workers are equipped with all-around skills or perform the same production tasks with practiced skills, while low-skilled workers perform simple tasks repeatedly. Generally speaking, high-skilled workers face relatively better working conditions overall. They seldom work overtime and have higher hourly rates. In addition to the value brought by their skills and experience, this may also be attributed to strong associational power of skilled workers. As an example, the differences in salaries and working conditions between prototype makers (known as *Yangyigong*, and are skilled workers) and unskilled front-line workers are summarized in Table V.4.1, below.

#### *4.2.2. Access to social insurance*

As stipulated under the Labor and Labor Contract Laws, enterprises have the obligation to contribute (along with workers) to old-age insurance, medical insurance and unemployment insurance premiums. They are also encouraged to buy industry injury and childbirth insurance for their employees. Enterprises that do not purchase this insurance are responsible for covering industrial injury and childbirth expenses for their employees. Despite their compulsory nature, the numbers and participation rates in social insurance schemes are far from satisfactory in the YRD's garment sector, particularly among workshop workers. In general, the employers of registered factories are more likely to pay social insurance premiums compared with their workshop counterparts. The survey responses concerning social insurance coverage are summarized in Figure V.4.6. It is noted that the relatively high rate of access to medical insurance among workshop workers may not refer exclusively – or at all – to

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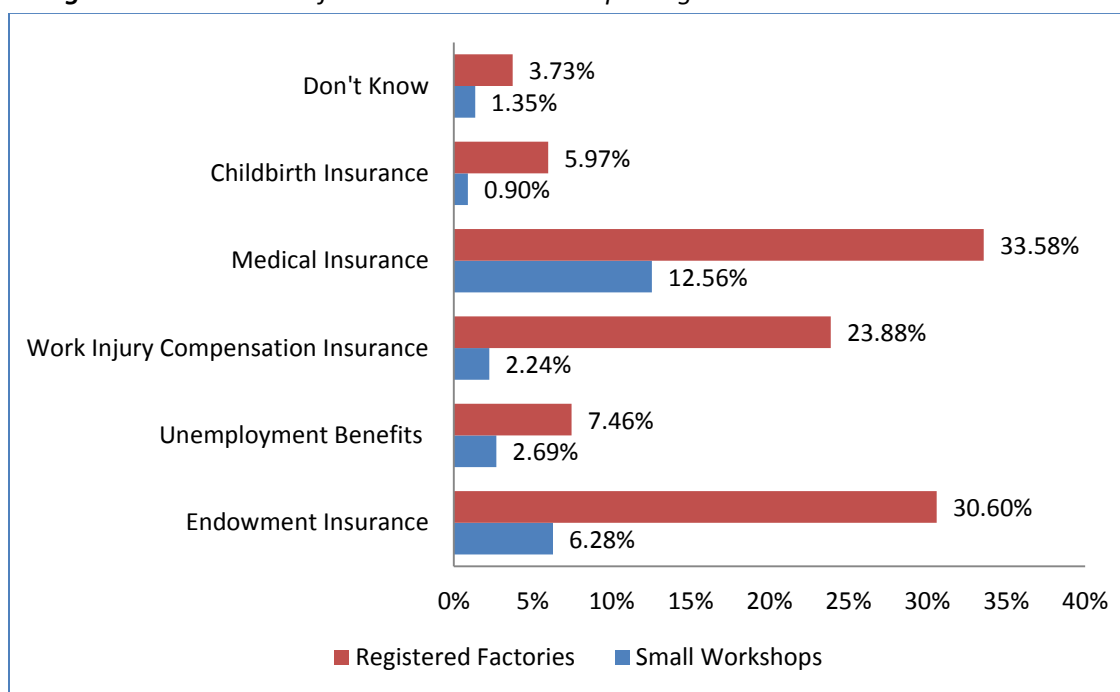
<sup>75</sup> The remaining 84% either did not receive it or do not know if they receive it. So the workers who do not know how they are compensated are already included in the 84%. It is however possible – though unlikely – that some of those workers who do not know how their wages are calculated actually do receive overtime pay (again, this is unlikely). This in turn would *increase* compliance in the sample to greater than 16%.

employer-provided medical insurance. Indeed, the introduction of rural cooperative health care insurance in some rural villages may increase medical insurance coverage among garment workers. Rural governments mainly pay the contributions of this scheme, rather than the enterprises the workers have been employed by.

**Table V.4.1.** Comparison of working conditions between skilled prototype makers and unskilled front-line workers interviewed in our field research

	Skilled Prototype Makers	Unskilled Front-line Workers
<i>Working Hours</i>	8:30 – 17:00	8:00 – 22:00
<i>Daily Working hours</i>	7.5	13
<i>Number of Working Days per Month</i>	24	28
<i>Length of the Break</i>	One-hour lunch breaks	One hour of rest in total, including lunch and dinner breaks
<i>Monthly Salaries</i>	2700 RMB	3000 RMB
<i>Average Hourly Earnings</i>	15 RMB	8.24 RMB

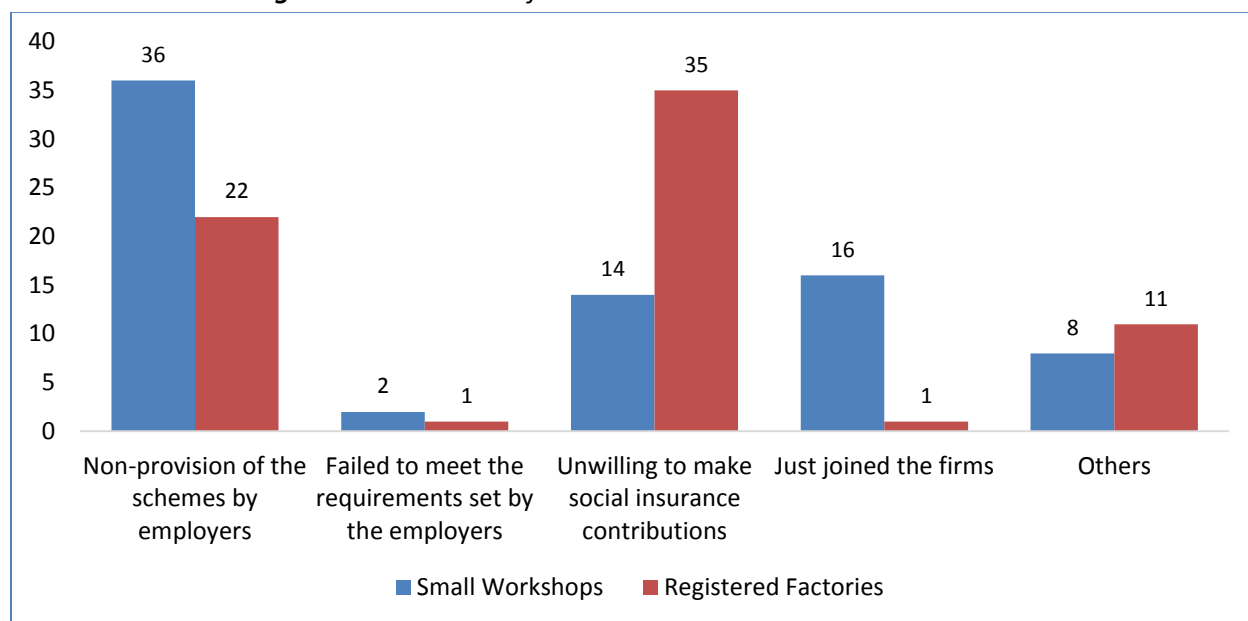
**Figure V.4.6.** Percent of interviewed workers reporting access to social insurance schemes



Low access to social insurance schemes might be due in part to workers' unwillingness to make social insurance contributions. For example, migrant workers who may go back to their villages and thus forfeit contributions have lowered their incentives to participate in insurance schemes. This argument may apply to some factory workers in our sample. As shown in Figure V.4.7, 26% of factory workers (35 out of 134 respondents) interviewed claimed that they are not covered by social insurance because they are not willing to pay insurance contributions. In contrast, in garment workshops, workers gave the

employers' "non-provision of the schemes" as their primary reason for limited insurance coverage (Figure V.4.7).

**Figure V.4.7. Reasons for no access to social insurance schemes**



**Table V.4.3. A comparison of safety conditions between small workshops and registered factories**

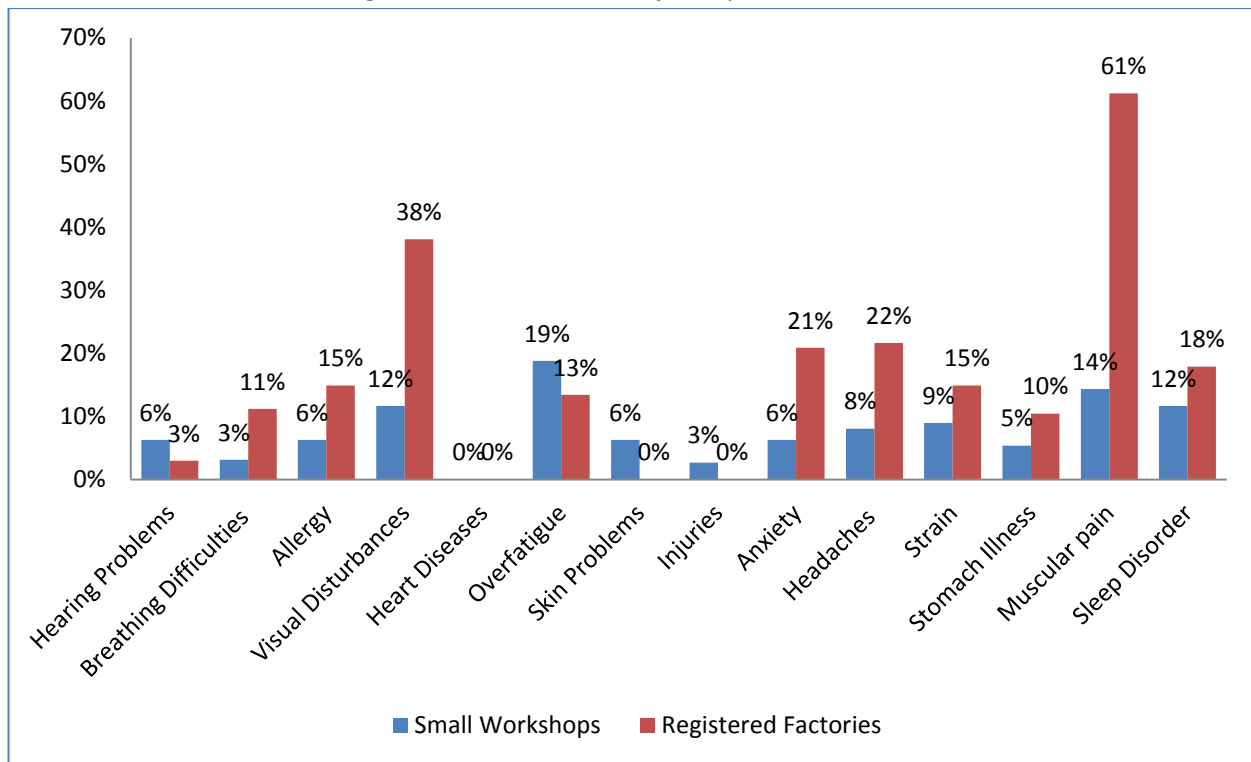
	Small Workshops			Registered Factories		
	Yes	No	Don't Know	Yes	No	Don't Know
Workplace Safety Training	17.7%	75.0%	7.3%	43.1%	54.6%	2.3%
Fresh air Ventilation at Workplace	73.2%	21.1%	5.7%	85.9%	10.2%	3.9%
Sufficient Lighting at Workplace	88.1%	8.8%	3.1%	94.5%	5.5%	0%
Emergency Exit(s)	71.2%	16.8%	12.0%	85.0%	12.6%	2.4%

#### 4.2.3. Health and safety

Four indicators were used to examine workplace safety conditions in this survey. They are provisions of (i) workplace safety training by employers (ii) fresh air ventilation (iii) sufficient lighting and (iv) emergency exit availability. As shown in Table V.4.3, more than 70% of workshop respondents and 80% of factory respondents agreed that their workplaces have fresh air ventilation, sufficient lighting and emergency exits. The figures imply that workshop workers perceive greater hazards in the workplace than their factory counterparts. This is not unexpected given that government inspectors only monitor working conditions of registered factories. Without government intervention, workshop owners – who frequently use residential housing or temporary buildings as workshops – will have less incentive to adopt costly workplace safety measures.

High percentages of workers reporting good ventilation, sufficient lighting and emergency exits in our sample do not imply a healthy or safe work environment. Indeed many factory and workshop workers suffer from various types of occupational illnesses. Among those who work in registered factories, muscular pain (61%), visual disturbances (38%), headaches (22%) and anxiety (21%) are the most common occupation related health issues. Common illnesses in garment workshops are fatigue (19%), muscular pain (14%), visual impairment (12%), and sleep disorders (12%). The strenuous nature of work on production lines should be addressed to account for high risk of occupational illness in garment factories. The high incidence of occupational illnesses greatly threatens the interests of garment workers in the region as most of them do not sign any employment contracts and are not covered by medical insurance. They cannot sue their employers for compensation and have to pay medical expenses themselves.

**Figure V.4.8. Incidences of occupational illnesses**



#### 4.2.4. Infringement of rights and worker control

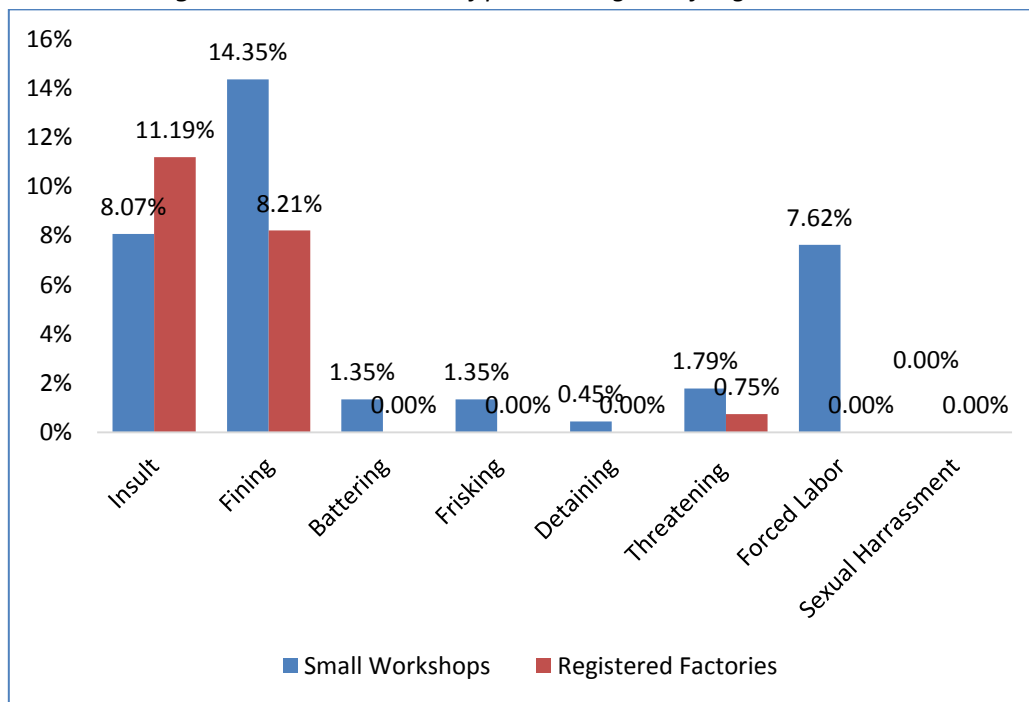
Workshop workers reported greater incidences of personal rights infringement, relative to their counterparts in registered factories. As shown in Figure V.4.9, fines and verbal insults are the most common means of worker control in both factories and workshops. The workshop respondents also reported physical abuse, including battery, forced labor (an alarmingly high 1 workshop worker in 12), and frisking.

#### 4.3. Socioeconomic background of garment workers

A majority of our respondents were migrant workers who were born in poor villages in inland provinces of Mainland China, like Anhui, Jiangxi, Hubei and Henan. Many of them were born in or after the 1980s and have completed at least junior secondary school. The gender difference could be observed

between workshop and factory samples – the former employ more males while the latter are employ more females (details about the socioeconomic background of survey respondents can be found in Appendix D).

**Figure V.4.9.** Incidences of personal rights infringement cases



#### 4.4. Conclusion

In short, the supply chain of the YRD’s garment sector has several layers, including but not limited to trading companies, first and second tier factories, small home-based units and home workers. The first tier manufacturers are large enterprises that are the primary recipients of production orders for foreign markets. They subcontract some orders to second or third tier manufacturing units. In contrast, small garment workshops generally produce garments for low-end markets because their machineries are usually simple and outdated.

Most textile and garment workers in the YRD are migrant workers who were born in poor villages in inland provinces of Mainland China. A majority of them do not have labor contracts with any entity. Even those with labor contracts still do not meet the criteria for “formal labor,” as their contracts are always short-term (1 to 2 years) and they are not fully covered by social insurance schemes. In some cases, groups of informal workers organize themselves into free contracting teams (*Baogongdui*) to undertake production tasks of factories.

The YRD’s garment workers in our sample earn an average of RMB 2900 (USD 470) per month and have 2.53 days off per month. Though there was perceived compliance with the occupational safety and health measures (ventilation, lighting and emergency exits), many garment workers in our sample reported occupational-related illnesses, as well as verbal and to some extent physical abuse.

