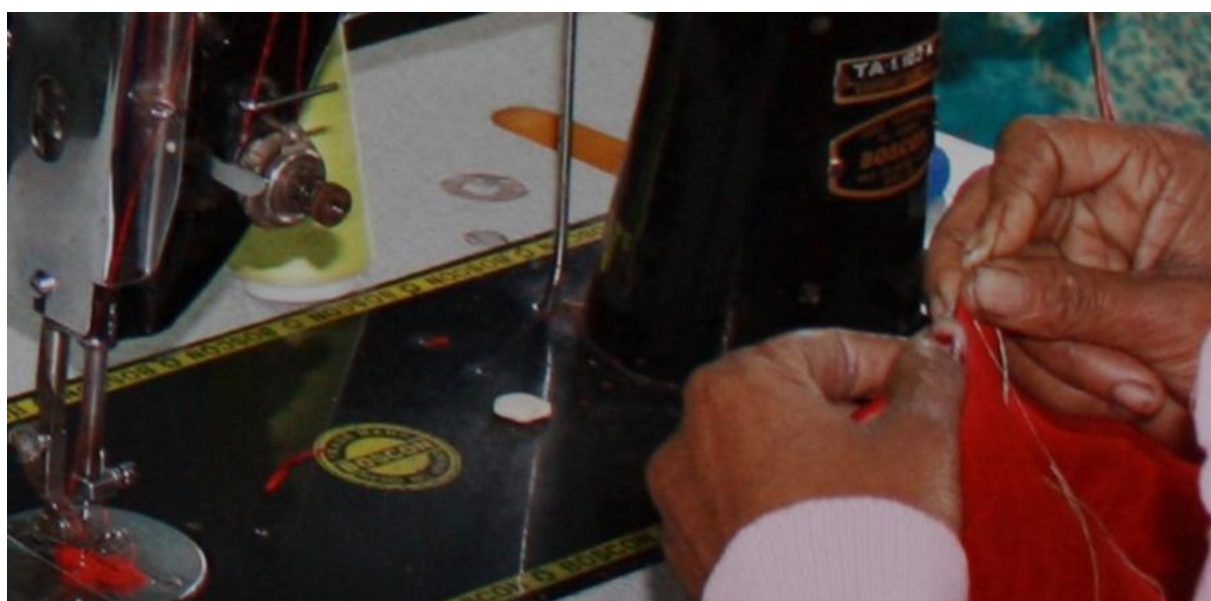


# Contract Labour in Global Garment Supply Chains

Key Characteristics and Recent Trends

Man-Kwun Chan



November 2013



## **About WIEGO**

Women in Informal Employment: Globalizing and Organizing is a global action-research-policy network that seeks to improve the status of the working poor, especially women, in the informal economy. WIEGO draws its membership from membership-based organizations of informal workers, researchers and statisticians working on the informal economy. For more information see [www.wiego.org](http://www.wiego.org).

## **About the Author**

Man-Kwun Chan is an independent consultant specializing in labour, gender and social development issues in global supply chains. As Head of Communications and Research at the Ethical Trading Initiative (ETI) between 2001 and 2008, she provided specialist advice and support to global garment companies on managing labour issues in their supply chains, and also managed research on the impact of ETI's labour code on workers. Prior to joining ETI Man-Kwun conducted a number of in-country studies on supply chain labour issues in Africa. Her LinkedIn profile can be found at: <http://uk.linkedin.com/in/mankwunchan>.

**Publication date: November 2013**

**ISBN number: 978-92-95095-74-8**

Published by Women in Informal Employment: Globalizing and Organizing (WIEGO)  
A Charitable Company Limited by Guarantee – Company No. 6273538, Registered Charity  
No. 1143510

WIEGO Secretariat  
Harvard Kennedy School,  
79 John F. Kennedy Street  
Cambridge, MA 02138, USA

WIEGO Limited  
521 Royal Exchange  
Manchester, M2 7EN,  
United Kingdom

[www.wiego.org](http://www.wiego.org)

### **Copyright © WIEGO.**

This report can be replicated for educational and organizing purposes as long as the source is acknowledged.

Cover photograph cropped from a photo by C. Wills

# Contents

<b>Executive Summary</b> .....	<b>4</b>
Background and Aims of the Report/Study.....	4
Key Findings.....	4
Key Conclusions.....	6
Key Recommendations .....	7
<b>1. Introduction</b> .....	<b>9</b>
1.1 Background and Rationale for the Report.....	9
1.2 Purpose and Audiences of the Report.....	10
1.3 Scope of the Study .....	11
1.4 Key Research Questions.....	12
1.5 Study Methodology.....	13
1.6 How the Report is Structured.....	15
<b>2. Prevalence of Contract Labour in Garment Supply Chains</b> .....	<b>16</b>
2.1 Introduction.....	16
2.2 Proportion of the Workforce Consisting of Contract Workers .....	16
2.3 Prevalence of Contract Labour at Different Levels of the Supply Chain .....	20
2.4 Change in CL Prevalence Since the Global Financial Crisis .....	20
<b>3. Key Drivers: Why Suppliers Use Contract Labour</b> .....	<b>23</b>
3.1 Introduction.....	23
3.2 CL as a Cost-Effective Response to Commercial Pressures.....	23
3.3 When and Why Suppliers Specifically Use CL Instead of Other Approaches.....	24
3.4 The Drivers Behind Observed Changes in CL Use Since the Crisis.....	28
<b>4. Different Types of Labour Contractors</b> .....	<b>30</b>
4.1 Introduction.....	30
4.2 Different Roles Performed by Labour Contractors.....	30
4.3 Who the Labour Contractors Are .....	31
4.4 New Types of Contractors or Contractual Relationships Since the Crisis.....	33
<b>5. Socio-Economic Characteristics of Contract Workers</b> .....	<b>34</b>
<b>6. Key Workers' Rights Abuses Experienced by Contract Workers</b> .....	<b>35</b>
6.1 Introduction.....	35
6.2 Key Workers' Rights Abuses Experienced by Contract Workers.....	35
6.3 Difference in Abuses Experienced by CWs and Directly Employed Workers .....	39
6.4 Factors that Increase or Decrease the Vulnerability of CWs to Abuses .....	40
<b>7. Key Gender Issues</b> .....	<b>43</b>
<b>8. Ongoing Initiatives Relevant to Contract Labour in the Garment Sector</b> .....	<b>45</b>
8.1 Introduction.....	45
8.2 Garment-Specific Initiatives on CL .....	45
8.3 Cross-Sector Initiatives on CL .....	46
8.4 Initiatives Campaigning for a Reduction in Precarious Work .....	46
8.5 Initiatives Aimed at Protecting Immigrant Workers' Rights .....	47
8.6 Initiatives Focused on Addressing Abuses under the Sumangali Scheme .....	47
<b>9. Conclusions</b> .....	<b>49</b>
<b>10. Recommendations</b> .....	<b>50</b>
10.1 Introduction.....	50
10.2 Broad Good Practice Principles that are Fairly Non-Contentious .....	50
10.3 Areas Requiring Further Multi-Stakeholder Dialogue and Consensus-Building.....	53
10.4 Areas for Further Research .....	55
<b>References</b> .....	<b>58</b>
<b>Interviews</b> .....	<b>59</b>