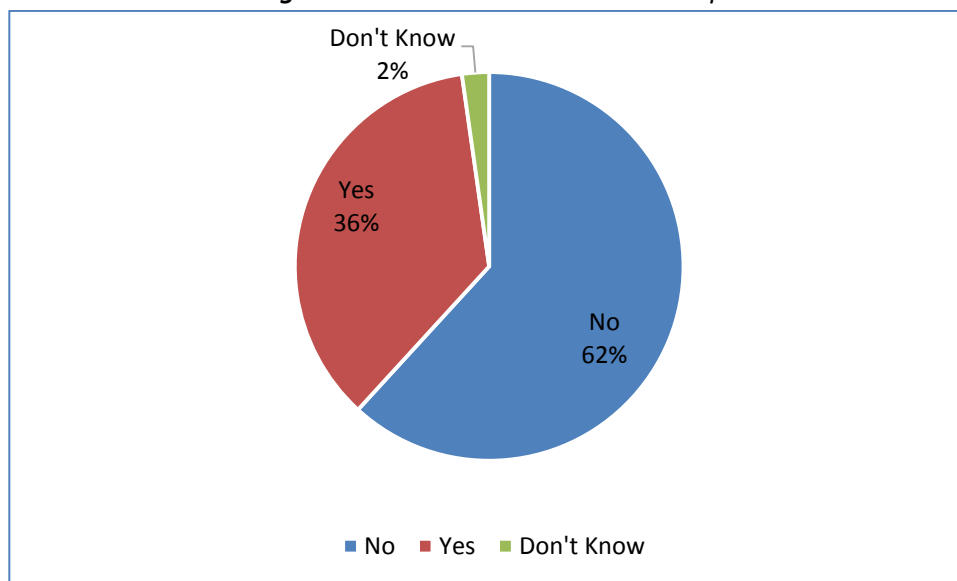
## 5. Effectiveness of government inspectors and corporate code of conduct in defending labor rights

In the YRD, the major institutions of monitoring and enforcement are trade unions and the Labor Security Supervision Team under the Ministry of Labor and Social Security. Apart from domestic agents, an international social movement against corporate misbehaviors has continuously exerted pressure on garment manufacturers in the region to obey labor laws and improve workers' living and working conditions. In the following paragraphs, the effectiveness of trade unions, the Labor Supervision Team and corporate social responsibility (CSR) campaigns will be critically evaluated. The existing regulators of labor standards are effective to only a very small extent. They seldom succeed in protecting the interests of informal workers in the garment sector because (i) they never monitor working conditions of small workshops, which employ large numbers of informal labor; and (ii) they usually lack resources, and rarely take initiative to promote workers' interests.

### 5.1. Trade unions

In the existing literature on Chinese civil society, the consensus is that the All-China Federation of Trade Unions (ACFTU), the one legally sanctioned federation, is tightly tied to the state, ruling party, and in most cases to enterprise management. Some scholars have suggested that the labor unions are no longer serving the interest of only the state, and have started to find themselves responsible for serving the welfare of workers (Unger and Chan 1995). This trend can be shown clearly in a tripartite workshop on collective bargaining during the drafting of the Labor Law in 1994. Unger and Chan (1995) find that the Union Federation, which was organized by the Party State, spoke in defense of workers' interests.

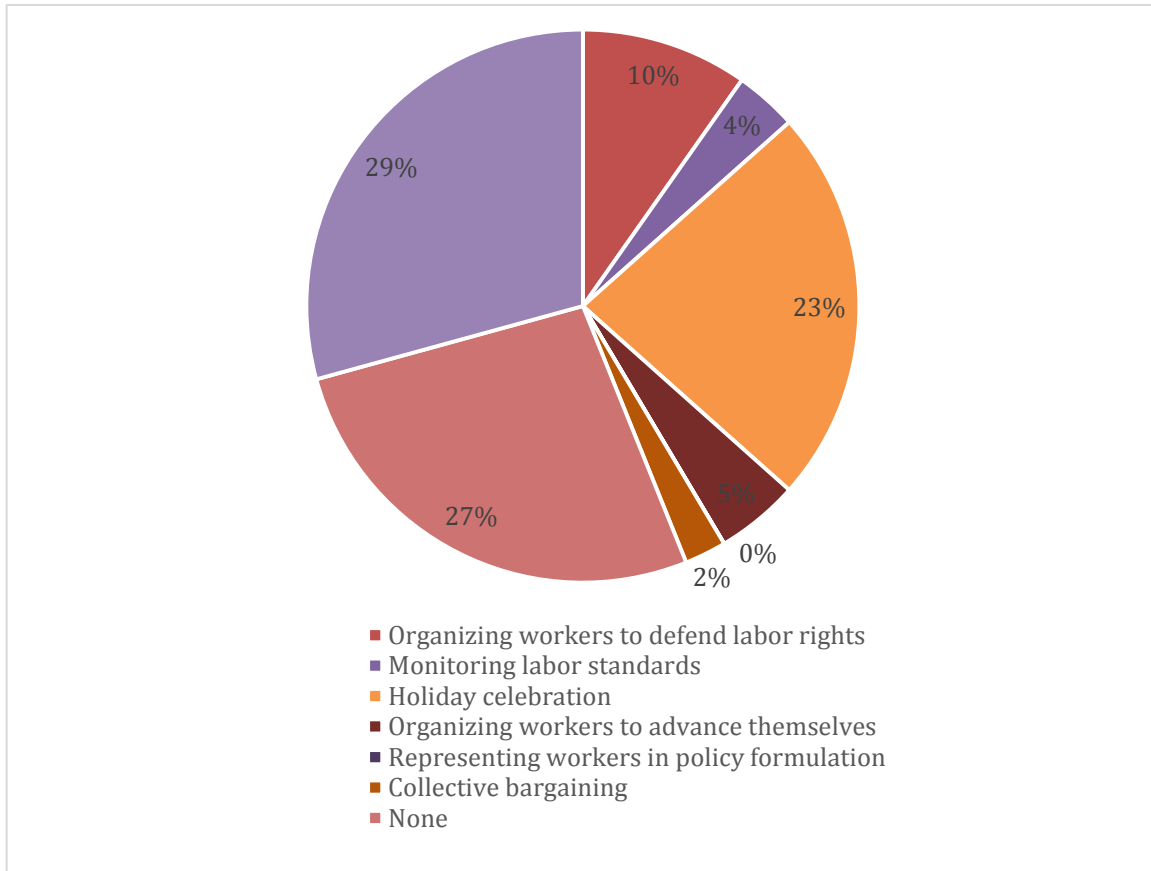
**Figure V.5.1.** Trade union membership



However, our fieldwork shows quite a different story on trade unions. It is argued that trade unions in the region are not monolithic. In other words, the union officials' attitudes towards migrant workers vary greatly from level to level and even from people to people. Generally speaking, we agree with the proposition suggested by Chen (2010), that workplace unions and those above the workplace level, play different roles in defending labor rights – the prior are puppets of the management while the latter seem to lean towards the workers.

Most garment enterprise unions we visited fail to defend labor rights because the union leaders are managers or are selected by the management and the trade union membership rates among migrant workers are too low. As shown in Figure V.5.1, a majority of our respondents (about 62%) indicated that they are not members of a trade union. Concerning the role played by trade unions, only 14% of workers surveyed stated that their workplace trade unions have monitored and defended labor rights. In contrast, about 27% and 23% of the interviewees define the role of trade unions as “none” and “holiday celebration” respectively (Figure V.5.2). In short, most garment workers lack union representation, and few have observed active monitoring of labor rights.

**Figure V.5.2.** Perceived primary role of the trade union



In contrast, it is found that some open-minded trade union cadres are sympathetic towards garment workers. For instance, one of the leaders of Zhejiang Provincial General Trade Union has initiated a project called “Labor One” (*Laibowan* in Chinese), which is a microblog hosted by Tencent Weibo. There are four sections in this Internet platform, namely “praises to labor,” “grassroots dream,” “good employers” and “labor law lecture.” Through “Labor One”, the founder wanted to promote labor standards and dignity for migrant workers, including those in the garment sector. Despite good intentions and efforts of senior union cadres, their impact on labor law enforcement seems insignificant. This is because trade unions above the workplace level are seldom involved in workplace disputes, unless workers organize a dramatic strike or demonstration.



### 5.1.1. Labor security supervision system

In order to study the dynamic between government inspectors, workers and enterprises, we visited the street-level supervisor of labor conditions in an urban village in the city XH in January 2013. The supervisor heads the JB Labor Supervision Team (JLSS) or in Chinese, *JB laodong jiancha dadui*.<sup>77</sup> It is found that the government inspector in the region seems ineffective in monitoring work conditions and defending worker rights and labor standards in the YRD's garment sector. There are several reasons for this failure.

Photo V.5.1. A screenshot of "Labor One"



Source: <http://e.t.qq.com/labor2012>

First, JLSS is overwhelmed and shorthanded. With just six full-time officers, the team has to monitor labor conditions of the district that is populated by more than 100 thousand workers. It categorizes factories into 3 groups according to their contract signing rates, social insurance participation rates and workplace conditions (e.g. provision of housing and food subsidies):

*We visit group A factories once per year, group B factories three times a year and group C factories four or five times a year. We seldom monitor working conditions of large garment enterprises that have more than 400 employees as they are usually properly managed. Another type of manufacturing units we seldom visited is small garment workshop, particularly home-based one. The team ignores home-based workshops*

<sup>77</sup> According to the Regulation on Labor Security Supervision (*Laodong Baozhang Jiancha Tiaoli*) promulgated in 2004, the Labor Security Administration of the State Council (*Guowuyuan Laodong Baozhang Xingzhengbumen*) shall be in charge of the labor security supervision work of the whole country. The labor security administration of a local government at the county level shall be in charge of the labor security supervision work within its own administrative area. These labor administrations, operating both under the Ministry of Labor and Social Security and under their respective local government, may entrust an organization meeting the law enforcement conditions for supervision (i.e. labor supervision team) to conduct the labor security supervision. For violation of labor laws, labor administrations may give warnings, order corrections and impose a fine of no less than RMB 100 and no more than RMB 500 for each affected employees. For refusal to pay wages, overtime pay, minimum pay, or economic compensation after cancellation of an employment contract, labor administrations may order payment and impose punitive damages of 50% to 100% of the total owed amount.

*because they are not registered and thus it is difficult to prove the existence of an employer-employee relationship. (Interview with a team member)*

Without adequate resources to frequently monitor all manufacturers including established enterprises and small home-based workshops, it is doubtful whether the state inspector could enforce the labor standards in the region in any meaningful sense.

In addition, the team does not really stand on the same footing as workers when it deals with workplace conflicts. It is a complaint-based inspection system, so they only initiate an investigation once they have received a complaint. And while workers may be best placed to observe workplace problems, they are not educated by labor administrators on exactly what kinds of rights they have and which institutional channels they can use to protect their labor rights:

*When workers consult us on labor disputes, we have been placed in a very difficult and embarrassing position indeed. As a law enforcement agency, we should maintain our neutrality and not be biased towards any parties. We would not teach workers how they can defend their rights, for instance, telling them which provisions of labor laws are applicable to their cases. (Interview with a team member)*

Thus, the passive nature of the labor security supervision system in Mainland China has greatly hampered its effectiveness in defending labor rights. The system is designed for educated workers who are knowledgeable of labor laws and how they are applied. This is not the case of the YRD's garment workers as most have only completed junior-secondary schools, lacking basic knowledge of labor laws.

## **5.2. CSR campaigns**

By the end of March 2011, among the 25,000 enterprises in the world that meet the minimum certification requirements of SA8000 and have received the accreditation, 25 of them are in China.<sup>78</sup> Chinese textile and garment enterprises that received this accreditation are mainly located in the PRD and YRD regions. A Chinese textile industry CSR code, named CSC9000T was introduced in 2005 by the Chinese government.<sup>79</sup> In 2010, the Fair Labor Association also conducted a living wage survey in China's garment sector.

However, studies show that the impact of international labor standards on China's textile and garment industry has been minimal. For instance, Chan and Siu (2009) argue that many workers are not aware of the corporate code of conduct, and for those who have some idea of it, the code and the monitoring is barely relevant to their lives. Except for the child labor criterion, China fails to meet the International Labor Organization's core labor conventions. In particular, the right to organize and collectively bargain, though affirmed by the Labor Law and Labor Contract Law, does not yet exist in practice for many

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<sup>78</sup> SA8000 is an international social accountability standard that encourages enterprises to develop, maintain and apply socially acceptable practices in the workplace. The areas that SA8000 addresses include forced and child labor, health and safety, freedom of association and collective bargaining, discrimination, disciplinary practices, working hours, compensation and management systems.

<sup>79</sup> CSC9000T (China Social Compliance 9000 for Textile & Apparel Industry) is a Social Responsibility Management System based on China's laws and regulations, international conventions and standards, and China's particular situations.

workers. There is a huge wage gap between China and developed countries in terms of hourly pay and weekly wage.

## **6. Labor NGOs in the Yangtze River Delta Region**

Generally speaking, the development of labor NGOs in the YRD is much less robust than in the Pearl River Delta (PRD) in the south of China (Wu 2012). He, Huang and Huang (2009), estimated the number of labor NGOs operating in the PRD at 30-35 as of August 2008. In contrast, to the best of our knowledge, there were only six civic organizations with the aim to defend workers' rights in the YRD as of August 2012. In particular, Shanghai does not have any NGO engaged mainly in defending workers' rights.

Table V.6.1 provides a summary of various labor NGOs operating in the YRD. In terms of the occupations of founders, labor NGOs in the YRD can be categorized roughly into three groups:

- (1) Grassroots NGOs formed by former workers who are victims of industrial accidents or have been involved in labor disputes;
- (2) Subsidiaries of established labor NGOs that are based outside the region;
- (3) Offshoots of academic departments.

Despite the difference in vibrancy of the labor NGOs between the YRD and PRD, organizations in these two regions have many common characteristics as they have faced similar institutional and financial impediments. For instance, regarding the legal status of the organizations, most labor NGOs in the YRD fail to fulfill the stringent regulations for registration, and thereby are forced to register as commercial entities to acquire a quasi-legal status. Furthermore, on the organizational level, NGOs in the YRD are financially strapped and rely heavily on donations and project-based funding from the international community.

For the purpose of this report, we focus strictly on ABC (name withheld), as it is the first and only NGO experiment initiated by garment workers in the region. Despite its limited scope for action, ABC provides critical holistic support to migrant workers, including subcontracted and home-based workers, and helps them build a strong community.

## **7. ABC: A grassroots attempt to overcome the challenges of informalization**

Given the limited effectiveness of trade unions in defending the interests of workers overall, we examine other forms of organizations that attempting to represent informal workers, including contract and sub-contracted workers. The main actors are an eclectic group of labor NGOs, which have been most extensively developed in the PRD. This section examines the activities, constraints and impact of ABC operating in the YRD Region.

While there is a handful of labor NGOs in the YRD, ABC is the first and only attempt by garment workers to improve living and working conditions for all migrant workers in the region. In this section, we will introduce ABC, which specifically targets the migrant worker community, including garment workers. First, a brief history of the organization will be provided. Secondly, the organization's mission and its guiding philosophy will be examined. Thirdly, we will examine ABC's organizational structure, focusing

on how workers are incorporated into the organization. Then, ABC's strategies and tactics for organizational survival and promoting labor standards will be examined. We will analyze how this organization collaborates with the state and other external actors. Last but not least, the benefits of ABC to garment workers in the local community, specifically its effectiveness in monitoring and enforcing labor standards in textile industry, will be preliminarily assessed.

**Table V.6.1.** Summary of labor NGOs operating in the Yangtze River Delta Region

<b>Name of the Organization</b>	<b>Suzhou Migrant Workers Home</b>	<b>ABC*</b>	<b>Xiaoxiaoyu Labor Services</b>	<b>On Action Public Interest Hotline (Suzhou Branch)</b>	<b>The Little Bird Hotline</b>	<b>The Nanjing University Legal Aid Program for Migrant Workers</b>
<b>City</b>	Suzhou, Jiangsu Province	City XH, Zhejiang Province	Yiwu and Yongkang in Zhejiang Province	Suzhou, Jiangsu Province	Shanghai	Kunshan and Nanjing in Jiangsu Province
<b>Office Location</b>	Urban Village	Urban Village	Urban Village	Commercial Building	Commercial Building	Commercial Building
<b>Registration Type</b>	Commercial Entity	Commercial Entity	Commercial Entity	Commercial Entity	Commercial Entity	Offshoots of academic departments
<b>Activity Type(s)</b>	Cultural activities, training workshops, visits to injured workers, small group activities for female workers, legal education	Cultural activities and entertainment, training workshops, social activities, mutual-help programs, consultation for labor arbitration, legal aid	Legal aid, education in occupational safety	Legal aid, promoting corporate social responsibility, policy advocacy	Hotlines, labor law education, charitable activities	Legal aid and consultation
<b>Source(s) of Funding</b>	International donations, state patronage, self-raised funds	International donations, corporate donations, state patronage	International donations	International donations	International donations	University funding, state patronage
<b>Year of Establishment</b>	2008	2008	2009	2006	2011	2007
<b>Founder(s)</b>	Migrant Workers	Migrant Workers	Migrant Workers	A labor NGO based in Beijing	A labor NGO based in Beijing	Academics

\*Name withheld.

Source: Wu 2012, 3-4.

### **7.1. Organization history**

ABC is a community-based non-governmental labor organization that provides support to communities of migrant workers. A former garment worker from Jiangxi Province, XWC, founded the organization in 2006 (Chen 2009; Wu 2012). ABC offers social services and legal advice to migrant workers from different industries, including the garment sector; advocates for changes in labor laws and policies; and helps build sympathy of the larger community for migrant workers. It is noted that from the start, ABC targeted migrant workers, not specifically garment workers but given the high concentration of garment workers in the YRD, it does reach out to many such workers. However, garment workers only make up a minority of its core membership, since the grueling work schedules in the apparel industry make it difficult for workers to participate in outside organizations. Yet, ABC is still worth examining because it is the closest form of a workers' organization that advocates on behalf of subcontracted and home-based workers in the garment sector. The example of ABC indeed shows both the significant constraints on Chinese grassroots labor NGO, and how such a NGO can contribute to monitoring working conditions and defending workers' rights and labor standards.

After completing junior secondary education in 1993, XWC has left his hometown to make a living as a migrant worker in city XH. Like millions of his counterparts in Mainland China, XWC worked under exploitative conditions, including excessive working hours without sufficient rest, underpaid work, dangerous working conditions and poor accommodations. These personal experiences made him realize the social and institutional injustice encountered by migrant workers. Being motivated by a sense of civic righteousness to improve the existing labor and social protection institutions for migrant workers, XWC has devoted himself to the labor NGO activism. He quit his job and took a computer class after the Lunar New Year holidays in 2006. Being equipped with essential IT skills, XWC created a website named ABC in two months. Once the website launched on July 1<sup>st</sup>, 2006, it quickly gained popularity among local garment workers and other migrant workers, with over 1,000 visitors per day. XWC met his first labor-activist companions through the site. A series of large-scale cultural events, like The Grassroots Cultural and Arts Festival and Mingong Spring Festival Gala, were held in 2007, with the aim to eliminate discrimination against migrant workers.

However, XWC quickly learned about the limitations of the Internet platform in improving the actual work experiences of migrant workers (including garment workers), many of whom live in poverty and without access to the Internet. This lack of access to the Internet led XWC to establish a service facility in city XH. In 2008, XWC and his companions used their savings to rent a 50 square meter flat to set up a workers' center, named, ABC: Migrant Worker Cultural Centre. They registered their organization with the Bureau for Industry and Commerce as a commercial entity.

In 2010, ABC received a considerable amount of publicity when *BYT* magazine, the official Xinhua News Agency's most popular publication, published an article about the organization. The article claimed that ABC had demonstrated a successful model for tackling social problems associated with migrant workers. This news report by such a prestigious magazine can be a reason for why there has been a friendly relationship and collaboration with the state.<sup>80</sup> After the release of the news story, ABC caught the attention of the State Council of P.R. China. The State Council then issued instructions and requested

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<sup>80</sup> National media are tightly censored by the party state in mainland China. Thus, being reported and acknowledged by the central government-owned media, like Xinhua News Agency and People's Daily implies that the entity has passed the political correctness test and encourages local officials to collaborate with the organization.

the corresponding departments and government agencies to conduct field studies to identify the successes of the organization. With the acknowledgement from the Central Government, the local authorities have changed their attitudes towards the organization and state resources have been continuously allocated for ABC's work. An example of these resources is free office space of approximately 300 square meters in a two-story community building that is located in the same neighborhood of the original center. The organization does not run this new activity venue under the name of ABC. Instead they call it the New City XH People Volunteer Service Center, which is affiliated with the JB District Trade Union.

At present, ABC has 4 full-time staff (namely XWC, YXG, LH and LL), around 30-40 regular volunteers and more than 700 occasional volunteers. The center now offers a wide range of services for garment workers in JB Town of city XH. These services include cultural activities and entertainment, training workshops, social activities, mutual-help programs, consultation for labor arbitration and legal aid. The center also conducts research on working conditions of migrant workers and engages in public policy advocacy.

**Photo V.7.1.** *The Workers' Centre located in the JB District of city XH*



## **7.2. ABC and workers' rights**

ABC aims to provide workers with a feeling of home. Slogans such as, "Our common home, and our shared dream" and "After whole day's work, get back home to take a rest. Reading books, listening to music, and chatting with each other...would bring your tired mind warmth and happiness" are used to help create a feeling of home among the workers.

In addition, staff members also feel that their experience at ABC feels like home. LH, a staff member, was attracted to the organization largely because of this reason. LH shared during an interview that "Brother XWC shares with us many of his working experiences; the atmosphere is warm and nice. We are like brothers and sisters."

However, unlike migrant worker NGOs in the PRD that have prioritized protection of rights, ABC has not participated in, or launched large-scale workers' right protection activities. The organization places most of its resources and focus on organizing literary and artistic activities and the provision of occupational trainings. Little has been done with regards to labor rights. Mostly what has been achieved is the enhancement of workers' legal knowledge and mediation. Although, the organization does forward complaints to the local government and works with the local labor inspection team to assure that complaints are addressed.

*Photo V.7.2. New City XH People Volunteer Service Center*



*Photo V.7.3. Worker volunteers performing*





**Photo V.7.4.** Computer training courses for workers



Why does ABC not focus on worker rights protection through the legal channels? We believe there are two reasons. First, the factories in the PRD are different from the factories in city XH:

*In city XH, most factories are small-sized factories and workshops. Mediation will be a better way for right protection when compared with lawsuit. There will be a risk of receive no compensation if the whole set of legal procedures is run as some small factory owners may close the factory in order to escape from the large amount of compensation. (Interview with YXG, ABC's legal coordinator)*

Second, ABC was funded with the purpose to provide migrant workers with a platform to connect with each other and have their lives enriched, instead of assisting workers in protecting their rights. The organization only provides workers a chance to express their concerns based on this platform. "The voices of our workers can be transmitted to and heard by the government. Government responses on labor policies can also be transmitted to workers. This way, we can cooperate to push our society in improving workers' conditions" (Interview with LH). Therefore, when the organization is consulted on labor disputes, the disputes are usually directed to the JB Branch of the City XH Labor Security Supervision Team, so as to solve the disputes through official channels.

The founder of ABC gave his own explanation on the organization's position:

*I do not support that we protect workers' rights through legal actions. It is in fact a dead end. It can be explained using a metaphor of Chinese and Western medicine. Helping workers through right protection activities and lawsuits can be considered as taking western medicine. The symptoms or problems can be lessened or solved; yet, only particular patients would be beneficial from western medicine. On the other hand, cultural activities, unifying workers and other networks developed by our organization*

*can be compared with Chinese medicine and health care products, though unable to solve the problem directly, teach workers the ways to protect their own rights.*

*If we focus only on rights protection activities, barely a telephone and an office would be enough. It will be my serving other workers instead of mutual assistance of workers.*

*I have always believed that everyone his own aspirations. I admire with my whole heart those insist on rights protection, such as the great contributions made by organizations in the South, yet, I simply cannot violate my aspiration.*

*Now, I can gather 700 to 800 workers, we want to make out organization a "branded" organization. If we worked on rights protection issues, I would never be like that. In fact, many Southern rights protection organizations do not focus on their brands, some even have their offices hidden.*

*If the huge number of labor organizations in Guangdong bring about improvement in workers' working conditions, then we should learn from their past experiences. Yet, why are working conditions in Guangdong still poor despite the years of effort made by labor organizations?*

**Photo V.7.5.** Annual sum-up meeting



The ideas of XWC have significantly helped shape the attitude of ABC's staff members. YXG (quoted above), who is currently responsible for legal consultation and promotion of legal knowledge at ABC, had been a committee member of Pearl River Worker, an organization in Guangdong. According to her, Pearl River Worker aimed to help workers write legal documents, file lawsuits, and provide legal consultation. YXG dealt with an average of over 100 lawsuits per year, which in turn created a tense relationship between the organization and the local government. In the political context of China, YXG can be described as someone who was once a relatively radical activist for labor protection.

However, since she started working at ABC, YXG only consults approximately 20 workers and files a mere 3 to 4 lawsuits. Due to the small scale of factories in city XH, she usually advises workers to resolve labor disputes through mediation rather than through legal means.

There is room for improvement in understanding workers' concerns. Currently, the workers' needs are brought to light through four full-time garment workers who serve as observers:

*The other important channel is the participation of core worker members in the organization's activities because they are frequent participants in workers' activities, and can represent workers. Core worker members usually have better understanding of front-line workers' concerns. (Interview with LH)*

### **7.3. The quest for political legitimacy—organizational survival in Mainland China**

In China, political legitimacy is critical to the continued existence and growth of any social organization (Gao 2000). An intermediate organization is politically legitimate when its missions and activities conform to officially endorsed political norms. This means that the organization has to behave in a politically correct manner, so as to gain the authorities' acceptance. The survival and development of grassroots NGOs rests upon their relationship with the party state. NGO activists have to build and maintain trust of government officials and party cadres for survival. This is particularly true for NGOs that are involved in politically sensitive areas, such as advocacy of labor rights. Due to strict state control or state co-optation of labor NGOs, only the government has tolerated those NGOs that provide social services. As noted above, about ten pro-labor rights NGOs in Shenzhen were suppressed and forced to close their workers' centers in the first half year of 2012.

Gao (2000) opined that the current registration system (also known as the "dual management" system) is in fact, an examination of political acceptability.<sup>81</sup> Once the organization is recognized by the party state, it can obtain legal status and register as a "non-government non-profit unit" (*Minban Feiqiye Danwei*). This status is significant to organizational development in two ways. First, a legitimate status greatly reduces the financial strain as it allows the organization to obtain resources and support from multiple sources including government agencies and local foundations. And second, the organizations with legal status face less rigorous government scrutiny and therefore are less likely to be shut down. For those organizations without legal status, two strategies are commonly applied to relieve the suspicion of the state. First, organizations deliberately use "politically correct" content and messages. Second, they cultivate social legitimacy by building public support.<sup>82</sup>

#### **7.3.1. How ABC gained legitimacy**

ABC failed to register as a "non-government non-profit unit" in its initial phase of development. The organization had no choice but to register as a commercial entity. With the ultimate goal of gaining political legitimacy, the main strategy applied by ABC was to heighten its social legitimacy through different types of volunteer activities and altering a negative public mindset towards migrant workers

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<sup>81</sup> The registration system for social organizations in Mainland China is known as the "dual management" system. Under this system, organizations are first required to obtain the sponsorship of a "professional leading agency," such as a government ministry or provincial government agency. Organizations then seek registration and approval from the Ministry of Civil Affairs or a local civil affairs bureau.

<sup>82</sup> Gao (2000) suggested that there are three sources of "social legitimacy", namely (i) local traditions, (ii) common interests shared by local people and (iii) social norms and consensus.

through various media reports. Since its establishment, ABC has maintained friendly relationships with national media and local press like the City XH Daily Newspaper and QJ Evening News. The organization, thus, has received high media coverage. Some large-scale cultural events, for example, The Grassroots Cultural Festival, were broadcasted live on a local TV channel. The social legitimacy enjoyed by ABC has further increased since *BYT* magazine published an article about the organization in 2010. With acknowledgement of state media as well as the central government, ABC has earned some political legitimacy, facilitating relationship building with the local party cadres and union bureaucrats. In short, the heightening of public sympathy for migrant workers and grassroots organizations in recent years has reduced the risks of government repression and favored resource mobilization.

*Photo V.7.6. Street-cleaning volunteers organized by ABC*



### 7.3.2. *Non-confrontational policy*

Different from most labor NGOs in the PRD, ABC has placed less emphasis on rights-defense and has adopted a non-confrontational policy. This is in part because authorities at various levels have in fact attempted to pressure and co-opt ABC into maintaining a cooperative rather than critical stance, as discussed further below. Defending rights and promoting workers' interests through rallies, demonstrations and labor strikes are not considered by the organization because they do not want any direct confrontation with the authority.

*We would like to present an image that we are on the same footing with the government. It is probably the only way to build support from the officials. Indeed, collaboration with the party state could be seen as the determinate factor of successful campaign as well as mission fulfillment. (Interview with XWC)*

The non-confrontational policy can be identified in ABC's letter to the City XH Municipal Party Committee:

*The issue of residence permit (Juzhuzheng) [to rural migrants] in city XH could be regarded as a critical step to eliminate the urban-rural differences. Although the difference between residence permit and temporary residence permit (Zanzhuzheng) lies in a single word, the newly-issued permit is significant to migrant workers as this implies the transitions from passer-by to hosts, from farmers to citizens, from outsiders to insiders and from excluded to integrated. As regards socio-economic development of city XH, the issue of residence permit implies an inclusive attitude of the municipal government that let thousands of 'New Citizens of city XH' to contribute to the construction of 'innovative province.' The effectiveness of the government's policies indeed rests upon the efforts of migrant workers. We, the migrant workers, should equip ourselves. The Grassroots Cultural Festival initiated by our organization could be seen as an experimental attempt to enrich the cultural lives of the migrant workers. It is a very good platform for us to advance ourselves. Our personal development should be accomplished through first literature and cultural activities, and then career planning, pioneering and life planning.*

As shown above, ABC has committed to a non-confrontational approach in order to facilitate personal growth of migrant workers as well as rural-urban integration. The organization is inclined to empower migrant workers to develop their skills and advance their careers, rather than openly confront the party state and employers in labor disputes, in particular rights disputes, on behalf of workers.<sup>83</sup> It believes that confrontational actions may undermine its political legitimacy and alienate allies among state elites.

### 7.3.3. Close contacts with government officials and trade union cadres

**Photo V.7.7.** A visit paid by party cadres



<sup>83</sup> Labor disputes in general could be categorized into two types: rights disputes and interest disputes. The prior refers to those incidents arisen from infringements of labor laws and the latter involves wage levels and conditions of employment. As suggested by Chen (2010), Mainland China has established a legal framework for coping with rights disputes. In contrast, there are no institutional mechanisms to handle interest-based disputes. As a result, interest disputes have often led to a series of strikes and they have been resolved through non-judicial processes like conciliation and mediation.

In order to obtain the state's blessing, ABC has made an effort to maintain a close and collaborative relationship with local government and official trade unions. Staff members pay visits to various departments and trade unions to collect their opinions on organizational directions and activities. They also invite officials and party cadres to take part in various activities held by the organization. It is believed that the frequent contact and communication would provide government officials better understanding of the organization. This helps reduce distrust and gain some support from open-minded state elites:

*Some local government officials indeed showed strong support for the Grassroots Cultural Festival and Spring Festival Gala for Migrant Workers. Although this support was lip service in the names of individuals and no financial assistance was provided, they were still helpful in gaining large event approvals. (Interview with XWC)*

#### **7.3.4. Loss of autonomy in return for political legitimacy?**

ABC has successfully developed collaborative relationships with the officials and the party-state-led trade unions. Such a partnership with the authority has greatly facilitated resource mobilization for organizational survival and growth, but would undoubtedly place a significant threat to its autonomy. It is found that the party-state has attempted to co-opt ABC by turning the organization into a volunteer service center under the district trade union. By doing so, mass organizations controlled by the party could have a hand in supervising ABC's activities and financial status. The street-level bureaucrats also urged the leaders of ABC to not accept external subsidies from Oxfam Hong Kong and help workers who are involved in labor disputes. In response, a decentralization strategy has been applied by the organization to maintain its independence and autonomy:

*The bottom line of cooperation with the state is preservation of our own brand, i.e. ABC. Although we receive support from the state, we would never change our mission and give up organizational identity. We continue to rent a flat and run the workers' center even though the government has provided us a spacious activity venue. Some blamed me for wasting money to rent an unnecessary place. Yet I insist that we should have a place that is owned and controlled by us. (Interview with XWC)*

The organization, thus, has dispersed its functions and people away from a central location to two different entities, namely ABC and the New City XH People Volunteer Service Center. The latter is the venue for less sensitive activities like computer training courses and art and cultural events. The prior is mainly used for the supervisory board meetings and events that might lead to ill feelings among officials, such as legal consultation and worker education.

### **7.4. Labor standards monitoring and enforcement**

#### **7.4.1. Facilitating the state inspectors in the enforcement of labor laws**

The main strategy adopted by ABC to defend labor rights of garment workers in the region has been to collaborate with JB Labor Supervision Team and the XH City Federation of Trade Unions (the local branch of the All-China Federation of Trade Unions). The organization believes that a partnership with the state agents is far more effective and feasible than other possible strategies, like strikes and protests, in China's oppressive political climate. XWC suggested, "Labor disputes could be better resolved through institutional channels." Therefore, the staff of ABC is seldom directly involved in disputes between employers and workers. They position themselves as facilitators, pushing the government inspectors to process the workers' complaints seriously:

*What we can do is to urge full efforts of the government inspectors to enforce labor laws and other regulations. Indeed some senior officials of Bureau of Labor and Labor Security Supervision Team are sympathetic towards workers. However, at street level, the local cadres are indifferent to the sufferings of workers. Thus, we always communicate with the street-level bureaucrats and inspectors, pushing them to work hard for workers' fundamental rights. Alone we can do so little. The results of their active work would certainly far exceed the maximum effects that we can reach. (Interview with XWC)*

Due to ABC's positioning as facilitator, the organization mainly deals with rights disputes that rely on legal procedures to reach settlements. When the staff receives complaints of labor law infringements, the organization provides legal advice and helps workers gather their evidence. They then transfer the cases to the government inspectors. Table V.7.1 summarizes several labor disputes that were processed by ABC between 2010 and 2012.

**Table V.7.1.** *Selected cases of labor disputes involving garment workers that were processed by ABC between 2010 and 2012*

<b>Case</b>	<b>Year</b>	<b>Type(s) of Work</b>	<b>Cause of Dispute</b>	<b>Action(s) Taken by the Workers</b>	<b>Dispute Resolution</b>
<b>1</b>	2010	Sewing buttons	Industrial injury and reallocation of factory	First sought NGO's legal advice and then made a complaint to JLSS	Compensation of RMB 4000
<b>2</b>	2011	All	Factory closure	First sought NGO's legal advice and then a collective complaint to JLSS	Compensation calculated at minimum wage rate in city XH (RMB 1310 per month)
<b>3</b>	2011	Stitching	Actual salary paid less than stipulated amount; deduction of one-month salary when quitting a job	First sought NGO's legal advice and then made a complaint to JLSS	Labor Supervision Teams shirked their responsibility as the factory owner has close relationships with local officials; unable to get one-month salary back
<b>4</b>	2012	Technical advice	No employment contract and social insurances; being dismissed without reasons; wage arrears of RMB 9000	First sought NGO's legal advice and then made a complaint to JLSS; mediation made by JLSS	Successful in getting back salary
<b>5</b>	2012	Receiving & dispatching materials	Fired after one-month probation	First sought NGO's legal advice and then made a complaint to JLSS	Compensation of RMB 1500
<b>6</b>	2012	Feather filling	Dismissed without reasons; no employment contract and social insurance	First sought NGO's legal advice and then negotiate with the management	Compensation of RMB 2000

7	2012	Stitching	Dismissed due to refusal to work overtime	First sought NGO's legal advice and then made a complaint to JLSS	Full payment of salaries; no extra monetary compensation
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As shown in Table V.7.1, most requests received by ABC from garment workers were about the violation of labor laws by employers, such as wage arrears and dismissal without reason. With the intervention of JLSS, a majority of the cases were resolved through monetary compensation, even for those workers without employment contracts and social insurance in garment workshops (cases 4 and 6). In case 3, the victim did not get his salary back because the government inspector is closely aligned with the state and employers. It is noted that the organization has successfully pressed the state inspectors to undertake investigations at garment workshops. Thus, the role played by ABC in enforcing rights of informal workers should be acknowledged, particularly when the state inspectors rarely take the initiative to monitor the labor standards of garment workshops wherein most employees are informal workers.

Some local bureaucrats and trade union cadres acknowledge the facilitator role of ABC in monitoring and enforcing labor standards. During the interviews, several bureaucrats admitted the government agents' limitations in the enforcement of labor laws. For instance, one of the leaders of Zhejiang Provincial General Trade Union said:

*Although the trade union network in Zhejiang has been developed quite maturely, there are still blind spots in services provided by trade union organizations. The grassroots labor organizations, like ABC, have contributed significantly in filling the service vacuum. They do not only promote the interests of migrant workers, but also provide an alternative solution to the management problems of the migrant labor.*

In short, the partnership between ABC and JLSS has provided a feasible solution to the limitations of the latter in labor standards enforcement, including limited resources for full monitoring and the passive nature of the complaint-initiated inspection system. The organization has contributed to the protection of labor rights as it has lifted barriers to effectively filing and addressing complaints helped inform workers of labor laws and transferred their cases to government inspectors.