# Executive Summary

## **Background and Aims of the Report/Study**

Contract workers – that is, workers employed by a third party rather than directly by the factory or enterprise where they work – are commonly found in many global garment supply chains, and this has been the case for some time. Yet while they are typically among the most vulnerable and poorly treated groups of workers, they remain largely ignored and poorly understood as a specific category of workers.

This report, which presents key findings from a study commissioned by Women in the Informal Economy: Globalizing and Organizing (WIEGO), aims to start redressing this imbalance. Drawing both on existing literature and on limited primary research (i.e., interviews with some 12 key informants), the study aimed to identify: the prevalence and drivers of contract labour (CL) use in key sourcing countries; the key characteristics of labour contractors, of contract workers (CWs), and of the contractual relationships between the two; the key changes in use and characteristics of CL since the onset of the global financial crisis; and ongoing research and action to address these issues. Importantly, the study also aimed to provide recommendations for future action and research. By collating, analysing, expanding on and publicising the existing evidence base on CL in the garment industry, WIEGO hopes to catalyze more concerted action by key stakeholder groups on improving the conditions of CWs in the sector.

This report is therefore aimed at those key stakeholder groups who, alongside labour contractors and garment suppliers themselves, are in the strongest position to take action in support of CWs, namely: relevant trade union organizations, international workers' rights organizations, garment brands and retailers, development donors and practitioners, and relevant researchers. Key findings and recommendations from the study are summarized below.

## **Key Findings**

### ***Prevalence of CL***

Available evidence indicates that use of CL in the export garment sector is widespread in a number of key sourcing countries, including India, Bangladesh, Turkey, Pakistan and possibly Sri Lanka. Use of CL is also likely to be significant in countries where the garment industry is substantially dependent on foreign labour, including Taiwan, Malaysia, Thailand, Mauritius, Jordan, Egypt and the Maldives. However, there are substantial variations between countries; notably, CL use is apparently not significant in the garment sector in China. Little data is available on differences in CL prevalence at different levels of the supply chain, but it is clear that in relevant countries CL is widespread in first tier and well as lower tier factories. There is some evidence to suggest that CL prevalence has increased since the global financial crisis in India (both north and south) and possibly in Bangladesh; however, CL use was already high prior to 2007/8, and other factors have also been important in driving the observed post-crisis growth.

### ***Why Suppliers Use CL (Key Drivers)***

Key drivers behind suppliers' high and/or increased reliance on CL include the purchasing practices of global garment brands and retailers, notably the downward pressure on prices, short lead times, and increased seasonality and irregularity of orders. However, CL is not the only available response to these pressures: direct employment of seasonal or temporary workers, and/or sub-contracting of production off-site, are alternative strategies that are also widely used by garment factories. Key reasons why suppliers choose to rely on labour contractors rather than employing these workers directly include:

- poor regulation of labour contractors
- increased access to suitable labour
- reduced transaction costs
- ability to restrict worker organization and collective bargaining
- receipt of financial incentives from labour contractors

Variables that were found to influence the degree of reliance on CL in any given situation included the specifics of government laws and policies, the degree of labour scarcity, the nature/seasonality of the production cycle, and the skill level of the workers required.

### ***Different Types of Labour Contractor/Contractual Relationships***

Labour contractors vary enormously both in terms of the roles or functions they perform, and in terms of the types of entities they represent. Labour contractors can perform any combination of the following functions: sourcing and supply (recruitment) of workers; remuneration of workers; supervision of work; and provision of production and/or other non-labour related services. In terms of the entities involved, these include: individual garment factory workers or supervisors; independent individuals (many of whom are ex-garment workers); garment sub-contracting firms; formal medium-large scale labour contracting firms; government agencies/schemes; informal networks of individuals and/or small firms; and possibly criminal gangs. There is no evidence to suggest that substantial changes have occurred since 2007/8 in terms of the types of labour contractors or contractual relationships in operation in the garment sector.

### ***Socio-Economic Characteristics of CWs***

Information on the socio-economic characteristics of CWs could only be found for India. CWs in India are predominantly (internal) migrants and are typically drawn from the poorest households in deprived rural and urban areas. Adult CWs typically migrate only on a seasonal basis, and are drawn to the factories due to the higher wages and/or need to pay off dowries of female relatives.

### ***Key Workers' Rights Abuses Experienced by CWs***

Available evidence indicates that all types of CWs commonly experience:

- lack of payment of social security and other non-wage benefits
- low/sub-minimum wages

- lack of clear or written employment contracts
- lack of paid leave and weekly rest days
- reduction of pay through illegal deductions and other forms of deception
- restrictions on trade union rights
- excessive working hours, compulsory overtime and lack of appropriate overtime compensation
- verbal, physical and sexual abuse
- poor health and safety standards

Child, adolescent and cross-border migrant CWs recruited by labour suppliers are particularly vulnerable to many of these abuses, and are in addition at considerable risk of forced labour conditions, restrictions on freedom of movement, and poor/dangerous transport, accommodation and sanitation facilities. There is also specific evidence that CWs generally suffer inferior conditions to their directly employed counterparts, in particular lower wages and poorer access to social security benefits. Finally, a number of factors were found to influence the extent to which CWs are vulnerable to abuse: these include the role/s performed by the labour contractor, distance of worksite from place of origin, the number of intermediaries involved, and the socio-economic status of the worker involved.