**Photo V.7.8.** A screenshot of the official website of “Reflecting the Culture of Overtime Work” Campaign



Source: The official web site of ABC

#### 7.4.2. Lobbying campaigns for labor rights

Although ABC has never openly confronted the state and employers that does not mean that the organization has played no role in interest disputes. Indeed the organization has devoted great attention to media advocacy and campaigning. It aims to become a voice of migrant workers so they can tell the wider society about their working and living conditions. According to LH, “We would like to provide a platform for the workers to share their living experiences and opinions towards various issues.”

Since its establishment in 2006, ABC has initiated several research projects and campaigns for higher wages and better conditions of employment [e.g. “Return Sunday Days Off to Me” (*Huanwo Xingqitian*) and “Reflecting the Culture of Overtime Work” (*fansi jiban wenhua*)]. ABC has also initiated a study on prolonged overtime and an unfair piece-rate system. In 2010, they released a report titled, “Investigation and Analysis of Rights Infringements of Garment Enterprises in city XH.” It states that overtime work is a serious issue in XH’s garment factories. Workers usually work from 8:00 am to 10:00 pm. Sometimes they even work from 8:00 am to 12:00 am. Leading up to production deadlines, workers have to work overnight. Most of the factories do not give workers overtime pay (ABC 2010).

The organization has since made every effort to disseminate its research findings and investigations to the general public. They have done so by writing policy recommendations and letters to officials and participating in public forums and TV shows as guest speakers.

#### 7.5. Preliminary assessment of the impact of the organization

GH is the first attempt at garment worker efforts against exploitative working conditions in the region, although it is important to note that only a minority of the actual members are garment workers. To a certain extent, this labor NGO has contributed to labor standards enforcement and worker protection, including for subcontracted workers at lower-tier suppliers. As a substitute to the party-state-led trade unions, the organization has been representing the interests of garment workers and has become involved in rights and interests disputes in the YRD’s garment sector. ABC has pushed the state inspectors to investigate non-compliance by garment factories and workshops. Also its policy advocacy and framing process has aroused public sympathy towards migrant workers, providing a favorable

environment for improvement in working conditions. When being interviewed, the staff members of ABC introduced their achievements in promoting labor welfare:

*Before the establishment of ABC, most garment workers in the town only had one or two days off a month. Then, after a two-year effort of the our organization to make appeals in the press, educate the workers and negotiate with the local government and enterprises, the employees of garment factories could take at least one day off per week now.*

However, from our point of view, the labor NGO approach cannot currently function as a good substitute for trade unions and state inspectors due to various reasons. First, labor NGOs have limited ability and not much will to reach out to large numbers of workers, and to take on a major role in assuring labor standards. Indeed, labor NGOs outside the PRD (including those in the YRD) tend not to emphasize monitoring or enforcing labor standards, due to government pressure and self-imposed limits aimed at surviving in a difficult political environment. Moreover, community-based labor NGOs are undeveloped and there are less than 10 in the YRD. Thus, the networks of labor NGOs could never have the reach of the trade union system, which extends to every enterprise and community. In addition, financial strains faced by labor NGOs have greatly impacted their effectiveness in monitoring labor standards in the region. For instance, only one full-time employee staffs the legal team of ABC. With a limited capacity of legal staff members, the organization is not in a position to extend its legal services to other urban villages in city XH. Furthermore, XWC has stated that they do not plan to extend ABC's services to other locations because they are preoccupied with organizational development. One of the founding members has established a new but similar labor NGO in Changsha, the capital city of Hunan Province. However, this team can only conduct outreach occasionally. Without the capacity to reach all informal workers in the region, it is argued that the impact of labor NGOs is minimal, failing to constitute a significant challenge against the process of informalization.

Secondly, the exploitative working conditions of garment workers in the region have greatly discouraged their participation in labor NGOs. Although former garment workers founded ABC, the majority of its core members do not work in the apparel industry. This is because the leisure time of garment workers, particularly those workers on production lines, is very limited. The long working hours and lack of layoffs have greatly reduced their engagement in labor NGO activities.

In conclusion, labor NGOs in the region could play a role of facilitator, supplementing the state inspectors and trade unions in defending the rights of migrant workers. Their network of informal workers and legal assistance services could help to overcome problems associated with a complaint-based regulatory system that is highly dependent on workers with knowledge of the application of legal provisions and willing to complain. However, due to limited resources; an oppressive political environment; weak and passive labor inspection infrastructure; and long working hours for garment workers, at this time labor NGOs fail to constitute a significant challenge against infringement of labor laws in the Yangtze River Delta Region and indeed in most of the country outside of the Pearl River Delta Region.

## VI. Conclusion and synthesis

In this concluding section of the report, we summarize and synthesize findings from the four countries, in five steps. First, we review the changing structure of production in the four countries. Second, we consider the role played by traditional unions in each country—some of which have begun to experiment with nontraditional forms of organizing. Third, we scrutinize two sources of regulation external to the sector: government agencies, and NGOs that do not directly involve workers (and often seek to mobilize international pressure through various channels). Fourth, and most crucially, we examine alternative forms of worker organization. Steps 1 through 4 all look at *what is* in these countries, but in step 5 we reflect, based on the evidence accumulated, about the possibilities that worker organization holds for monitoring and enforcement of labor standards in subcontracted and home-based work in the apparel and textile sector in the four countries, and by extension in the rest of the world.

### 1. Structure of the industry and organization of production

In all four countries, as in most of the world, over the last few decades the textile and apparel industry has shifted toward more extended supply chains and greater reliance on casualized labor, including small-scale and even home-based production units. Such flexibilization has increased employment insecurity for all workers in the garment and textile industries across the four countries—but with variable timing across the countries, and with a partial reversal in the case of Brazil. As the manufacturing of garment and textiles is further segmented into various levels of contracted workers (in shop and home), working conditions and employment security have become worse.

The change is perhaps most dramatic in the apparel and textile subsector, since in all four countries—again, as elsewhere in the world—industrialization in this subsector was initially characterized by vertical integration and scaling up into large production units carrying out multiple steps of the textile production process. But in all four countries the apparel subsector still shows a greater degree of subcontracting and reliance of micro-, often home-based units for production. Two main shifts drove this change. The first is globalization of production, primarily dominated by brands and retailers based in the richer countries (especially the US, Western Europe, and Japan). The second is a set of country-specific shifts toward more neoliberal economic policies: reduced trade protection, in some cases reductions or termination of government subsidies to producers, and in China a radical reduction of state-owned production in favor of private ownership including an important share of foreign ownership. These two large-scale shifts, in turn, combined with two persistent issues. The first of these long-standing problems is a lack of universal legal protections for workers (or protections tailored to the needs of workers—see e.g. Brazil’s home-based workers). Finally, there are insufficient resources for a labor administration that provides coverage and services (e.g., monitors and enforces labor law) for all workers. Of course, the turn towards neoliberalism itself involved loosening existing labor regulations and in some cases easing up on enforcement, which exacerbated these two standing issues.

In Brazil, textiles and apparel production is principally destined for a domestic market. Liberalization, deregulation, and economic stagnation from 1980 to 2002 translated into a growing proportion of informal workers without the *carteira* work card and thus lacking standard workplace rights and benefits. In the textile and apparel sector, the result was a shift toward low-cost, low-quality production. This shift involved increased subcontracting and a shift of production from the more formal *fábricas* (factories) to *fábricas* (home-based workshops with employees) and thence to *fações* (tiny survivalist production units that sell to the *fábricas* and *fábricas*). In the overall economy, the employment share

of home-based work *per se* declined, but in the needle trades home-based work flourished and even increased. Beginning in 2002, however, a combination of the global commodities boom and the election of Workers' Party presidents committed to supporting workers' rights turned around the informality trend in apparel and textiles, increasing the percentage of workers holding the work card, while reducing the home-based work's share. Observers in the Caruaru region of Pernambuco noted the same pattern. Women remain particularly concentrated in the self-employed and unpaid family worker categories, and most underrepresented in the categories of employer and wage worker with work card. Black (*prieto*) and brown (*pardo*) workers are overrepresented in the self-employment categories; brown workers are also concentrated among wage workers who lack the work card, but black workers are not. Brazil's laws in principle extend equal labor protections to all employees, including subcontractors, and hold companies at the top of the supply chain responsible for subcontractor violations. The federal government has allocated funding for labor inspections to enforce these standards. However, this funding is predominantly used for addressing extreme labor violations such as child labor and forced labor. Government support programs such as SENAES and SEBRAE have been implemented to support subcontracted workers. But the SENAES is undergoing structural changes as a result of a new law while family entrepreneurs are resistant to SEBRAE.

In South Africa, the 1994 end of apartheid and the economic isolation was quickly followed by the neoliberal GEAR economic program, removing trade protections from the textile and garment sectors along with others. In apparel, production rapidly shifted from vertically integrated "full package manufacturers" (FPMs) to subcontractors known as "cut, make, and trims" (CMTs), which range from larger and more formal enterprises to smaller, informal ones, including home- and garage-based and even sidewalk-based production units that can be best characterized as "survivalist." Among the CMTs, especially at the less formal end of the spectrum, jobs are often characterized by irregular hours, failure to pay minimum wage (along with non-payment of any wage when the supplier fails to meet the terms of the contract), and the absence of standard benefits (including legally required provisions such as sick and holiday pay and overtime premium). Women of color are particularly overrepresented in the most marginal subcontracted and home-based jobs. South Africa's Labor Relations Act and Basic Conditions of Employment Act were revised to include informal workers, but they remain largely unenforced. There are not enough labor inspectors employed by Department of Labor to ensure that workshops in the entire sector are registered and in compliance with labor regulations.

India saw gradual technological displacement of handlooms, but overlaying this have been two waves of change in the organization of the textile and clothing industry. In the first several decades after independence, 1947-91, employers reacted to post-independence labor and tax laws by shifting from production by large, vertically integrated mills to subcontracting by smaller, including home-based, powerlooms. Beginning in 1991, India took a neoliberal policy turn that promoted export-oriented production, established Special Economic Zones, and further reduced worker protections. Within the export market, this led to expanded use of subcontracting and thus of contract workers (the Indian term for employees of subcontractors; women predominate in this group) and piece-rate workers (mainly men), but not home-based work. Production for the domestic market also saw expansion of contract and piece-rate employment, but also home-based work.

Beginning in the late 1970s and accelerating ever since, China's economic policy emphasizes marketization, privatization, and private foreign direct investment in industry, with a particular emphasis on export-oriented activity. In textiles and clothing, this set of changes has yielded multi-tier subcontracting, in which the lower tiers can be classified at workshops rather than factories. Even within the upper tiers, some workers labor under contractor management, as part of a self-managed

contracting team, or as individual outsourced workers (analogous to contract workers in India). Home-based work is limited to the low end of domestic production plus highly labor-intensive processes not susceptible to automation. Our survey evidence from the Yangtze River Delta suggests that workshop workers (who include those based in homes) typically have no written contract, are far less likely to have access to social insurance, and suffer from less safe working conditions and Labor Law and Labor Contract Law are supposed to cover all workers, including home-based workers. But as the global economic crisis hit, the federal government has become less supportive of these laws and local governments have found ways of reducing the impact of these laws on the local economies. Local labor inspectors are ineffective in monitoring work conditions and defending workers' rights because there are only six full-time officers for a district with more than 100 thousand workers, and because inspectors play a limited, reactive role. Lack of financial resources and a complaint-based system pose a challenge to adequately carrying out investigations and enforcing labor laws.

Overall, with the recent partial exception of Brazil, our findings indicate that the organization of production is spreading out into networks of subcontracted workshops and home-based work. This increases the challenge of enforcing existing labor laws or organizing traditional unions due to the dispersal of small workshop and home-based work across a wide geographic area; lack of registration with labor entities; easy evasion of compliance; and greater ambiguity about what constitutes an employment relationship.

## **2. The role of traditional unions**

Traditional trade unions in South Africa, Brazil, India, and to some extent China have in general recognized the problems posed by multilayer subcontracting, home-based work, and consequent informalization in the clothing and textile sector. This recognition has generated some important experiments, but to date no broadly effective and scalable approaches to bolstering labor standards in these jobs.

Formal unionization in the textile and garment industry in Brazil has been running in the range of about one worker out of eight, a few percentage points behind the economy-wide average. Unionization has been concentrated in larger companies, so that subcontracted and home-based workers remain largely outside unions' grasp. However, there are examples of unions that have successfully organized and defended home-based workers. The National Federation of Clothing Workers (CNTV) and its affiliated unions have worked with government inspectors to uncover and sanction workshops that violate labor law, and campaigned to inform home-based workers of their rights. The São Paulo and Osasco Seamstresses' Union, established in the 1940s, has also worked with government inspectors to uncover and put an end to some instances of highly exploitative home-based work by migrant workers in small workshops. In addition to calling in inspectors, they have used brand reputation leverage on Zara and the Gregory brand (the latter less well known in the US). They have also directly organized home-based workers. The Ibitinga Needle Workers Union, in a more remote area of São Paulo state, was organized in 1987 by workers themselves, and in 2001 won a contract with local shops that specified that subcontracted and even home-based workers would be issued the labor cards that put them "on the books" and give them access to benefits. Despite such notable successes, Francisca Trajano, President of the CNTV, acknowledged that reaching home-based workers is "difficult," and such examples remain exceptional. DIEESE, the Inter-Union Department of Economic and Social Studies (an inter-union research institute), has carried out further experiments, but these depart sufficiently from standard union actors and practices that we consider them separately under "alternative forms of organization."

In South Africa, the Confederation of South African Trade Unions (COSATU) is politically powerful by international standards, forming part of the governing triple alliance along with the African National Congress (ANC) ruling party and the South African Communist Party. However, loyalty to the ANC despite the latter's embrace of neoliberal reforms has limited COSATU's room for maneuver, in contrast with its militant promotion of workers' economic interests during the earlier battles to end apartheid. The liberalization of the South African economy has dramatically undermined unions' economic power in many industries, among them textile and apparel by reducing trade protections and restrictions on price competition. The unions' political power has also diminished, though more gradually, as the ANC has built more alliances with capital rather than labor. Ironically, COSATU's nominally important role *within* the ANC government has limited labor's role in influencing labor and economic policy from the outside. The ANC government has appointed labor union officials to government posts, thinning unions' base of experienced leaders, and heightened pressure for unionists to accommodate, rather than challenge, their former colleagues. Furthermore, the political parties like the ANC have widely utilized worker organizations like SASEWA to gain access to areas where the party does not have membership, but often without any *quid pro quo*. As one interviewee from Sarah Mosoetsa's research stated, "The ANC was only campaigning and never helped us in anyway. Our organization fell apart after this ANC campaign. They did it for themselves and did not help us in anyway."

COSATU has affirmed the growing importance of informal work and their need to organize this workforce. The South African Clothing and Textile Workers' Union (SACTWU) has done more than most COSATU affiliates to attempt to undertake such organizing, but their degree of success has been limited at best. Our research team identified four key obstacles to this organizing: the ability of small enterprises to easily close and reopen, the blurring of the employer-employee relationship, many homeworkers' resistance to unions (in part because they fear unionization would threaten the advantages of home-based work for them), and the irregular work schedules that make it difficult to contact or even locate workers. SACTWU's initial 1999-2001 push to unionize subcontracted workers resulted in a disappointing 148 new members, leading SACTWU to back off the effort. The union has had some success in organizing CMTs, at least the larger and more visible ones. The success to date, however limited, can be attributed to four SACTWU strategies specifically targeted at subcontracted and informal workers. On the employer side, SACTWU has offered assistance to owners and managers of CMTs to induce them onto the "high road" of respecting labor standards. On the worker side, SACTWU has promoted a broader range of benefits to include some of greater interest to informal workers. It has also built connections with community organizations such as churches and has created an Associate Member category available to all, including home-based workers. SACTWU, like Brazilian unions, has also worked with government inspectors through the Bargaining Councils to expose and sanction employers not complying with legally mandated standards. However, SACTWU leaders believe that for the large number of small, noncompliant producers, the only viable source of power is moral pressure on retailers to cut ties with these producers—a strategy that has not been implemented.

In India, three groups of unions coexist. Traditional, party-affiliated unions have been around the longest, in some cases since before the country's independence, and play a mixed economic and political role. Independent unions have emerged much more recently, and have done more to reach out to contract workers. Finally, a relatively new breed (though older in its origins than the independent unions) is independent organizations specifically aimed at organizing informal workers, such as the Self Employed Women's Association (SEWA). A number of this last group of organizations, including SEWA, are formally registered as trade unions under Indian law, but they are sufficiently different from the standard conception of a trade union that we will consider them separately in the next section. Multiple

parties plus the growth of independent unions and informal worker unions have resulted in a proliferation of union federations and unions.

Traditional Indian unions in the textile and apparel sector have been considerably less militant since their defeat in the 1982 Mumbai strike, and like unions in most other countries have been fighting an ever increasing defensive battle in the face of neoliberal reforms that have placed downward pressure on labor standards in the industry. Adoption of such policies by the state has supported the increase in the flexibilization of labor and further diminished the power of workers. Their main demands on the industry amount to demanding that informal workers be formalized. They remain overwhelmingly based among the formal workforce, but some traditional unions have recently begun organizing unregulated contract workers who are located on the factory premises, especially in export-oriented plants. As they have felt compelled to reduce strikes and workplace-based actions, they have shifted toward a strategy that starts with petitioning the employer to meet legally required standards, then escalating complaints to government enforcement agencies (as in Brazil), along with political mobilizations for stronger labor standard laws, such as a single national minimum wage across sectors and across India's states.

Independent unions in India engage in some of the same strategies as traditional ones (including the petitioning-to-complaint sequence), but have in some cases developed broader organizing and bargaining strategies that appear to be more effective at reaching contract workers. Anannya Bhattacharjee, leader of two independent textile unions, described a strategy that includes cultural work and pushing for civil rights and civic amenities; the Munnade union has made a micro-savings program a cornerstone of organizing. Importantly, and unlike the traditional unions, they recruit members in the communities where they live rather than just through the workplace itself. They also have tried to exert pressure through global brands as pioneered by the global anti-sweatshop movement, and have launched somewhat broader public policy campaigns—for example a campaign for an Asia Floor Wage in apparel in addition to the national minimum wage demanded by traditional unions.

In China, the one legally sanctioned union federation, the All-China Federation of Trade Unions (ACFTU), is closely tied to the state, ruling party, and enterprise management, limiting its effectiveness in advocating for workers. Our team found a significant division between union organizations at the workplace level and higher (metropolitan, provincial) levels of union organization. At the higher levels, some leaders are relatively pro-worker, leading to innovations such as the *laibowan* (Labor One) blog offering resources for workers. But supportive leaders at a higher level have little effect, since the local leaders who actually implement, or not, union policies, are invariably closely tied to management in the garment industry. Indeed, local union leaders are often themselves mid-level managers in the company—named by the company to their union posts with union assent. Thus, while unions have achieved limited gains in making labor standards stick in subcontracted apparel and textile work in the other three countries, in China they are largely irrelevant to defending worker interests in the sector.

### **3. The role of government regulations and inspections**

As the examples of union activism from Brazil and India signal, government regulation and the monitoring and enforcement apparatus dedicated to it can be important in improving standards for workers at the bottom of garment supply chains. However, as with unions, inspectors' ability and sometimes will to reach down to the smallest shops is understandably limited. In addition, while loosening of labor regulations can open the door to informality, tightening regulations can lead

increased numbers of employers to evade those regulations—and can simply change the boundaries of the concept of informality—also feeding growth of informal employment (Castells and Portes 1989, de Soto 1989).

Brazil's ratio of inspectors per 100,000 workers in the early 2000s, at 2.5, was quite low by Latin American standards. The Workers' Party governments of Lula da Silva and Dilma Rousseff, in power since 2003, have escalated the activities of the inspectorate, but quite appropriately have focused on the worst violations of labor standards, including forced labor and child labor. In the garment sector in particular, evidence from our fieldwork and from the literature points to some successful use of inspections to bring subcontracted and even home-based workers jobs back into formality and compliance with basic Brazilian labor laws, in both wealthy São Paulo state and in the Caruaru region of poorer Pernambuco. However, successes remain isolated, and our fieldwork in Caruaru yielded characterizations of enforcement actions as "rare" and "ineffective". Moreover, Roberto Pires's (2008) cases of the footwear sector in localities in Minas Gerais and Bahía (also poorer states) illustrate that among marginal producers, a sanctions-only approach to inspection can have the perverse effect of driving small workshops to outsource to home-based workers in order to evade enforcement. Similarly, our team's Caruaru interviews revealed a fatalistic attitude among regional union officials that attempts to rigorously enforce labor standards would just result in mass layoffs rather than improvements in standards.

Two new policy developments in Brazil have the potential to bring more enterprises within the regulatory net. First, a 2009 law established a new category of business, the Microenterprise Individual Entrepreneur (MEI), comprising of businesses with a self-employed person and up to one other employee. The law simplifies taxation for these micro-units and gives the self-employed entrepreneur (and employee, if any) access to social security. Three million MEIs have incorporated since 2009. MEI status does not require employer compliance with labor standards other than incorporation in the social security system—but at least it renders microenterprises visible to the government. Second, an indirect effect of stricter state-level tax enforcement on large businesses such as retailers sitting atop garment supply chains has been greater pressure on those businesses to document where purchased goods come from. To some extent this mandate ripples down through chains of subcontractors by exposing their conduct to public scrutiny. The effect is beginning to be felt even in production clusters like the one in Caruaru where there are few large businesses based in the region itself.

South Africa's 1995 Labor Relations Act and 1997 Basic Conditions of Employment Act, the laws protecting associational rights and setting basic standards, initially only covered registered employees with a written employment contract, thus omitting most subcontracted and home-based workers. In 2002, both laws were beefed up to presume that workers are employees unless proven otherwise, to allow the Ministry of Labor to designate any group of workers as employees covered by all labor laws, and allowing business-labor sectoral Bargaining Councils to extend their terms to all workers in the sector, including informal ones. The Bargaining Council is the main regulatory instrument, setting baseline standards (including minimum wages) for a sector in a given geographic area, with government inspectors responsible for enforcement. However, in the garment industry most enterprises, especially smaller ones, do not register with the council and consequently make it difficult for the inspectorate to monitor unless a complaint is brought. Even among businesses registered with the Councils, many do not comply with the agreements. In particular, very few home-based producers register with the Bargaining Councils.



Additionally, the Bargaining Councils' mandate only includes firms with more than five workers (though all firms are still in theory required to register in order to receive a size exemption). And though the law requires companies to get Council permission for subcontracting and makes firms that use labor brokers jointly responsible for labor standards with the broker, these provisions are widely ignored. Employers are often forewarned of inspector visits, and can forestall regulatory action by telling workers to stay away from work or lie about their employment relationship. A final impediment to rigorous enforcement is the small number of government inspectors. Until 2002, the Bargaining Councils only covered urbanized areas, but in that year SACTWU won a demand for coverage of the entire country. However, nominal coverage required by law has not translated into effective enforcement.

Our team's fieldwork in South Africa found widespread compliance with the regulations in FPMs, but widespread flouting of the law, even on basic matters such as wages and hours, in the smaller CMTs, and essentially no compliance in home-based work. The number of noncompliant production units has grown in recent years, and foreign-owned, export-oriented companies have expanded in geographic areas outside the reach of the Bargaining Councils. Noncompliant units have in many cases felt sufficiently bold to deny access to government or Bargaining Council inspectors.

In India's federal system of government, there are various layers and elements of inspection infrastructure, including both state and national systems. A series of key national laws set the basis for regulation in the country; enforcement, however, occurs at the state level and thus varies widely across the country. The 1947 Industrial Disputes Act governs layoffs and closures and a set of 1948 laws regulate wages, benefits, and health and safety—but these laws all exclude contract workers and small establishments. The 1970's Contract Labor Act extended key wage and health and safety provisions to contract workers, but is little enforced and widely ignored. In addition, the Contract Labor Act only applies to the *direct* employer, so it does not hold companies higher in the supply chain responsible for offenses by subcontractors. As in Minas Gerais and Bahía, one perverse result has been the generation of long supply chains in which buyers distance themselves from illegal conditions, which are pushed to largely invisible enterprises at the end of the chain. The 1986 Child Labor Act bans employment of children in factories, another requirement that can be evaded through subcontracting. In general, national government is seen by textile and garment unions as promoting informal work rather than curbing it. However, some Indian states, in large part under pressure from worker organizations, have recently set up tripartite Welfare Boards for informal workers. The Welfare Boards, organized by sector and funded by contributions from employers, worker organizations, and government, provide a forum for discussion of industry conditions and a sector-wide source of benefits not dependent on individual employers.

In some cases government regulation has been supplemented by NGOs, of which the best documented is the Rugmark certification aimed at driving child labor out of rug manufacture; impacts have been limited. The intention of the Asia Floor Wage Campaign is to couple bottom up pressure with international pressure channeled through global North retailers and brands. So far it is too early to point to substantial results of this campaign.

China's 2008 Labor Contract Law requires employers and employees to sign labor contracts, but our survey shows that contracts are only common in first-tier factories, not in workshops. Even if workers have signed a contract it is not guaranteed that the employer will provide a copy of the contract to the worker. This makes it difficult to demonstrate that there is an employer-employee relationship, even for workers in first-tier, large factories, leading to difficulties for workers who want to report any violations. Our team's visit to a Labor Supervision Team, the community-level labor inspection unit, in Hangzhou,

found the inspectors under-resourced and reactive, even passive, rather than proactive in their approach. Both the Labor Law and the Labor Contract Law apply to *all* employees, regardless of the size of the enterprises or the site of work (home-based employees are included). But the key aspect of the laws is to prove that an employer-employee relationship exists. Since home-based enterprises are not registered and there is no written contractual agreement it is difficult to prove the existence of an employer-employee relationship. Thus, inspectors chose not to visit small, especially home-based enterprises, essentially giving up on investigating the smallest units. Furthermore, the inspectors' ideology of "neutrality" relative to the interests of workers and employers meant that they waited for workers to complain, rather than making any efforts to inform workers about mandated labor standards or their avenues of resource in the case of violations. Interviewees from the ABC (name withheld) labor NGO in Hangzhou stated that, as in the case of the unions, senior officials are more sympathetic to workers, but the street-level bureaucrats are "indifferent." Supplementing government regulation activity, some Chinese textile and clothing manufacturers have participated in social responsibility certification programs such as SA8000 and CSC9000T (the latter specific to Chinese textiles), but these CSR programs have only been effective in eliminating child labor, and have not improved other core labor rights—notably the right to organize and bargain collectively. So neither government inspectorates nor international standard-setting have been very effective in improving working conditions in the sector.

Overall, the track record of government regulation and inspection in textile and apparel manufacturing in the four countries is discouraging. However, government inspectors remain an important tool for unions and other worker organizations, which on their own have little economic leverage over employers. India's Welfare Boards are also an important innovation well adapted to fragmented industries like garment production.

Another option when national regulatory mechanisms are insufficient is to bolster labor standards through international pressure mobilized by NGOs. Though in principle international NGOs and agencies can provide another level of protection by stirring consumer outrage and threatening company reputations (or conversely by appealing to corporate codes of conduct and social responsibility policies), such groups generally do not have a base comprised of workers and if they do, staff leads the organizations with little or no democratic member power. This leads to misidentification of the needs of workers and can often result on ineffective campaigns that are staff-led rather than member-led and have difficulty reaching most workplaces. Thus, inspection, whether at the national or international level, is most effective when active worker organizations exist to identify abuses, bring in inspectors, and follow up on the ground, and for example, the Rugmark campaign to root out child labor in Indian rug-making without this kind of organizational base appears to have had limited impact (Seidman 2007).

#### **4. The role of alternative organizations of informal workers**

In the absence of potent regulation or sufficiently broad and deep union organization in subcontracted and home-based garment and textile work, NGOs, unions themselves, and independent groups of workers in the four countries have experimented with alternative forms of organization. The extent of these groups' inroads varies widely across the countries, but in all cases they show at least some promise.

Brazil has seen two main experiments of this type. One is the establishment of worker cooperatives. Unions have played an active role in organization and support of cooperatives. The UNISOL Cooperative,

actually a consortium of coops comprising 50,000 members, including textile and apparel coops, was organized by several major unions in 2000. Also in 2000, Brazil's major union federation, the Unified Workers Central (CUT), established the Solidarity Development Agency (ADS) to support local economic development, including worker-owned enterprises. One of the earliest actions of the Lula administration, in 2003, was the establishment of the National Secretariat for the Solidarity Economy (SENAES), which among other things supports cooperatives, including UNISOL. However, the succeeding Dilma government eliminated SENAES and folded its functions into a newly created Secretariat for Micro and Small Businesses (SMPE) in early 2013. Solidarity economy activists decried the shift, but it remains to be seen to what extent this will decrease support for worker ownership.

The second Brazilian experiment is the set of pilot projects by DIEESE, the inter-union think tank, to develop grassroots initiatives to bring together employers and workers in industries dominated by informal work to plan sectoral upgrading that would also involve job upgrading. These pilots include one in the garment sector in the Caruaru region of Pernambuco. The approach is informed by unions' assessment, already noted, that standards enforcement without business upgrading to improve earning potential would just put the employers out of business—along with a regional workforce little aware of unions or government regulation (and more likely to view government inspection as a threat to their livelihoods than as a source of support for rights). Now three years old, the Caruaru Social Dialogue has focused on carrying out information-gathering and dialogue, rather than forming organizations to advocate for workers. The project echoes the strategy of the working group on the informal economy within the Lula government's 2003-04 National Labor Forum, which brought together organizations of small producers and subcontractors as well as unions, worker cooperatives, and other worker organizations. However, the Social Dialogue has also worked with some socially oriented state and municipal agencies to raise worker consciousness—at times encountering resistance from more powerful local government agencies wedded to business elites. Our team assessed the Social Dialogue as having positive potential, but concluded that significant sectoral upgrading would depend on government investments in physical and business-support infrastructure at a significant scale. In the short to medium run, they concluded, formalization of garment jobs would be most feasible through the frameworks of MEIs (Microenterprise Individual Enterprises) and cooperatives.

In South Africa, the chief current innovation is the South African Self-Employed Women's Association (SASEWA), modeled on India's SEWA and built on the ashes of the earlier Self-Employed Women's Union (SEWU) that was established in 1994 but collapsed in 2004 due to internal capacity issues. SASEWA, based in Durban (as SEWU was) includes a heterogeneous mix of sectors, but among them are self-employed dressmakers. SASEWA's work to date has focused on providing business assistance to self-employed women, building toward a funeral insurance scheme, and providing a forum for the women to define and strategize around shared problems. It has joined up with ten other street vendor organizations in the Ubumbano coalition to increase its clout.

In addition, the ANC government has promoted formation of cooperatives among self-employed workers and small producers, and workers have also organized independent, more grassroots cooperatives. In a rather different vein, the COSATU union federation actually attempted a national-scale social dialogue/sectoral upgrading project akin to Brazil's DIEESE pilot in the early 1990s, the Industrial Strategy Project proposing a shift to "quick-response" production systems. However, employers rejected the initiative and opted instead for subcontracting. There has been no similarly ambitious undertaking since.

Alternative organizations of informal workers in India are the most developed in the world. SEWA, centered in the state of Gujarat, is the flagship organization on this terrain, with more than one million members including 40,000 home-based garment workers. SEWA was established as a trade union in 1972 and graduated to union federation status in 2011, but functions quite differently from traditional trade unions. The organization has successfully coordinated piece-rate bargaining by self-employed producers. The organization has also built input-buying cooperatives and purchasing intermediaries that buy and resell women's output (including through two retail shops owned by the Trade Facilitation Center intermediary), offering alternatives to high-priced suppliers and rapacious middlemen. Perhaps most importantly, it has won the establishment of Welfare Boards. The benefits provided by Welfare Boards in the garment sector are limited (for example a sewing kit, limited medical assistance, and identity cards), but highly significant to home-based workers. However, SEWA does *not* organize factory-based contract workers, only home-based workers and related trades (self-employed women who scavenge fabric scraps from the mills or transport garments).

SEWA also launched HomeNet South Asia, a South Asia-wide network of SEWA-like homeworkers' organizations, with affiliates in Bangladesh, Nepal, and Pakistan, as well as 29 organizations in 13 of India's 28 states (India also includes seven non-state territories), as well as a link with HomeNet Southeast Asia (encompassing organizations in Cambodia, Laos, the Philippines, and Thailand). HomeNet provides a larger platform for advocating for home-based workers and extends well beyond SEWA's geographic concentration in the state of Gujarat, but SEWA remains by far the strongest organization within the network.

Another organization that includes men as well as women, and extends to informal workers in small employment units as well as the self-employed, is the Mumbai-based Labor Education and Research Network (LERN), established as a NGO in 1998. While LERN originated as a research and advocacy organization, in 2009 LERN registered the Women Workers Organization (MKS) as a trade union, which has since affiliated with the SEWA union federation and HomeNet. MKS is active in Maharashtra state (where Mumbai is located); so far it has organized a relatively modest 6000 workers. Among MKS members are home-based garment workers. MKS helps workers get identity cards, which in turn entitle them to food rations and other public benefits. They bargain with contractors for higher wages and for half-pay for rejected pieces of work. The union also provides skills training, ranging from literacy to basic computer skills. MKS carries out community organizing in the women's home communities and presses community-based demands for services on the local state, but does not appeal to government labor authorities because the labor laws don't apply to their membership.

In China, labor NGOs formed in reaction to traditional unions' failure to defend workers' rights. They first emerged in the southeastern Pearl River Delta, then moved north and west to other areas including Beijing and Shanghai. Organizations must be sponsored (not just approved) by a government agency in order to register as NGOs, so many organizations that are in reality NGOs are compelled to register as businesses instead, affording them many fewer protections. In addition, the Chinese government began cracking down on labor NGOs in 2008, even closing about 10 NGOs based in Shenzhen (in the Pearl River Delta) in 2012. The result has been to largely limit labor NGOs to services (including helping workers pursue arbitration or litigation to resolve complaints) rather than organizing. Thirty to thirty-five labor NGOs were inventoried in the Pearl River Delta in 2008, but our team was only able to identify six such organizations in the Yangtze River Delta (YRD), despite the fact that the region includes Shanghai and other major cities. The YRD NGOs run hotlines, provide legal aid, and advocate for victims of industrial accidents.

The team concluded that ABC, based in Hangzhou, is the only of the six YRD labor NGOs currently organizing workers to stand up for their rights. But even ABC has emphasized training and cultural activities, has limited legal advocacy to a low level (20 legal consultations and 3-4 lawsuits per year, with other complaints pursued through mediation), and has striven to maintain close ties with government agencies and the All-China Federation of Trade Unions. They typically forward worker complaints to the Jiubao Labor Security Supervision Team, the official government inspection agency, and press the inspectors to follow up and take action. This is the agency our researchers characterized as passive, but the addition of a well-informed worker organization to a reactive inspectorate can greatly increase the inspectors' impact. Despite the mild tone of ABC's communication with government agencies, the NGO has tackled highly contentious issues, for example, pressing Hangzhou municipal authorities to allow the rural migrants making up the garment workforce to register as urban residents, entitling them to benefits and services ranging from social insurance and health care to schooling for their children. This petition has parallels with SEWA's establishment of the Welfare Boards, giving workers access to social benefits (in this case at the community rather than sectoral level) while not making demands directly on employers. These forms of voice are based on moral suasion rather than political or economic power. ABC's self-limiting agenda responds to government suspicion of independent organizing. It also corresponds to the culturally centered vision of ABC founder XWC. But even staff member YXG, who comes from a more radical activist background in a Pearl River Delta NGO, acknowledged that given the small size of most YRD garment enterprises, lawsuits resulting in large settlements would probably just induce employers to close operations, leaving workers with nothing.