### ***Key Gender Issues***

Only limited information was available on gender issues affecting CL. Nevertheless, available evidence indicates significant gender concerns. Due to their marginalization in household decision-making, women CWs may not have been involved in the decision to migrate or take up work in the first place; and once at the factory, women regularly experience lower wages, larger deductions to their pay, sexual harassment and abuse, and greater restrictions on freedom of association. The most vulnerable women CWs also face a high risk of being trafficked into the sex industry.

### **Key Conclusions**

Despite the considerable gaps in knowledge that exist, at least one clear conclusion can be drawn from the available evidence: that the issue of CL in the global garment industry is significant and growing, and deserves more attention from key international stakeholders. This is particularly the case because CWs experience a wide range of labour abuses, and on average experience poorer working conditions compared to their directly employed counterparts. However, any efforts to improve the conditions of these workers are likely to face significant challenges, not least the challenge of defining what good practice actually looks like. This is, in part, due to the complexity of the relationships and networks in which CWs are located, and in part to the entrenched nature of the root causes of CL use (including brand purchasing practices and poor regulation of labour contractors). Fortunately, in recent years a number of international initiatives have emerged to tackle some of these challenges. But while each of these initiatives has helped to raise awareness of key aspects of the problem, a more comprehensive and focused effort is needed to address CL as a specific and systemic issue.

## **Key Recommendations**

Due to the complexity and limited knowledge of CL issues, many questions remain unanswered when it comes to defining what specific actions need to be taken to address CL concerns. In many cases, it also remains unclear which stakeholder groups are best placed to take responsibility for the different types of action required. The recommendations are divided into three sections to reflect this reality. The first section sets out broad good practice principles that are fairly non-contentious, and that are likely to be endorsed by a wide range of stakeholders (including, for example, trade unions, other workers' rights organizations, and more progressive global garment companies). The second section addresses significant areas of concern that require further multi-stakeholder dialogue and consensus-building. The final section lists those aspects of CL that remain poorly understood, and that therefore require further research.

### ***Broad Good Practice Principles that are Fairly Non-Contentious***

There is a need to:

- better understand and address CL as a specific type of informal labour that has its own particular characteristics and needs; however, attempts to address CL must at the same time be conceptualized and implemented as part of an integrated approach to tackling the broader trend towards informalization of labour and production in global garment supply chains
- promote more supportive purchasing practices among global brands/retailers, including payment of better prices to suppliers, longer lead times and increased security and regularity of orders
- strengthen regulation of labour contractors, including improved enforcement of existing laws as well as legislative reform to iron out existing legal loopholes
- improve legal protection for CWs, including enforcement of existing legal rights regarding minimum wage, social security benefits and trade union rights, and bringing the legal rights of CWs in line with directly employed permanent workers
- promote greater transparency and accountability around CL use at the factory level, including making factory managers legally accountable if labour contractors fail to adhere to labour legislation
- promote practical measures to reduce risk for the most vulnerable CWs, including education of prospective CWs in their home communities about the realities of working conditions and their legal rights
- support more CWs to join and/or form workers' organizations
- develop and implement good practice guidelines on CL use for labour contractors and suppliers
- promote and share existing good practice at the level of global brands, factories and labour contractors
- adopt a gender-sensitive approach in all interventions, and address women-specific labour concerns including gender discrimination in pay, sexual harassment and commercial sexual exploitation

### ***Areas Requiring Further Multi-Stakeholder Dialogue and Consensus-Building***

The following areas are more contentious and require further consensus building among key stakeholders:

- How should “CL” be defined? Clearer definition is needed to ensure consensus on key policy points.
- How can real traction be achieved on changing brands’ purchasing practices, given that this issue has been at the forefront of international labour activism for over a decade?
- How can effective regulation of labour contractors be achieved, given the high levels of informality involved? How can this be achieved without negatively affecting the livelihoods of the myriads of small-scale labour contractors who are on very low incomes themselves?
- How can CL use be reduced without increasing reliance on sub-contracting and/or other forms of precarious employment?
- How should tolerance levels and conditions for CL use be defined? Should it be prohibited altogether, or should it only be permitted under certain conditions? If the latter, what should these conditions be?
- What are the specific responsibilities of different stakeholders, including global brands, factories/suppliers, labour contractors and governments?
- How can organization of CWs best be promoted, given the limited resources of trade unions and the challenges of organizing a dispersed, temporary and culturally diverse group?
- How can gender sensitivity in relevant CL interventions be ensured in practice?

#### ***Areas for Further Research***

Further research is needed in the following areas:

- developing a more nuanced conceptual framework for understanding CL that helps explain when and why suppliers use CL, why suppliers choose one type of labour contracting arrangement over another, and what factors increase CWs’ vulnerability to abuse
- conducting in-country empirical research to better understand key characteristics of CL in important sourcing countries including Turkey, Bangladesh, Pakistan and possibly Sri Lanka, and conducting a scoping study in China



# 1. Introduction

## 1.1 Background and Rationale for the Report

Today's global garment supply chains are highly complex, typically involving multiple tiers of suppliers and many different types of labour arrangement, many of which are informal. There is also considerable evidence to suggest that both the degree of chain complexity and the prevalence of informal labour arrangements have increased in recent years (International Garment and Leather Workers' Federation 2010; WSM 2011). This report focuses on contract labour, one particular type of labour arrangement that is commonly and increasingly found in these supply chain. Contract labour (CL) – where workers are employed by third party contractors rather than employed directly by the factories or worksites where they work – typically (although not always) involves informal employment relationships, since many labour contractors operating in the garment industry are unregistered businesses.