The other five NGOs, like ABC, focus on the provision of services and some advocacy and none of them actively organize for collective action. Sozhou Migrant Workers Home, founded by migrant workers, operates in the Sozhou and Jiangsu provinces, and is similar to ABC. Its services include organizing cultural activities, training workshops, visits to injured workers, small group activities for female workers, and legal education. Xiaoxiaoyu Labor Services is another organization founded by migrant workers, and as its name implies, it also provides services (legal aid and education in occupational safety). Similarly, the Sozhou branch of Action Public Interest Hotline, a Beijing-based labor NGO, provides some services, promotes corporate social responsibility, and conducts some policy advocacy. The Little Bird Hotline has hotline services for workers, provides some legal education and organizes charitable activities. Lastly, The Nanjing University Legal Aid Program for Migrant Workers, an organization founded by university scholars, serves as a consultation and legal aid institution. All organizations except The Nanjing University Legal Aid Program rely on international donations. Their activities are highly scrutinized by the government, thus they are limited to just providing services. The university program receives its funding from the university and the state.

Alternative forms of organization thus sweep out a spectrum across the four countries. In India, SEWA and kindred organizations have achieved impressive scale and results—though still small deficiencies. Brazil's experiments are smaller still, but enjoy valuable support from a national government led by the Workers' Party and from powerful unions. Alternative organizations remain embryonic in South Africa, with limited government and union support (notably government assistance in establishing worker coops) but at least no official opposition. In China, labor NGOs have encountered suspicion and even hostility from the government and unions, and the ongoing government crackdown has made it harder than ever for the organizations to go beyond service to organizing.

## **5. What could be done to monitor and enforce labor standards in these settings?**

We close this report by briefly summarizing the action takeaways. We group these final conclusions in four categories: (1) Form, (2) Content, (3) Limits, and (4) Potential.

### **5.1. Form**

The institutional configuration of the four countries separates them into sets of three and one, and within the set of three there are distinct national trajectories determined by the dispositions and capacities of key actors. In Brazil, South Africa, and India unions are politically and to some extent economically powerful, in the context of multiparty democracies that allow varied channels for political pressure. In Brazil and South Africa, unions' strength ironically leaves less institutional space for informal worker organizations, consistent with what Paret (2012) has reported about differences in labor organizing between Johannesburg and Los Angeles. In India, because formal unions' reach only extends to the small minority of workers who are formalized, the space for informal worker organizing is much larger. The structural problem confronting traditional unions in all three countries is that traditional union strategies are poorly suited to organizing subcontracted and home-based work. Brazilian unions have been more open to supporting and even launching new organizational projects such as worker cooperatives and the garment sector Social Dialogue in Caruaru, so unions themselves have begun the experimentation necessary to defend labor standards in subcontracted work. In India, only a few of the traditional unions have innovated on this frontier, but independent unions and organizations of informal workers have begun taking up the slack and winning demands from the state, including the crucial demand for Welfare Boards. South Africa presents perhaps the most difficult situation of the three: SACTWU, despite explicitly recognizing the problem confronting them, has proven less creative and less effective than Brazilian counterparts in reaching out to and mobilizing marginal workers in the textile and garment industry, but so far vital and large-scale movements of informal (including subcontracted and home-based) workers have not yet taken hold.

In China, unions have more limited political and economic power and are largely directed to serving management rather than worker needs. A labor-repressive state has sharply limited the space for labor NGOs and especially for organizing activity by such organizations. As a result, effective organizations of migrant workers (inclusive of garment and textile workers) that go beyond services to worker are the exception. We found only one example, generating mixed results, in our Yangtze River Delta study region (U.S. Department of State 2012).

### **5.2. Content**

In our countries, the relevant actors have used seven main channels to improve labor standards in a subcontracted and home-based textile and garment workforce. The first three seek to extract concessions from employers. First, worker economic bargaining power, as in a traditional trade union model, is rare, but sometimes comes into play. For example, SEWA and MKS in India have been able to negotiate higher piece rates with contractors (even mounting successful strikes on occasion), and South Africa's SACTWU and India's independent garment and textile unions have been able to win some concessions from larger subcontractors or for contract workers of larger employers. The second strategy, mobilizing consumer awareness or corporate sensitivity about brand reputation, has been deployed, but with limited effects in our case study countries. Third, regulatory oversight can be effective when government inspectors work in tandem with alert and sophisticated worker organizations, and both unions and other forms of organization have made good use of this leverage. A

more limited, but important version of this channel is to educate workers about their rights and about procedures for making complaints, helping them to individually advocate for themselves. The Asia Floor Wage Campaign aims to combine all three weapons of economic bargaining power, consumer pressure, and regulation, and it will be interesting to see how this hybrid strategy develops.

Two other avenues seek to help workers without struggling to change employer practices. The fourth approach is to provide a social safety net or useful services of some kind to these vulnerable workers. This can take various forms. Self-funding (perhaps with help from outside donors) is one option for services, as in the case of ABC's cultural activities or SASEWA's attempt to organize a funeral fund. Another option is helping workers get access to established government benefits or services, as when MKS helps workers secure identity cards, and thus access to public benefits including food rations, or when ABC advocates for urban residency rights for its rural migrant constituency. India's Welfare Boards combine worker and government contributions with employer fees. Fifth, organizations may help workers develop the skill base needed to move to better jobs. ABC in China, SEWA and MKS in India, and SASEWA in South Africa all provide training and/or scholarships to constituents.

The last two strategies target economic development, by two routes that may overlap. The sixth job-improving instrument is to work with employers to upgrade the sector and with it, the economic possibilities for workers. This can include a sector-wide Social Dialogue like that being promoted by DIEESE in Caruaru, simply offering individual employers inducements and assistance for moving to "high road" business organization as SACTWU does, or giving self-employed workers themselves business advice and support as SASEWA, among others, does. The seventh and final possibility is to organize cooperatives to help workers reap economies of scale without requiring major investments by the workers themselves or disrupting some of the advantages of self-employment and home-based work in terms of flexibility and self-direction. Coops can include worker-owned production units like the UNISOL coops in Brazil, or market power-enhancing intermediary "upstream" purchasing consortia for needed inputs or "downstream" selling consortia as developed by SEWA.

Most of the organizations captured in our country case studies employ multiple strategies from this repertoire. SEWA, the strongest of the bunch, makes extensive use of all of them, except consumer-based pressure and sectoral upgrading. Even SASEWA, a sapling by comparison with SEWA's banyan tree, provides small business assistance, scholarship help, and pressure on municipal authorities to respect worker needs, and is working on funeral insurance and providing self-employed women a forum for dialogue that presumably will generate further lines of action—though all of these activities are so far limited in scale and scope.

### **5.3. Limits**

Though the menu we have just recounted may sound ample, a set of daunting economic, social, and political constraints limit what the various actors have accomplished, and are likely to accomplish in the near future, in making work in this sector more decent. The economic constraint is quite straightforward: the economic pressures faced by employers of, and purchasers from, subcontracted and home-based garment and textile workers. Though anti-sweatshop activists like to point out the small percentage of final garment prices accounted for by labor costs at the bottom of supply chains, the current competitive organization of the market (and for that matter of financial markets shaping the decisions of the brands at the top of the supply chain) pits producers in a growing number of countries, including very poor ones like Bangladesh and Vietnam, against each other in defense of market shares, leading to extremely thin profit margins. As a result, the actual frontline businesses setting

compensation levels or purchase prices for these marginal workers can ill afford cost increases—unless national or global brands were to jointly agree to pay for labor cost increases, which has so far been a rare event (but with some noteworthy successes, like that of the Coalition of Immokalee Workers [2013] in the US tomato market).

Attempts to boost labor standards also face two main social obstacles. One is the economic fears and aspirations of many of the workers. Based on the economics just cited, workers in the precarious jobs in question quite reasonably fear that placing demands on employers or purchasers will lead the businesses to close up shop or relocate—but these fears are often exaggerated due to workers’ limited knowledge of the industry as a whole. On the aspirations front, to the extent that subcontracted workers see a brighter future for themselves, they tend to define that future in terms of being able to move up the supply chain—and become small employers or middle-people rather than remaining subordinate to them. Again, this aspiration is in many ways a perfectly rational response to the cramped world they know (though not a realistic prospect for many of them), but it is a barrier to mobilizing them to improve job quality. A second social roadblock is the limited and on the whole declining resources disposed of by the institutional actors most likely to take action to improve the jobs in question: activist unions, regulators, and pro-labor NGOs.

Politically, the four national environments are quite distinct, but most are not particularly conducive to political action to dramatically upgrade the jobs of subcontracted worker. China has adopted new laws that formalize worker protections, but given the strict limits on independent action by workers and their advocates, the laws and worker rights proclaimed as part of Chinese socialism are implemented spottily at best. South Africa and India (in the latter case particularly states with competitive electoral contexts) have some political ambit for advocacy for an expanded safety net, but little for thorough enforcement of labor standards. Evidence on the degree and nature of labor standards enforcement suggests that to some extent, both national governments (and many states and localities) have implicitly embraced what Judith Tandler (2002) calls the “devil’s deal”: allowing small businesses to flout labor laws as a sort of low-cost welfare program for people who would otherwise be unemployed. Brazil is the greatest success story overall: over the last ten years, a combination of economic growth and national governments willing to tighten regulation and support unionization rights (up to a point) have turned the tide back in the direction of greater labor formality, including in textiles and apparel. It is less clear what this policy mix will yield (and how politically sustainable it will prove) as Brazilian growth slows, as it has done in the last couple of years. Moreover, the Workers’ Party governments have constructed a social democratized version of neoliberalism while clinging to central tenets of that policy creed. In fact, in all four countries, neoliberalism remains regnant, even where unions are powerful actors and nominally left parties are in power.

#### **5.4. Potential**

We return to our central research question in this project: how and to what extent can worker organization help strengthen monitoring and enforcement of labor standards in subcontracted and home-based work in the clothing and textile sector? Our case studies from Brazil, China, India, and South Africa do indicate that worker organizations can contribute in important ways to shoring up labor standards. Organizations’ largest impacts in our case studies came from (1) serving as force multipliers for government regulation and inspections; (2) bringing workers’ collective voice into economic and political dialogues and decision-making, with local expansions of social welfare benefits as a particularly significant payoff; and (3) acting as advocates for, or agents of, sectoral economic development in forms ranging from cooperatives to industrial upgrading.



The case studies counsel flexibility and a certain amount of humility. Flexibility—in response to the particular national and regional environment in question—is called for regarding whether organizational efforts are most effectively undertaken by unions, independent organizations, or a combination of the two. By humility, we just mean that limited expectations are appropriate, proportionate to the limited results that have been achieved to date.

Beyond these questions of broad outlook, our examples suggest that creativity by the lead social actors, investment in “organizational research and development,” and a long time horizon are keys to success. SEWA, DIEESE, and ABC have gotten as far as they have by thinking outside the box. But creativity has limited traction without the “R&D” resources to research a sector and carry out varied experiments. And SEWA’s large-scale success is due in important part to more than 40 years in the programmatic and organizing trenches.

We know that international solidarity and brand campaigns centered in the global North have been sometimes effective in locations ranging from Central America to Bangladesh. But in the needle trades in this specific set of countries, NGO-driven international campaigns have not so far left a major footprint. In Brazil and South Africa this is understandable, since the relevant industries mainly supply domestic markets. The Chinese and Indian garment industries, as major exporters, are in principle more subject to international consumer pressure, and the Asia Floor Wage Campaign is designed mobilize such pressure as part of a multi-pronged strategy.

Our country case studies paint an overall picture that is neither terribly encouraging nor totally discouraging—for these countries and for the wide range of other countries with significant informal work in the garment and textile industry (including the United States). We have not identified any prospects for rapid transformation of subcontracted labor in textiles and apparel, but in all four countries there are workable handholds and promising experiments. To the extent that the relevant social actors can grasp the handholds and nurture these and other experiments, they will be able to exert upward pressure on labor standards.

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## Appendix A: Brazil

**Table A.1.** Number of registered establishments and employees in the garment sector, by state & cluster

Item	State	Cluster name	Municipalities	Number of registered firms	Employees at registered firms
1	BA	Rua Uruguai	Salvador	805	7,035
2	BA	Moda do Estado da Bahia	Feira de Santana, Amélia Rodrigues, Coração de Maria, Conceição da Feira, Santo Estevão, São Gonçalo dos Campos, Conceição do Coité, Santa Luz, Serrinha, Tanquinho, Santo Antonio de Jesus e Jequié	946	2,305
3	CE	Polo de Moda do Ceará	Fortaleza	4,896	67,532
4	DF	Vestuário do Distrito Federal	Distrito Federal	643	2,326
5	ES	Noroeste do Espírito Santo	Colatina	427	7,567
6	ES	Grande Vitória	Vitória (RM)	1,177	10,655
7	GO	Região do Jaraguá	Jaraguá, São Francisco de Goiás, Itaguaru, Uruana e Goianésia	762	5,048
8	GO	Goiânia	Goiânia	3,700	24,166
9	GO	Catalão	Catalão	92	933
10	MA	Imperatriz	Imperatriz, Açailândia, Carolina, Estreito, Grajaú, Porto Franco, Ribamar Fiquene	104	466
11	MA	São Luis	São Luis	245	825
12	MG	Passos	Passos	211	2.611
13	MG	Divinópolis	Divinópolis	1,161	10,722
14	MG	Muriaé	Araçuaí, Ataléia, Carai, Carangola, Catuji, Coronel Murta, Franciscópolis, Frei Gaspar, Itaipé, Itinga, Ladainha, Leopoldina, Malacacheta, Muriaé, Novo Cruzeiro, Novo Oriente de Minas, Ouro Verde de Minas, Padre Paraíso, Pavão, Ponto dos Volantes, Poté, Setubinha, Teófilo Otoni, Virgem da Lapa	709	9,009
15	MG	Formiga	Formiga	228	3,837
16	MG	Juruuaia	Juruuaia	117	1,447
17	MG	Uberlândia	Uberlândia	457	5,087
18	MG	Juiz de Fora / São João Nepomuceno	Astolfo Dutra, Bicas, Cataguases, Descoberto, Guarani, Guarará, Juiz de Fora, Mar de Espanha, Maripá	1,824	27,202

			de Minas, Rio Novo, Rio Pomba, Rochedo de Minas, São João Nepomuceno		
19	MG	Poços de Caldas	Poços de Caldas	100	926
20	MG	Jacutinga	Borda da Mata, Jacutinga, Monte Sião, Ouro Fino	1,822	9,107
21	MG	Ubá	Guarani, Guidoal, Guiricema, Mercês, Piraúba, Rio Pomba, Rodeiro, São Geraldo, Silveirânea, Tocantins, Ubá e Visconde do Rio Branco	555	6,555
22	MS	Campo Grande	Aparecida do Taboado, Caarapó, Campo Grande, Dourados, Glória de Dourados, Naviraí, Nova Andradina, Paranaíba, Ponta Porã, Sidrolândia. Três Lagoas	508	21,474
23	MT	Cuiabá e Várzea Grande	Cuiabá, Várzea Grande	308	2,109
24	MT	Rondonópolis	Rondonópolis	82	2,192
25	PB	Campina Grande	Campina Grande	327	14,325
26	PB	Guarabira	Guarabira	35	1,731
27	PB	João Pessoa	João Pessoa	236	7,211
28	PB	Cajazeiras	Cajazeiras	39	680
29	PB	Monteiro	Camalaú, Monteiro, São João do Tigre, São Sebastião do Ubuzeiro, Zabelê	26	102
30	PB	São Bento	Brejo do Cruz, São Bento	167	648
31	PE	<b>Polo de Confeções do Agreste</b>	<b>Agrestina, Belo Jardim, Brejo da Madre de Deus, Caruaru, Cupira, Gravatá, Passira, Pesqueira, Riacho das Almas, Santa Cruz do Capibaribe, Surubim, Taquaritinga do Norte, Toritama, Vertentes</b>	<b>3,458</b>	<b>24,449</b>
32	PI	Têxtil e Confeções da Região Norte	Piripiri, Parnaíba	117	865
33	PR	Maringá e Região	Cianorte, Ângulo, Astorga, Cidade Gaúcha, Floresta, Guaporema, Iguaraçu, Indianópolis, Japurá, Jussara, Mandaguaçu, Mandaguari, Marialva, Maringá (Cidade Pólo), Nova Olímpia, Paçandu, Rondon, São Manoel do Paraná, São Tomé, Sarandi, Tapejara, Tapira, Terra Boa e Tuneiras do Oeste	2.786	39.373
34	PR	Terra Roxa	Terra Roxa	178	2,961
35	PR	Região Sudoeste	Ampere, Barracão, Capanema, Chopinzinho, Dois Vizinhos,	398	8,165

			Francisco Beltrão, Pato Branco, Pranchita, Planalto, Realeza, Salto de Lontra e Santo Antonio do Sudoeste		
36	RJ	Nova Friburgo	Cantagalo, Cordeiro, Duas Barras, Bom Jardim, Macuco e Nova Friburgo	1,746	20,540
37	RJ	Moda Sul Fluminense	Valença	59	1,339
38	RJ	Moda de Petrópolis	Petrópolis	798	10,823
39	RJ	Moda do Noroeste Fluminense	Itaperuna	211	1,972
40	RJ	Moda Niteroi	Niteroi	221	1,553
41	RJ	Moda Praia Cabo Frio	Cabo Frio	98	418
42	RJ	Moda São Gonçalo	São Gonçalo	502	3,661
43	RJ	Moda de Campos	Campos dos Goitacazes	146	955
44	RJ	Terezópolis		100	1,070
45	RO	Cacoal	Cacoal	35	842
46	SC	Rio do Sul	Agronômica, Aurora, Braço do Trombucu, Dona Emma, Laurentino, José Boiteux, Mirim Doce, Petrolândia, Pouso Redondo, Presidente Getúlio, Presidente Nereu, Rio do Campo, Rio do Oeste, Salete, Santa Terezinha, Taió, Trombucu Central, Vitor Meireles, Witmarsun	614	10,422
47	SC	São Miguel do Oeste	São Miguel do Oeste	55	504
48	SC	Joinville	Joinville	582	14,516
49	SC	Jaraguá do Sul	Jaraguá do Sul	541	23,868
50	SC	Blumenau	Brotuverá, Brusque, Camboriú, Doutor Pedrinho, Garpar, Guabiruba, Ibirama, Ilhota, Indaial, Itajaí, Ituporanga, Lontras, Luiz Alves, Navegantes, Pomerode, Rio dos Cedros, Rio do Sul, Rodeio, Timbó, Agrolândia, Apiúna, Ascurra, Balneário Camboriú, Benedito Novo, Blumenau	8,487	148,079
51	SC	Chapecó	Chapecó, São Lourenço D'Oeste, Xanrerê;	226	1,501
52	SC	Sul de Santa Catarina	Tubarão, Araranguá, Sombrio	867	9,476
53	SE	Confecções e Bordados do Sul e	Itabaianinha, Lagarto, Tobias Barreto	267	2,151

		Centro Sul de Sergipe			
54	SP	Americana	Americana	1,102	23,624
55	SP	Polos de Confecções do Brás e Bom Retiro	São Paulo	19,188	163,700
56	SP	Sorocaba	Sorocaba	295	6,537
57	SP	São José do Rio Preto	São José do Rio Preto	587	4,538
58	SP	Ibitinga	Ibitinga	743	13,259
59	SP	Araraquara	Araraquara	96	6,818
60	SP	Jundiaí	Jundiaí	172	4,580
61	SP	Tabatinga	Tabatinga	79	1,529
62	SP	Novo Horizonte	Novo Horizonte	61	461
63	SP	Cerquilha / Tietê	Cerquilha / Tietê	419	8,167
64	TO	Palmas	Palmas	63	328

Source: (SEBRAE Pernambuco 2013)

## BRAZIL QUESTIONNAIRE

**1) What forms of organization and working relationship are practiced more frequently in the garment sector in this region? In your opinion, it is common to have employees or contractors who work from home?**

- a. Do you identify supervisory or regulatory instruments of labor relations in the region? Are they effective?*
- b. Unions are important in the region? Do they contribute to greater regulation of labor relations?*
- c. What are the institutions, organizations and political or social movements that work to improve working conditions in the region?*
- d. What steps, actions, organizations or laws you think would be important to ensure progress in labor relations in the garment sector in the region?*
- e. Are there experiences in the area of development of worker cooperatives or solidarity economy?*
- f. Has the Single Micro Entrepreneur – MEI- category been an alternative to formalize workers?*

**2) What do employees who work in production activities garments want? There is the desire to formalize their labor relationship?**

- a. Social protection (pension, unemployment insurance, industrial accident insurance) is important?*
- b. The opportunity to sell to large companies is a stimulus to formalize?*

**3) How do you think the region and Garment cluster will be in ten years?**



## BRAZIL: NOTES ON METHODOLOGY FOR FIELDWORK AND INTERVIEWS

To establish what would be the best work methodology to use in this project, we had to take into account the structural characteristics of Brazilian labor institutions and of the country's garment sector. This starting point allowed us to minimize costs and time spent in the field, while we maximized the information gathered.

The textile and garment sectors in Brazil are relatively old and well organized, and have made important contributions both to the national industrialization process and to employer and worker organizations. Brazil has a relatively strong body of labor law and inspection system as well as an active civil society, notably trade unions and NGOs working along with social movements to ensure benefits for the working class. Given these characteristics of Brazilian society and its state and civil institutions and civil, we decided that the most appropriate research design would be through the establishment of dialogues and qualitative interviews with representatives of those institutions, since they are the main protagonists of the precarious labor reduction process in Brazil.

Among the institutions that were consulted and whose leaders granted us interviews, we highlight:

- Inter-Union Department of Statistics and Socioeconomic Studies (DIEESE). DIEESE is an institution established by the national union federations during Brazil's years of dictatorship, and plays an important role as a research and training center to advance union capabilities in the bargaining processes and in the definition of strategies to enhance workers' labor conditions.
- Unified Workers Central (CUT). The CUT is the largest union federation in Brazil and in Latin America, as it brings together over 8000 unions and a contingent of 22 million workers. In São Paulo, includes unions related to the textile and clothing industry and has served in an active dialogue with employers and employees to resolve the poor working conditions that characterize some of the industry's segments.
- Chamber of Commerce (CDL) of Santa Cruz do Capibaribe. This is an association of commercial enterprises and small businesspeople, very common in Brazilian cities, which aims to represent the interests of these actors in the construction of public policies related to segment. In the case of Santa Cruz do Capibaribe, this institution has been an important partner in the "social dialogue" forums promoted by DIEESE.
- Pernambuco's Union of Seamstresses, a union organized at the state level, but with little representation in the companies in the Caruaru Cluster. It has also been part DIEESE's Social Dialogue.
- Força Sindical. The second largest union federation in Brazil, it has approximately 5 million members, has done a lot of work organizing garment workers throughout Brazil, and in the case of the state of Pernambuco is the federation that houses Pernambuco's Union of Seamstresses.
- Caruaru Women's Department. This is the body of the municipal government, which, in its mission to fight for gender equality, is working with the DIEESE project, since the vast majority of homeworkers working in the Garment Cluster of Caruaru are women.
- Caruaru Department of Social Participation. Led by a young Brazilian, a former student movement leader, this office has been dedicated to broadening participation in shaping public policies of the municipality. Also part of the Social Dialogue.
- Development Office of the Municipality of Santa Cruz do Capibaribe. This is the local government body responsible for planning the counties economic and social dialogue with business. Also participates in the DIEESE project.

- Roberto Veras, professor at the Universidade Federal de Campina Grande. He coordinates a permanent research project on the Caruaru Cluster that has produced a book, several papers and supervised several theses on labor in the Cluster.
- Francisca Trajano, President of the National Confederation of Garment Workers-CUT, and president of the Seamstress Union of the ABC region in São Paulo metro area.

The list of specific persons interviewed is as follows:

- Bruno Bezerra - Secretary of Economic Development of the Municipality of Santa Cruz do Capibaribe.
- Elba Ravane - Special Secretary for Women Caruaru.
- Luana Lais Gonçalves Santos - Association of the Sugarloaf Shopping District (municipality of Santa Cruz do Capibaribe).
- Louise Caroline - Social Participation Secretary, Caruaru municipality.
- Milena Prado - Technical responsible for the project, DIEESE.
- Raquel Lindoso –Technical advisor, Caruaru municipality.
- Aurora Flora Duarte – president of the Pernambuco Seamstresses Union.
- Roberto Veras, A professor at Universidade Federal de Campina Grande.
- Francisca Trajano, President of the National Confederation of Garment Workers-CUT.

## Appendix B: South Africa

### Impact of liberalization policies on production, employment, imports and exports

The outcome of the lowering of tariffs between 1993 and 2001 on textile (49% to 16%) and footwear (38% to 27%) was evident in all areas: production, employment, and exports (Table V.1). Contrary to the predictions of neoliberal policy advocates, there were significant declines in employment, average wages, and exports in the industry. The economic ambitions of an export-led growth for South Africa were fading away. During 1995-2002, imports in footwear increased from 13% to 47% and in clothing imports also increased from 23% to 31% between 1995 and 2002. Yet, average wages did not increase. In clothing, the perceived average wage increase was as a result of retrenchment; not increased wage settlements. Between 1995 and 2002, average wages in footwear also continued to decline, and reaching their nadir in 2002 (Table V.1). The entire industry's employment levels declined by 37.4 percent, affecting more than 425,950 workers.

**Table B.1.** Output, employment and wages in the textile and footwear sectors in South Africa, 1993-2002

Year	Output (R million, 1995 prices)		Employment			Remuneration per month, per employee	
	Textiles	Footwear	Spinning, weaving & finishing	Other textiles	Footwear	Textile	Footwear
1993	8501	2,564	35,260	30,695			
1994	8858	2,551	35,839	32,053			
1995	9032	2,618	34,641	32,369	27,882	28,742	24,436
1996	8833	2,229	45,566	32,886	25,088	24,666	24,635
1997	9370	2,171	42,744	32,713	23,699	25,535	22,802
1998	8393	2,135	30,169	26,725	22,450	34,230	24,551
1999	8273	2,213	26,484	26,713	18,748	34,918	23,717
2000	8399	2,035	25,182	30,258	15,317	34,152	22,225
2001	8593	1,693	25,110	28,487	12,758	34,052	23,675
2002	9315	1,676			12,305	28,803	22,109
K/L			87		28		

Source: Bezuidenhout, Mosoetsa & Roberts (2006)

Notes: Data for 1993 to 1997 are year averages while the data for 1998 to 2001 reflect figures from June of each year. The former homelands were only included from 1996, hence the break shown in the series. Output is in constant 1995 rand millions. Output: labor is rand thousands, constant 1995 prices. Capital: labor (K/L) ratio is total fixed assets per employee in rand thousands for 2002.

Between 2004 and 2007, about 38,431 added jobs were lost in the industry (Table V.2). Given the nature of the industry, it was not surprising that job losses in the industry affected women workers the most. But between 2007 and 2010, job losses moderated somewhat, especially in clothing.

**Table B.2.** Joblessness in clothing, textile, leather and footwear sectors, 2004- 2010

Sector	2004-2007 (Jobs lost)	2004-2007 % Total	2007-2010 (Jobs lost)	2007 – 2010 % Total
<b>Clothing</b>	29,113	76 %	18,291	62 %
<b>Textile</b>	7,558	20 %	9,165	31 %
<b>Footwear &amp; Leather</b>	1,132	3 %	1 245	4 %
<b>Other</b>	632	2 %	826	3 %
<b>Total</b>	<b>38,435</b>	<b>100%</b>	<b>29,527</b>	<b>100%</b>

Source: SACTWU, SALRI (2010)

According to the South African Clothing and Textile Workers Union (SACTWU), the moderation of job losses in the clothing industry after 2007 can be attributed to:

- The much smaller size of the industry, as a result there were fewer jobs that could be lost than was previously the case.
- Quotas on China were in place in 2007 and 2008. They provided protection to the local industry, particularly to the clothing.
- Local clothing manufacturers broke historical ties with local textile companies and chose to source their textiles from overseas instead.
- Low cost countries like China reached a plateau in dominance in the global clothing manufacturing sector, and expanded their activities in heavier and more complex forms of industry, including textiles.
- A stronger commitment from the South African government to implement industrial, trade and other measures to support the industry.

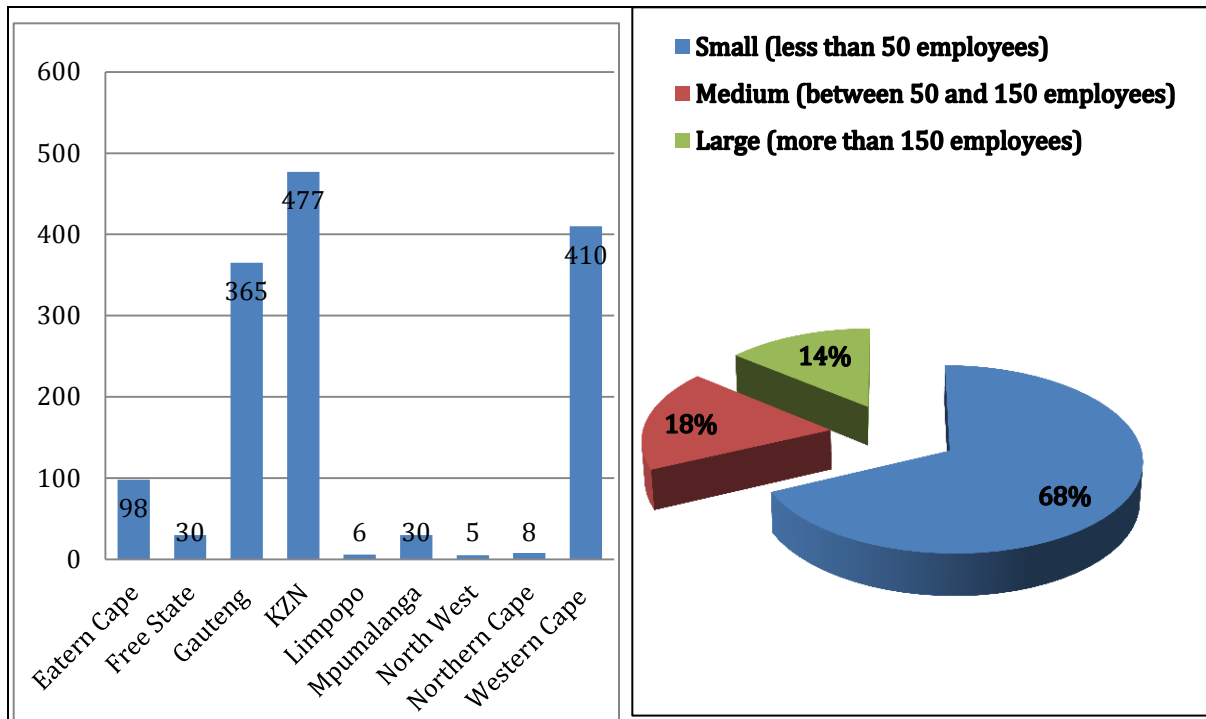
The ultimate result of years of trade liberalization was that in 2010, there were less than 1500 employers in the industry and most of them (68%) employed less than 50 workers. The industry was still concentrated in three provinces, KwaZulu-Natal, Western Cape and Gauteng. The industry had not created much-needed jobs (Figure V.1).

The objective of trade and tariff liberalization on the domestic market had been to increase the level of competition and dampen inflationary pressures while fostering manufacturers to become internationally competitive as well as encourage exports by reducing the anti-export bias. However, these measures caused an influx of legal and illegal imports that flooded and destroyed the local economy. However, the Department of Trade and Industry (DTI) opposed action, holding that the clothing industry, unlike other sectors, had enjoyed “sustained and extensive protection” with sufficient notice and support to adjust to global exposure.<sup>84</sup> It was much later (2005 onwards) that the DTI introduced measures and a number of incentives to protect the local industry. To date, recovery has been slow and the industry continues to shed jobs. Furthermore, this industry is still plagued by:

- Limited production, profits and investment
- Loss of local market share; raw materials increasingly sourced internationally.
- Dated machinery and designs (thus uncompetitive)
- Illegal imports continue to flood the economy
- Growing second-hand market in clothing, undermining the industry

<sup>84</sup> Van der Westhuizen (2006, 8-9)

**Figure B.1.** Number and size of clothing, textile, leather and footwear enterprises in 2010 (by province)



Source: DTI 2012

**Table B.3.** Informal employment (employees and self-employed) as a percentage of total employment, by gender, South Africa 2004

Employment Category	Men	Women	Total
Formal employment	68.6%	60.5%	62.8%
Informal employees	18.7	23.2	22.8
Informal self-employed	12.7	16.3	14.4
Total informal	31.4	39.5	37.2
Total	100	100	100

Source: Heintz and Valodia 2008, Tables 3 and 4.

**Table B.4. Labor force survey: Informal employment in the selected sectors (2011-12)<sup>85</sup>**

Sector	Informal Employment Oct-Dec 2011 (Thousand)	Informal Employment April-June 2012 (Thousand)
Private Households (domestic work)	1,118	1,153
Mining	1	1
<b>Manufacturing</b>	<b>203</b>	<b>171</b>
Construction	320	292
Transport	192	187
Trade	997	1,000

Source: StatsSA, Labour Force Survey 2012

**Table B.5. Selected SACTWU'S successful labor court, Commission of Conciliation, Mediation and Arbitration & National Bargaining Council cases (2008-2012)**

Date	Issue	Case Details
<b>March 2012</b>	The right to strike	Seardel subsidiary of Berg River Textiles challenged SACTWU's right to strike action. The Labour Court's judgment stated that the union (contrary to what the employer argued) need only to certify that an attempt has been made to conciliate between the trade union and employers by a certain date before a strike was to be called. The outcome of that conciliation was not important in the union's decision to issue a strike notice to the employer.
<b>February 2012</b>	Attempts to close the National Bargaining Council (NBC)	The Labour Court ruled in favour of SACTWU and the National Bargaining Council for the Clothing Industry in a case that sought to dismantle the Bargaining Council system. This was the second such attempt by Western Cape manufacturers, Sgt Pepper's Knitwear and Abbey Road Fashions to shut down the NBC.
<b>May 2011</b>	Unlawful retrenchment process	SACTWU successfully interdicted the employer of Simunye Clothing in Newcastle and chairman of the Chinese Chamber of Commerce from proceeding with the retrenchment of workers. The Labour Court ruled that the company is to comply with a fair procedure in its retrenchments, that the employer is interdicted and restrained from dismissing any of the employees without complying with the requirements of the Labour Relations Act. The court ordered the employer to re-instate any workers already retrenched.
<b>April 2011</b>	Enforcing collective bargaining agreements	SACTWU won a R3 million arrear wage payment settlement for clothing workers in the Western Cape for clothing workers who embarked on a three week living wage national strike in September 2009. The strike was part of a campaign resist employers attempts to cut workers' prescribed minimum wages

<sup>85</sup> There is no information that compares data in this table with total employment in manufacturing. Furthermore, these data are not broken down in terms of apparel, textile and footwear as separate categories.

		and social benefits. Part of the strike fell on 24 September 2009 (Heritage Day), which was a paid public holiday in terms of the industry main agreement. Employers affiliated to the Apparel Manufacturers' Association of South Africa (AMSA especially in the W Cape and KZN), refused to pay workers for the 24th September holiday. They argued that since workers were on strike, they had automatically forfeited their right to be paid. The National Bargaining Council for the Clothing Manufacturing Industry ruled in favour of the trade union.
<b>July 2008</b>	Non-compliance with collective bargaining agreements	The Commission of Conciliation, Mediation and Arbitration ordered a KwaZulu-Natal-based textile company to pay a R17 million fine for non-compliance with the provisions of the National Textile Bargaining Council's wage provisions. Tai Yuen Textiles (Pty) Ltd was found guilty of a wage underpayment of 393 employees from 12 February 2007 to 27 April 2008, amounting to R11.5 million. In addition, the Commissioner found that that the company unlawfully failed to pay provident fund contributions and ordered it to pay back almost a R1 million in unpaid employer provident fund contributions. The company was also ordered to pay the workers just over R1 million in unpaid annual bonuses, to pay arrear bargaining council levies of R49,000, the union's HIV/Aids levy of just over R2,000.

Source: South African Clothing and Textile Union (SACTWU) (2013)

## Appendix C: India

### Contemporary Data on Indian Textiles

This section draws from the Ministry of Statistics and Programme Implementation, Government of India, 2008-2009

**Table C.1. National industrial classification of textiles**

<b>Manufacture of Textiles (Division 13)</b>	<b>Manufacture of Wearing Apparel (Division 14)</b>	<b>Manufacture of Leather &amp; Related Products (Division 15)</b>
4.53% aggregate GVA	2.10% aggregate GVA	.65% aggregate GVA
9 <sup>th</sup> highest contribution to total GVA (of 29 ranked categories)	16 <sup>th</sup> highest contribution to total GVA (of 29 ranked categories)	22 <sup>nd</sup> highest contribution to GVA (of 29 ranked categories)
Spinning, weaving, finishing of textiles (group 131)	Manufacture of wearing apparel, except fur (group 141)	Tanning and dressing of leather; manufacture of luggage, handbags, saddler and harness; dressing and dyeing of fur (group 151)
Manufacture of other textiles (group 139)*	Manufacture of articles of fur (group 142)	Manufacture of footwear (group 152)**
	Manufacture of knitted and crocheted apparel (group 143)	

\*Includes carpets/rugs, rope, twine, netting, cordage, and others.