Over the last two to three years, garment brand and retailer members of the UK's Ethical Trading Initiative (ETI) have reported both an increasing reliance on CL, marked by a growth in the proportion of the workforce that consists of contract workers (CWs) – and also the emergence of new *forms* of CL in their supply chains. Both these trends have been associated with the onset of the global financial crisis in 2007-8, and the resultant rapid relocation of sourcing from richer to poorer countries.

If true, the implications of these reported trends are alarming, since CWs as a category are usually among the most vulnerable and exploited types of workers, with poorer working conditions and a higher risk of serious abuse compared to directly employed workers (e.g., Barrientos and Smith 2006). However, these reports remained largely anecdotal, and the extent, nature and causes of these trends were not well understood. Moreover, the extent to which these observed trends were actually “new” – that is, only existent since the onset of the financial crisis – remained unclear. In 2012, Women in the Informal Economy: Globalizing and Organizing (WIEGO) therefore commissioned a study to better understand these reported trends in CL use, assess the severity and nature of the problem, and identify what could be done to address concerns about key workers' rights that have arisen from these developments. This report presents the findings from this study.

An initial scoping phase (Phase 1) was conducted in July-August 2012 to better understand the extent of the problem, identify any ongoing initiatives and research on the topic, and, based on these findings, refine the scope for the main part of the study (Phase 2). Phase 1 highlighted a number of issues that both reinforced the need for further research, but also led to a significant shift in the focus of Phase 2.

Phase 1 indicated that there is a substantial existing body of literature and a number of ongoing research and advocacy initiatives that are relevant to CL issues in the garment sector. However, significant gaps and weaknesses are apparent in this existing body of work with respect to CL: these are summarized below. In the first place, **CL is typically not distinguished from other types of precarious work**. Several international NGOs and trade union organizations have been conducting research and advocacy work on CL as part of broader initiatives aimed at tackling the growth in precarious employment in general. However, little of this work has looked specifically at the particular incidence, characteristics and implications of CL as distinct from other forms of precarious employment.

Moreover, **little attention has been given to “ordinary” national<sup>1</sup> CWs**, who make up a substantial part of the garment sector workforce in a number of key sourcing countries. A considerable body of recent international research and advocacy work has focused on firstly, international migrant workers – the majority of whom tend to be CWs, and secondly, national CWs in India at risk of forced labour, in particular those that are part of the Sumangali scheme. Both of these types of initiatives are linked by the fact that they have (understandably) focused on what might be called the “worst forms” of CL, that is, where the CWs in question have been at significant risk of forced labour and other serious forms of abuse. However, this has resulted in an unintentional omission. With the exception of India, little international-level research or advocacy work appears to have been conducted on the proportionately greater numbers of national CWs who may not be working under forced labour conditions, but nevertheless may be experiencing very poor working conditions and are in a weak position to defend their rights.

A further gap identified in the existing body of work was the dearth of attention given to trends or changes in CL since the onset of the global recession and/or the implications of the recession for CL. Finally, while a couple of initiatives were identified that focused specifically on CL as a particular type of employment relationship, neither were industry-specific; therefore, they included little if any information about CL in the garment sector.

In addition to highlighting the above knowledge/advocacy gaps, Phase 1 findings also clearly indicate that CL was prevalent and growing in global garment supply chains prior to the global financial crisis (see e.g., Barrientos 2011); and secondly, that at least some of what has been referred to as the “new forms” of CL have in fact been around for quite a few years, and certainly pre-date 2007. The Sumangali scheme, for example, has been operational for at least 10-15 years (Solidaridad 2012). Thus, while the crisis may well have been one important driver behind growth in CL use over the last six years, perhaps more so in some countries than others, it is clear that the underlying trend of high and increasing prevalence of CL in the garment industry cannot be attributed to the global recession, and that the root causes lie elsewhere.

Clearly, these initial findings pointed to the need to re-think the focus for Phase 2 of the study. The findings from Phase 1 undoubtedly cast doubt on the “newness” of the reported trends – and hence the original starting point for the study. Equally however, it underlined the need for a more fundamental review of CL and its prevalence, drivers, characteristics and implications, given the significant and growing presence of the phenomenon in many key sourcing countries on the one hand, and the gaps in existing knowledge on the other hand. Thus, Phase 2 set out to synthesize the existing evidence, add to the current knowledge base (by starting to address some of the key information gaps identified), and assess the implications for future research and advocacy in support of CWs.

## **1.2 Purpose and Audiences of the Report**

The specific objectives of the main phase (Phase 2) of the study were to:

- synthesize and present clearly what is currently known about CL in export garment supply chains in key sourcing countries, what initiatives are ongoing, and what are the key gaps and limitations of current research and advocacy work in this area

---

<sup>1</sup> In this context, “national” CWs refer to individuals working in their country of origin, as opposed to international or cross-border migrant workers.

- start addressing some of the knowledge gaps identified through limited primary research, within given resource constraints
- analyze what the available information tells us about the specific characteristics of CL as compared to other forms of precarious employment
- identify recommendations on what further actions needs to be taken, in order to address the key concerns about workers' rights raised by the research

This report aims to present the study findings in a way that is readily accessible and useful to those stakeholder groups who, alongside labour contractors and garment suppliers themselves, are in the strongest position to take action in support of CWs. These include (but are not necessarily limited to): relevant trade union organizations, international workers' rights organizations, garment brands and retailers, development donors and practitioners, and relevant researchers. In documenting and publishing these findings, WIEGO hopes to raise the profile of the issue with these key stakeholder groups, and inform and catalyze more concerted action to improve the conditions of CWs in key garment sourcing countries.

### 1.3 Scope of the Study

To help clarify the scope and boundaries of the study, some explanation regarding terminology and geographic scope is provided below.

There is no single, widely recognized definition of “contract worker” or “contract labour” – a situation that raises policy as well as intellectual concerns (see **Chapter 10**). For the purposes of this report, a **contract worker is defined as a worker who is employed by a third party (individual or company/organization), rather than directly by the management of the factory or worksite where he/she is undertaking employment activities.**

The scope of the study therefore included workers hired by informal labour contractors, as well as those hired by formal employment agencies; and as already noted, it included national as well as international migrant CWs. Workers employed by internal factory employees (e.g., supervisors) operating as third party labour brokers/contractors were also included within the scope of the study.