\*\*Excludes: manufacture of footwear of textile material without applied soles, manufacture of plastic footwear parts, manufacture of rubber footwear parts, manufacture of wooden footwear parts.

<b>Division 13</b>	<b>Division 14</b>
No. of Factories: 13,360	No. of Factories: 5,761
Persons engaged: 1,400,207	Persons engaged: 797,878
Output (Rs. millions) 1,717,001	Output (Rs. million): 537,571
Input (Rs. millions): 1,439,931	Input (Rs. million): 414,924



**Group-based Economic Data, All-India**  
\*Values for GVA and profit in Rs. million

**Table C.2.**

<b>Group</b>	<b>Factories in Operation</b>	<b>Gross Value Added (GVA)</b>	<b>Profit</b>
Preparation and spinning of textile fibers (1311)	3895	118,881.8	<b>-15,223.7</b>
Weaving of textiles (1312)	2269	53,325.9	2,956.1
Finishing of textiles (1313)	2960	41,505.9	3,033
Manufacture of knitted and crocheted fabrics (1391)	1264	26,041.3	5,178.4
Manufacture of made-up textile articles, except apparel (1392)	724	14,454.6	2,168.7
Manufacture of carpets and rugs (1393)	341	4,979.2	<b>-290.8</b>
Manufacture of cordage, rope, twine and netting (1394)	569	8,229.2	3,554.5
Manufacture of other textiles (1399)	681	9,652.3	1,275
Manufacture of wearing apparel, except fur apparel (1410)	3830	98,259.6	17,011.6
Manufacture of articles of fur (1420)	44	674.4	122.5
Manufacture of knitted and crocheted apparel (1430)	1616	23,712.5	3,357.8

**Select State-based Economic Data**

\*Values for GVA and profit in Rs. million

**Table C.3. Andhra Pradesh**

<b>Group</b>	<b>Factories in Operation</b>	<b>Gross Value Added (GVA)</b>	<b>Profit</b>
Spinning, weaving and finishing of textiles (131)	360	11,647.3	445.5
Manufacture of other textiles (139)	91	720.1	<b>-309</b>
Manufacture of wearing	53	1,881.4	288

apparel, except fur apparel (141)			
Manufacture of articles of fur (142)	-	-	-
Manufacture of knitted and crocheted apparel (143)	4	-1.4	-26.1

**Table C.3. Delhi**

<b>Group</b>	<b>Factories in Operation</b>	<b>Gross Value Added (GVA)</b>	<b>Profit</b>
Spinning, weaving and finishing of textiles (131)	24	55.6	3.3
Manufacture of other textiles (139)	76	837.8	29.5
Manufacture of wearing apparel, except fur apparel (141)	427	9,262.6	2,479.1
Manufacture of articles of fur (142)	-	-	-
Manufacture of knitted and crocheted apparel (143)	14	155.4	30.4

**Table C.4. Gujarat**

<b>Group</b>	<b>Factories in Operation</b>	<b>Gross Value Added (GVA)</b>	<b>Profit</b>
Spinning, weaving and finishing of textiles (131)	1184	31,731.1	1,514.9
Manufacture of other textiles (139)	306	9,261.7	588.9
Manufacture of wearing apparel, except fur apparel (141)	156	2,306.5	532.7
Manufacture of articles of fur (142)	-	-	-
Manufacture of knitted and crocheted apparel (143)	17	174.8	35.9

**Table C.5. Haryana**

<b>Group</b>	<b>Factories in Operation</b>	<b>Gross Value Added (GVA)</b>	<b>Profit</b>
Spinning, weaving and finishing of textiles	256	5,392.7	1,999.2

(131)			
Manufacture of other textiles (139)	150	4,821	790.1
Manufacture of wearing apparel, except fur apparel (141)	299	18,513	1,523.2
Manufacture of articles of fur (142)	-	-	-
Manufacture of knitted and crocheted apparel (143)	-	-	-

**Table C.6. Karnataka**

<b>Group</b>	<b>Factories in Operation</b>	<b>Gross Value Added (GVA)</b>	<b>Profit</b>
Spinning, weaving and finishing of textiles (131)	148	4,587.4	-927.7
Manufacture of other textiles (139)	92	1,720.8	742.4
Manufacture of wearing apparel, except fur apparel (141)	542	25,842.1	3,481.8
Manufacture of articles of fur (142)	-	-	-
Manufacture of knitted and crocheted apparel (143)	5	190.1	-285.1

**Table C.7. Kerala**

<b>Group</b>	<b>Factories in Operation</b>	<b>Gross Value Added (GVA)</b>	<b>Profit</b>
Spinning, weaving and finishing of textiles (131)	124	236.6	-2,528
Manufacture of other textiles (139)	170	-92.1	-1,861.7
Manufacture of wearing apparel, except fur apparel (141)	24	926.3	82.9
Manufacture of articles of fur (142)	-	-	-
Manufacture of knitted and crocheted apparel (143)	20	11.5	6.8

**Table C.8. Maharashtra**

<b>Group</b>	<b>Factories in Operation</b>	<b>Gross Value Added (GVA)</b>	<b>Profit</b>
Spinning, weaving and finishing of textiles (131)	1101	2,4625.6	-5,146.7
Manufacture of other textiles (139)	257	11,538.6	4,690.5
Manufacture of wearing apparel, except fur apparel (141)	657	13,189.8	6,351.3
Manufacture of articles of fur (142)	15	26.6	-48.2
Manufacture of knitted and crocheted apparel (143)	12	343.1	77.7

**Table C.8. Punjab**

<b>Group</b>	<b>Factories in Operation</b>	<b>Gross Value Added (GVA)</b>	<b>Profit</b>
Spinning, weaving and finishing of textiles (131)	510	15,008.8	-3,836.7
Manufacture of other textiles (139)	259	5,402.6	1,477.4
Manufacture of wearing apparel, except fur apparel (141)	203	2,081.5	-102.2
Manufacture of articles of fur (142)	-	-	-
Manufacture of knitted and crocheted apparel (143)	359	4,970.3	202.5

**Table C.9. Rajasthan**

<b>Group</b>	<b>Factories in Operation</b>	<b>Gross Value Added (GVA)</b>	<b>Profit</b>
Spinning, weaving and finishing of textiles (131)	963	14,982.2	-1,653.7
Manufacture of other textiles (139)	45	1,123.5	294.2
Manufacture of wearing apparel, except fur apparel (141)	88	1,710.7	324.9
Manufacture of articles of fur (142)	-	-	-

Manufacture of knitted and crocheted apparel (143)	-	-	-
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**Table C.10. Tamil Nadu**

Group	Factories in Operation	Gross Value Added (GVA)	Profit
Spinning, weaving and finishing of textiles (131)	3477	43,396.2	-8,170.7
Manufacture of other textiles (139)	1591	70,192.3	2,562.5
Manufacture of wearing apparel, except fur apparel (141)	864	10,302.7	-1,496.8
Manufacture of articles of fur (142)	20	196.4	82.4
Manufacture of knitted and crocheted apparel (143)	1143	17,429.4	2,868

**Table C.11. Uttar Pradesh**

Group	Factories in Operation	Gross Value Added (GVA)	Profit
Spinning, weaving and finishing of textiles (131)	284	3,476.1	-872.1
Manufacture of other textiles (139)	286	4,450	1,143.5
Manufacture of wearing apparel, except fur apparel (141)	396	8,260.8	2,020.9
Manufacture of articles of fur (142)	4	20.6	-9.4
Manufacture of knitted and crocheted apparel (143)	21	167.1	68.7

**Table C.12. West Bengal**

Group	Factories in Operation	Gross Value Added (GVA)	Profit
Spinning, weaving and finishing of textiles (131)	159	16,316.6	-369.2
Manufacture of other textiles (139)	95	661.7	-32.9

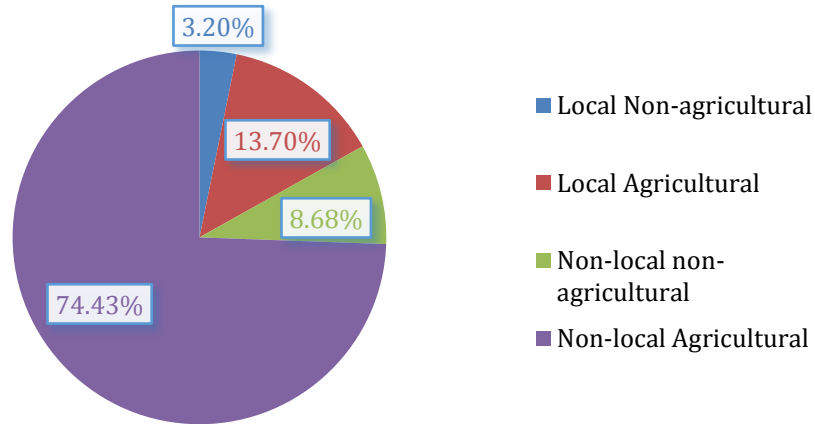
Manufacture of wearing apparel, except fur apparel (141)	51	1230.8	208.1
Manufacture of articles of fur (142)	-	-	-
Manufacture of knitted and crocheted apparel (143)	12	85.3	21.2

## Appendix D: China

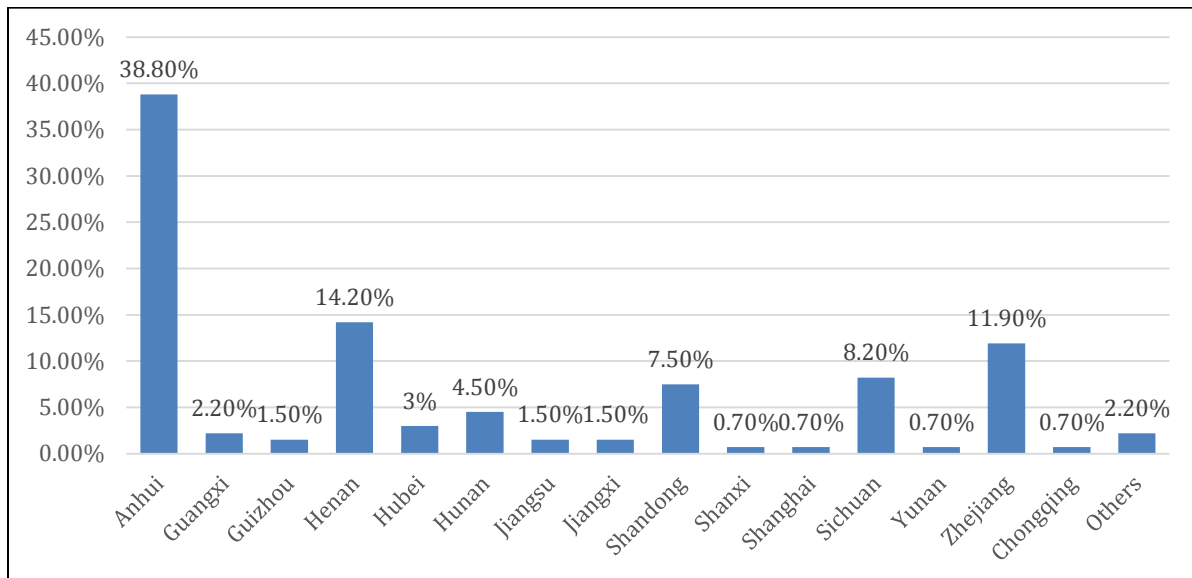
### Socioeconomic Backgrounds of the Survey Respondents

#### Places of Origin

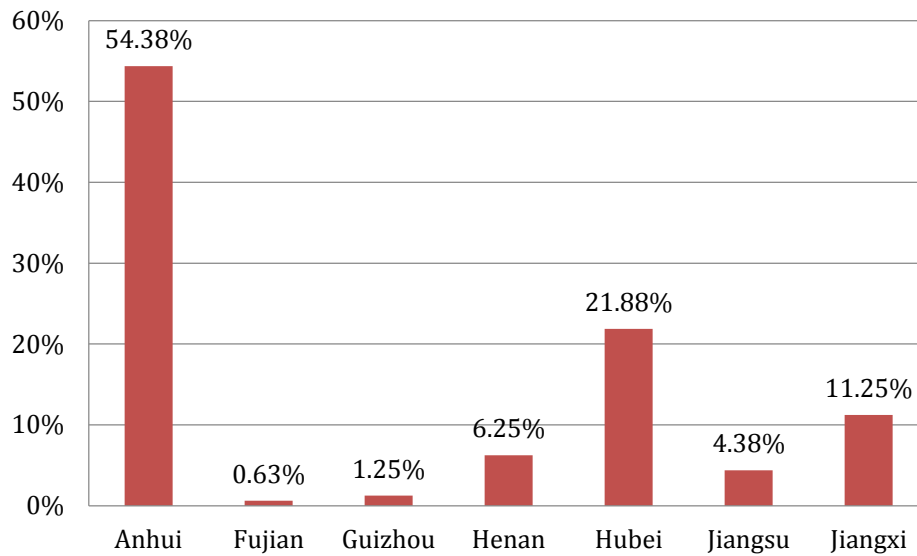
**Figure D.1.** Types of household registration among garment workers surveyed



**Figure D.2.** Places of origin of factory workers surveyed



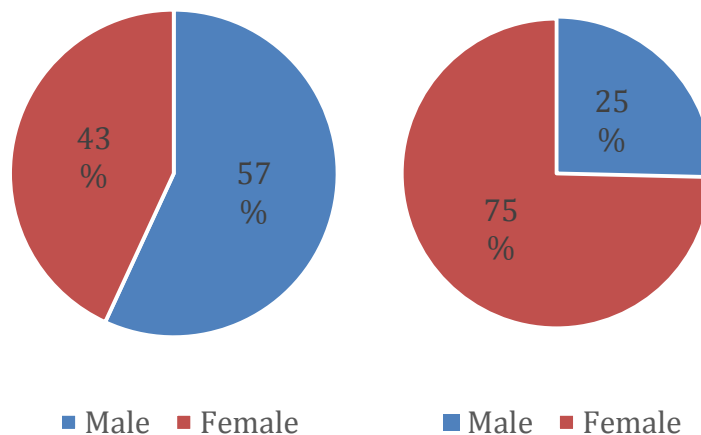
**Figure D.3.** Places of origin of workshop workers surveyed



Most employees in YRD’s garment sector are migrant workers who leave their hometowns for employment opportunities. As shown in Figure D.1, more than 83% of our respondents are non-local residents who hold non-local agricultural *hukou*. Concerning the places of origin, most migrant workers are from rural areas of neighboring inland provinces, like Anhui, Jiangxi, Hubei and Henan. In particular, Anhui can be regarded as the largest labor-exporting province in YRD because about 39% of factory workers and workshop respondents were born in poor villages in Anhui (Figures V.A.2 and V.A.3).

**Sex**

**Figure D.4.** (Left) Sex ratio of workshop respondents;  
(Right) Sex ratio of factory respondents



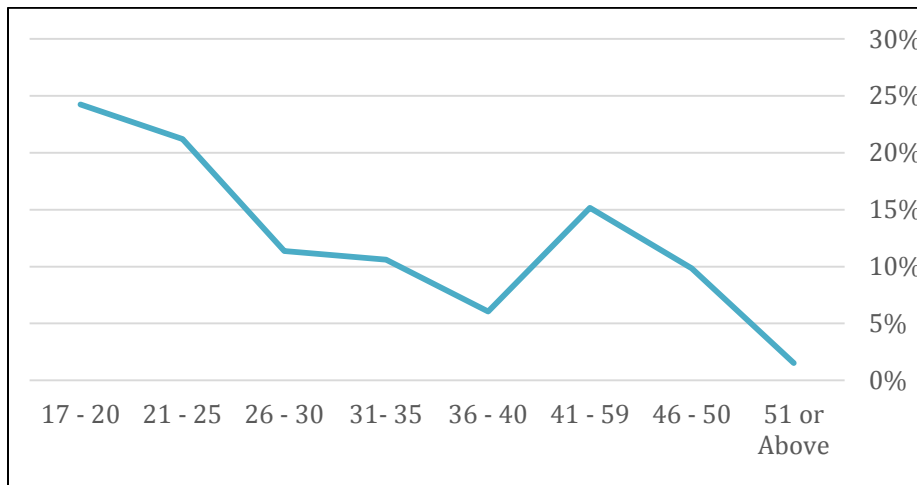
It is suggested that garment workshops in the region employ more males than females. In our surveys, out of the 218 workshop respondents sampled, 124 (nearly 57%) of them are males while the rest are



females (Figure D.4).<sup>86</sup> In contrast, majority of factory workers we interviewed are female (about 75%). We believe that the employers' gender preference for women in the recruiting process should be taken into account. The factory owners tend to hire young women from rural areas because they are seen as more docile and less ready to protest.

**Age**

**Figure D.5.** *Distribution of garment workers by age*



The factory respondents in the survey were between the ages of 17 and 55. The average age, mode and median of factory workers are 30.61, 20 and 28 respectively. More than half of the factory interviewees were less than 28 years old, indicating that young female migrant workers mainly fill garment jobs in the YRD's factories. Concerning the age distribution of garment workers, it is found that the number of workers does not necessarily decrease in age. The 41-59 years old group is indeed the third largest age group in the garment sector of the region, after the 17-20 and 21-25 age groups (Figure D.5). Thus, we opined that there are two major types of garment workers in the region. The first type of worker is a young migrant fresh out of school still in the process of learning new skills. The second type of worker is middle-aged person who has all-round skills and prefers to work in teams in small workshops because they flexible and have "less strict" management styles.

**Education level**

As shown in Figure D.6, most garment workers we interviewed are literate and have received some formal education. 220 respondents (about 63%) have completed at least junior secondary (junior high) school, while about one-fifth of the interviewees indicated that they graduated from senior secondary (high) schools or post-secondary colleges.

<sup>86</sup> As mentioned in the *Methodology* section of the China report, we interviewed 223 workshop respondents. On the question of sex, there were 5 missing values, hence why we state 218 respondents.

**Figure D.6.** *Distribution of garment workers by education levels*