In terms of geographic coverage, due to resource constraints research efforts were focused primarily on the top four sourcing countries for the UK and EU, i.e., China, Bangladesh, Turkey and India.<sup>2</sup> However, relevant information on other sourcing countries was also included where this was identified during the course of the research.

Limitations to the scope of the research are addressed in Section 1.5 below.

---

<sup>2</sup> These four were identified as the largest sourcing countries based on Gereffi and Frederick 2010, the Fair Wear Foundation website ([www.fairwear.org](http://www.fairwear.org)), and information obtained from ETI (Kilbourne 2012).

## 1.4 Key Research Questions

The following key questions were used to guide the research:<sup>3</sup>

- **What is the current prevalence of CL in global garment supply chains in key sourcing countries?** What is the prevalence in different levels of the supply chain (e.g., first tier factories/suppliers, second tier, sub-contractors, spinning mills?) What percentage of the total workforce in factories/workshops do CWs represent? To what extent has the prevalence of CL changed since 2007, and why has it changed?
- **What are the different types of labour contractors and contractual relationships commonly found?** What (if any) new types of labour contractors and/or contractual relationships have emerged since 2007, and why have they emerged?
- **Why do suppliers use CL?** What are the reasons for using labour contractors as opposed to employing workers directly? Under what circumstances do suppliers choose to use CL as opposed to other short-term/temporary labour arrangements? What have been the drivers behind observed changes in CL use since 2007?
- **What are the characteristics of CWs?** For example, what is the age, gender, socio-economic status, geographic origin? In what ways do their characteristics differ from those of directly employed workers? What (if any) changes have occurred in the characteristics of CL since 2007, and why have they occurred?
- **What are the key workers' rights abuses associated with CL?** To what extent does the triangular employment relationship *per se* contribute to or influence these abuses? In what ways do CWs' conditions differ from those experienced by directly employed workers? Are certain types of contractors/contractual relationships more strongly linked to workers' rights abuses than others? How (if at all) have working conditions and/or the prevalence of abuses changed since 2007, and why have they changed?
- **What are the key differences between women and men CWs** in terms of how they experience CL, including the working conditions they face? What have been the gender implications of observed changes in CL since 2007?
- **What research and action has been/is being undertaken to address these concerns?** What action is being taken by international and national workers' rights organizations, and by global garment brands/retailers and garment factories/suppliers? What impacts (if any) have these actions had to date? What research has been conducted and published on the issue?
- **What additional action and research needs to be conducted, and by whom?** What are key recommendations for global brands/retailers, international and national workers' rights organizations, and suppliers/factories? What are key research gaps and priorities?

---

<sup>3</sup> Note however that due to the gaps in existing literature, and the limited resources allocated to conducting primary research, it was anticipated from the outset that not all the questions would be answered in their entirety.

## **1.5 Study Methodology**

### **1.5.1 Introduction**

The study comprised both secondary and primary research. The former consisted of a selective Internet and literature review; the latter comprised a set of phone interviews and email exchanges with a range of stakeholder representatives. Further details are provided in Sections 1.5.2 and 1.5.3 below.

### **1.5.2 Literature Review**

The first step of the literature review was to identify all available literature that provided information on one or more of the key research questions outlined in Section 1.4 above, in relation to one or more of the four focus countries. Relevant literature was identified primarily via two routes:

- A substantial proportion of the literature reviewed was identified by key informants during interviews or subsequent email exchanges, and/or by WIEGO during the initial scoping phase
- Additional literature was identified through a general Internet search using Google. Searches on CL were conducted firstly at a global/generic level, and subsequently for each of the four focus countries. Multiple search terms were used at each stage to take into account the varying terminology used to describe contract labour/workers and labour contractors. Thus, in addition to “contract labour/worker” and “labour contractor”, search terms used to identify relevant references included: “dispatch(ed) labour/worker”, “agency labour/worker”, “employment agency”, “(labour) recruiter”, “dispatch(ing) agency”, “(labour) broker”, “job contractor” and “(recruitment) agent”.

In total, over 40 references were identified and reviewed, full citation details of which are included in the bibliography below. The most relevant findings from these resources have been incorporated into this report.

### **1.5.3 Key Informant Interviews**

In total, 12 phone interviews and one email consultation were conducted with key stakeholder representatives during the period July 2012 – Jan 2013. Interviews and consultations were conducted with key representatives from:

- two global garment brands/retailers (“Brand/Retailer A” and “Brand/Retailer B”<sup>4</sup>)
- one trade union organization (IndustriALL)
- three international multi-stakeholder initiatives (Ethical Trading Initiative, Fair Labor Association and Fair Wear Foundation)
- two international NGO/campaigning organizations working on supply chain labour issues (Clean Clothes Campaign and Verité)
- four local/national NGOs in key sourcing countries (Centre for Education and Communication, India; China Labour Bulletin, China; Verité – China office; Sheva Verité’s partner organization in Bangladesh)
- one independent labour rights consultant (Maggie Burns, UK)

---

<sup>4</sup> In order to obtain detailed information about the prevalence of CL use and conditions faced by CWs in these companies’ supply chains, it was agreed as a condition of participation in the study that the two companies would remain anonymous.

#### **1.5.4 Limitations of the Study**

The study faced two key methodological challenges that are important to bear in mind when interpreting the findings presented in this report.

The first challenge stems from **confusion and inconsistency in the terminology** used in literature relating to CL. As already implied in Section 1.5.2 above, there is no single recognized term for a labour contractor; instead, a variety of different terms are used by different sources to refer to these key players. Thus, while considerable effort was made to search for the most widely used terms, there is a risk that some relevant literature was not identified simply because a different term might have been used by the author(s) to describe labour contractors.

A similar situation exists with the terminology for “CL/worker”: multiple terms are used to describe this type of labour arrangement/worker. To further complicate matters, the term “contract labour/worker” itself is poorly defined and is used variously to refer to different types of labour/worker, sometimes even within the same document. As well as referring to labour employed by a third party (i.e., in accordance with the definition used in this report), the term is often used more broadly to refer to all types of worker employed on a short-term or irregular employment contract, including those employed directly by a factory/workplace as well as those employed indirectly by a third party (see for example International Federation of Chemical, Energy, Mine and General Workers’ Unions (ICEM n.d.).

There are also geographical variations in usage of the term which make it difficult to ascertain the precise prevalence of CL as defined in this report. Most notably, in the National Capital Region (NCR) of India (and possibly elsewhere in India), the term “contract worker” is commonly used to refer to anyone who works for a “contractor”. However, the term “contractor” is frequently used to refer to any employer who is not a first or second tier factory, and therefore includes owners of informal workshops/fabrication units who also double up as labour contractors (i.e., they are both labour and production contractors). As a result, the workers employed by and working in these informal workshops are typically all referred to as “contract workers”, despite the fact that many, if not all, of these workers are employed directly by their workplace management (Verité 2010). But according to the definition used in this report, these workers are not actually contract workers due to their direct employment relationship.

The second key methodological challenge relates to the **limited information available on key sourcing countries other than India**. For the reasons already noted, there is limited information available from secondary sources on the specific characteristics of CWs in countries other than India. The primary research conducted was designed to address this gap as far as possible; however, in reality the researcher faced considerable constraints to obtaining relevant information on key sourcing countries, due to difficulties in securing interviews with relevant informants. For one, the international companies and organizations initially earmarked as key informants typically had little relevant information available at headquarter level; yet it was usually necessary to secure and conduct interviews with key contacts at this global level, before it was possible to connect with local representatives or partners who had more relevant and in-depth information on CL in key sourcing countries. It was therefore often a two or three step process to secure and conduct an interview with the most relevant individuals.

In addition, many of the target key informants proved difficult to pin down, with many of the interviews postponed (and in one case postponed several times). This is likely to have been due partly to the rather specialized thematic focus of the study and its marginal interest to many target informants, and partly to the lack of immediate and obvious benefit to be gained from contributing to the study. Understandably,

both these factors are likely to have meant that participation in the interviews was ranked relatively low on the priority list of busy practitioners. As a result, delays in securing initial interviews with headquarter-level contacts meant that in some cases, country-level interviews could not be secured within the study's timeframe.

As a consequence, for some of the key research sub-questions, no or little relevant information was obtained in relation to China, Bangladesh or Turkey, and hence the relevant sections of the report are based heavily on findings from India. Nevertheless, for the vast majority of the research questions and sub-themes, the study was successful in identifying relevant information from at least one additional key sourcing country other than India.

## **1.6 How the Report is Structured**

The rest of the report is structured loosely around the key research questions outlined in Section 1.4 above.

- **Chapter 2** presents key findings relating to the prevalence of CL in key sourcing countries, and how this has changed since the onset of the global financial crisis.
- **Chapter 3** looks at the key drivers behind use of CL, including the key reasons why suppliers choose to use CL and the drivers behind changes in CL use since 2007/8.
- **Chapter 4** explores the different types of labour contractor found in global garment supply chains, the different roles they play vis-à-vis CWs, and observed changes since 2007/8.
- **Chapter 5** presents key findings relating to the socio-economic characteristics of CWs and how these may have changed since 2007/8.
- **Chapter 6** outlines key workers' rights abuses typically associated with CL, how these abuses/conditions differ from those experienced by other types of workers, and what factors increase or decrease the vulnerability of CWs to abuse.
- **Chapter 7** summarizes the key gender issues associated with CL and recent trends.
- **Chapter 8** provides an overview of the key ongoing initiatives and recent studies relevant to CL in the garment industry.
- **Chapter 9** draws together the main conclusions from the study.

**Chapter 10** presents key recommendations arising from the research, outlining broadly agreed general principles for intervention, areas requiring further multi-stakeholder dialogue and consensus-building, and priorities for further research.

## 2. Prevalence of Contract Labour in Garment Supply Chains

### 2.1 Introduction

This chapter presents key findings regarding the prevalence of CL in key sourcing countries, and how this has changed since the onset of the global financial crisis. Given the largely informal nature of CL arrangements in key sourcing countries and the vagaries in terminology highlighted in Section 1.5.4 above, it is perhaps unsurprising that reliable/hard data was mostly unavailable, and that the quantitative estimates available for any one country or region vary significantly. Nevertheless, the range of quantitative and qualitative data presented does provide a reasonably informative picture of the prevalence of and recent changes in CL use in the key sourcing countries. The rest of this chapter is structured as follows:

- **Section 2.2** looks at the proportion of the export garment sector workforce made up of CWs in key sourcing countries.
- **Section 2.3** presents the limited information available about prevalence of CL at different levels of the supply chain.
- **Section 2.4** summarizes available evidence about changes in the CL prevalence since the onset of the global financial crisis.

### 2.2 Proportion of the Workforce Consisting of Contract Workers

This section starts by briefly describing global patterns in use of CL in the export garment sector. It then explores the prevalence of CWs in each of the four focus countries, and concludes by presenting available information about CL use in other significant sourcing countries.

#### 2.2.1 Global Patterns in Use of CL

While global estimates for the prevalence of CL have not been identified, there appears to be a general consensus among international labour rights advocates and researchers that CL is a significant issue in international garment supply chains, and that this issue has until recently been largely ignored by labour code initiatives (Barrientos 2011; Khym 2012; Viederman 2012).

However, as the following sections illustrate, the significance of CL varies quite substantially from country to country, for example with use of CWs being widespread in India (in particular in the north), Turkey, Bangladesh and Pakistan, but apparently less prevalent in China. Nevertheless, with continuing trends towards greater flexibility and informalization of production and hence labour, many anticipate that the reliance on CL is likely to increase in the future, including in those countries where it is currently less prevalent (Brand/Retailer B 2012; Barrientos 2011; Khym 2012).

In addition, CL is a serious concern in relation to international or **cross-border migrant workers** employed in garment factories. In its recent report on international migrant workers in the global garment industry, Clean Clothes Campaign (CCC) estimates that “hundreds of thousands of [cross-border] migrant workers are employed throughout garment and textile supply chains across Asia, Europe, North and South America and Africa” (CCC 2012: 2). Importantly, they also report that “direct



employment relationships with the factories where migrant workers actually work are very rare.” In other words, the large majority of these migrants are CWs.

### 2.2.2 India

Of all the garment sourcing countries researched, India is without doubt the country associated with the highest levels of CL use, and also with the greatest availability of data. CL use appears to be most pervasive and entrenched in the north (i.e., NCR/Delhi area); the picture for the south (Tirupur area) is less clear-cut, although some estimates place CL use here on a par with that in the NCR.

For the NCR, estimates of the typical proportion of the workforce in garment factories made up of CWs range from 60 to 80 per cent, with some factories reported to have even higher percentages of CL. A sample of estimates obtained is presented in Box 2.2.2a below:

#### Box 2.2.2a: Estimates of Proportion of Garment Workforce Made Up of CL in NCR, India

- According to research conducted in 2005/6 by the Centre for Education and Communication (CEC), an Indian NGO based in Delhi, CWs typically comprised 60-70 per cent, and sometimes 70-80 per cent, of the workforce in export garment factories in Delhi and other production regions (John 2012).
- According to a labour rights consultant working with international garment brands, in most factories in Gurgaon 60-80 per cent of the workforce are made up of CWs, and in some cases this figure can be as high as 100 per cent (Burns 2012).
- According to research conducted by Verité in 2010, CWs “make up a significant – if not majority – portion of the garment-sector workforce in the NCR region, engaging in tasks that run the gamut from unskilled to skilled and temporary to permanent” (Verité 2010).

In Tirupur, available estimates of CL use ranged widely from 20-30 per cent to 70-80 per cent of the garment sector workforce, although there appeared to be general agreement that the proportion of CWs is increasing (see 2.2.3 below). Examples of estimates are provided in Box 2.2.2b below:

#### Box 2.2.2b: Estimates of Proportion of Garment Workforce Made Up of CL in Tirupur, India

- The research conducted by CEC in 2005/6 found that CL was prevalent in Tirupur as well as the Delhi area, with the figures of 60-70 per cent (and sometimes 70-80 per cent) also applying to Tirupur factories (John 2012).
- Trade unions and local NGOs estimated that approximately 60 per cent of workers in the Tirupur region are CWs, and that this proportion is on the increase (Verité 2010).
- According to a representative of Brand/Retailer B, currently 20-30 per cent of the garment workforce in the Tirupur region are migrant workers from outside Tamil Nadu; whereas six years ago, hardly any workers were from outside Tamil Nadu (Brand/Retailer B 2012).<sup>5</sup>

While the above estimates for both the NCR and Tirupur clearly indicate widespread use and a high degree of reliance on CL in the export garment sector, the exact proportion of the workforce represented by CWs remains unclear. The variation in available estimates, particularly for the south of the country, underlines this uncertainty; and one significant factor that is likely to be contributing to this uncertainty is the inconsistent use of the term “CL” within India, as explained in **Chapter 1**.

---

<sup>5</sup> While these figures were for migrant workers rather than CWs, the interviewee made the implicit assumption that the proportion of the workforce who are CWs would be similar to the proportion who are migrant workers, since most CWs are migrant workers.

### **2.2.3 China**

Little hard data could be found on the prevalence of CL in the garment sector in China. Most available evidence suggests that while CL exists, it currently represents a small proportion of the workforce in the sector, although one source indicated that the practice may be more widespread. The available evidence is presented in more detail below.

The most detailed and specific information on the issue was obtained from Verité's China Program Director (Yao 2012). Based on observations made while auditing and engaging with multiple garment factories in the country, she attested to the fact that CL is not a significant issue in the export garment sector. In her experience, apart from a small number of student interns (see below), CWs are rarely found in garment factories.

The relatively low prevalence of CL in the Chinese export garment sector as compared to many other key sourcing countries was supported by anecdotal reports from other sources. Thus, a representative from China Labour Bulletin (CLB) reported that while CLB did not have specific knowledge or data on the garment sector, their impression was that unlike the electronics sector (see **Chapter 3** below), garment factories' main response to recent commercial pressures has been not so much to increase use of CL, but rather to relocate production to cheaper production areas (i.e., inland or to other countries) or to pursue more automated production models (Crothall 2012). Similarly, a representative from Brand/Retailer B reported that CL had not been prioritized by their local China office as a key labour concern in their garment supply chain (Brand/Retailer B 2012).

However, one academic source (Zhang 2011) suggests that use of CWs – or “dispatch(ed) workers” as they are typically referred to in the literature on China – is more commonplace in Chinese garment factories than indicated by the previous sources. According to Zhang, use of CWs hired via dispatch agencies is one (among several) practices commonly employed by garment and textile factories as a response to seasonal fluctuations in production. The most widely used CWs are interns/trainees (*shixisheng*): these are mostly students of skill-training schools who perform normal production tasks in partner factories during peak production seasons. The employment of such trainees, who numbered over 4 million in 2010, is an extensive practice in many sectors including the garment industry in China.

### **2.2.4 Bangladesh**

The limited information found about CL in Bangladesh indicated that while CL use is not significant in the woven garment sub-sector, use of CWs is fairly widespread in the knitwear sub-sector. Thus, Verité's Bangladesh Program Director estimated that at least half of the approximately 1,600 knitwear factories in the country use CL. CL use was significant in one of the two large knitwear factories with which the Program Director has recently been engaged: both factories supply a large global garment brand/retailer (Khan 2013).

Interestingly however, Brand/Retailer B reported that while they had identified widespread use of CL in their garment supply chain in India, they had not identified significant use of CL in Bangladesh despite having a relatively good familiarity and knowledge of their garment supply chain in the latter country. The apparent contradiction between these sources clearly indicates that further research is needed. However, given that auditors routinely fail to identify CL in factories, it seems both possible and probable that Verité's observations are well-founded.

### 2.2.5 Turkey

Available evidence suggests that CL use is fairly widespread in garment factories in Turkey, although its prevalence is not widely acknowledged. Information obtained from the Fair Wear Foundation (FWF), for which Turkey is one of four focus countries, is presented in Box 2.2.5.

#### Box 2.2.5: Observations on Prevalence of CL in Garment Factories in Turkey

According to FWF's International Verification Co-ordinator responsible for Turkey, at least two types of CL are common in Turkish garment factories:

- **Individual workers functioning as labour contractors** – During one factory audit in which she participated in early 2012, one factory worker was also operating as a labour contractor on the side, bringing in other workers to work in the factory. These workers were contracted on a daily basis, but in fact worked at the factory on a regular basis. The local FWF auditor confirmed that this practice was also common in other garment factories she had audited (Vrieling 2012b).
- **"In-house subcontracting"** – Vrieling has also observed that, in some garment factories, up to a half of the workers actually work for an "in-house sub-contractor" rather than directly for the factory management. This sub-contractor is typically responsible for one or more key sections of production within the factory (Vrieling 2012b). Such in-house subcontracting ranks as one of the eight most common labour concerns identified through FWF audits and workers' complaints in Turkey (Vrieling 2012a). From the description provided by FWF, the workers employed by these in-house sub-contractors would classify as CWs.

Again, information provided by Brand/Retailer B (2012) appears to contradict FWF's observations. The company asserted that, out of the several hundred suppliers that they source from and audit regularly in Turkey, they have only found CL in two factories. As is the case with Bangladesh, this contradiction clearly suggests the need for further research. However, for the reasons identified above, it is likely that FWF's observations are accurate, but that Brand/Retailer B's auditors have largely failed to identify the presence of CWs and/or failed to classify the in-house sub-contracting arrangements as a form of labour contracting.

### Other Sourcing Countries

Information identified on CL prevalence in other garment sourcing countries is summarized below.

In **Pakistan**, a report from the International Labour Office's Bureau for Worker Activities (ACTRAV) indicated that use of CL in the export garment sector was significant as early as the late 1990s (ACTRAV 1997). According to the report, labour contractors were already dominant in the garment industry at this time, with 16 per cent of labour in this sector considering itself "contracted", and the actual percentage of the workforce represented by CL likely to have been even higher.<sup>6</sup> Moreover, reports of high levels of CL use in Pakistani garment factories were also mentioned by Verité's Bangladesh Program Director, indicating that CL remains a concern at the present time (Khan 2013).

According to a recent report by World Solidarity (WSM) (2011), use of CWs is also significant in **Sri Lanka**. WSM notes that firms often use short-term contracts or hire workers through a third-party labour contractor as a way of circumventing the social protection and other statutory duties attached to permanent work. This is particularly pertinent given that Sri Lankan labour law excludes many categories of workers from its application.

Given that the large majority of international migrant workers are engaged by labour contractors, CL is also likely to be significant in those countries where the garment industry is heavily dependent on the

---

<sup>6</sup> A later section in the report estimated that, across all sectors, "even in unionized enterprises contract labour forms almost 50 per cent of the workforce".

import of foreign labour, including **Taiwan, Malaysia, Thailand, Mauritius, Jordan, Egypt and the Maldives** (CCC 2012). Barrientos (2011) also confirms the presence of Bangladeshi and Chinese migrant CWs in garment factories in Jordan, and of Chinese migrant CWs in **Romania**.

## **2.3 Prevalence of Contract Labour at Different Levels of the Supply Chain**

Little information was identified regarding the prevalence of CL at different levels in the supply chain. However, it is clear from the available evidence that CL, where it exists, is very much present in first tier factories as well as lower tiers of the supply chain.

### **2.3.1 First-Tier Factories**

In relation to **India**, specific reports were identified confirming the presence of CL in first tier factories (e.g., Verité 2010; Barrientos 2006). For all other focus countries, however, sources on prevalence did not specify at which level of the supply chain CL was found. Nevertheless in the case of **China, Turkey** and **Bangladesh**, the nature of work undertaken by the main information sources, i.e., FWF and Verité, means that the majority of factories with which they engage are likely to be first tier suppliers. It therefore seems fairly safe to assume that the reported patterns of CL use relate primarily to first tier supply sites, and hence that CL is prevalent in first tier factories in Turkey and Bangladesh.

### **2.3.2 Lower Tiers of the Supply Chain**

Specific information on use of CL in lower tiers of the supply chain could only be found for India. Reports on the Sumangali scheme in Tirupur indicate that the adolescent girls recruited under this scheme are mostly employed in the spinning mills (e.g., Solidaridad 2012), confirming their presence in lower tiers of the supply chain. Child contract workers in the NCR are also reported to be employed primarily in the lower tier factories and fabrication units (Verité 2010).

With regard to adult CWs, the picture is less clear. Verité reports that there is a high prevalence of “contract labour” in lower tiers of the supply chain, stating that in second tier factories in the NCR, “the entire factory force consists of contract workers”. However, the reason given for classifying the employment arrangement as “contract labour” is that “the production unit is owned by the contractor” (Verité 2010: 45), implying that the authors are using an alternative definition of “contract labour” that is not consistent with the definition used in this report (defined in **Chapter 1**).

## **2.4 Change in CL Prevalence Since the Global Financial Crisis**

### **2.4.1 Global Overview**

Despite considerable efforts to obtain relevant information, overall only patchy and anecdotal evidence was identified on post-crisis changes in CL use and on the influence of the recessionary climate in bringing about these changes. Nevertheless, the available evidence reinforces the preliminary findings from Phase 1 of the study and points to the main trends discussed below.

In the first place, there is evidence to suggest that the prevalence of CL has increased since 2007/8 in India (in both NCR and Tirupur), and possibly in Bangladesh. However, available evidence indicates that the incidence of CL has *not* increased significantly in the garment sector in China. Furthermore, no

evidence could be found to show that CL has increased significantly post-crisis in Turkey (although this may well be due to lack of data rather than lack of actual change in CL prevalence).

Where a post-crisis rise in CL prevalence has been observed, respondents generally agreed on two key points. Firstly, this type of labour arrangement was already widely used – and on the increase – prior to the onset of the crisis in 2007/8. Secondly, other factors or drivers have had a significant influence on this trend, not just the global recession (this second issue is addressed in more depth in **Chapter 3** below). However, mixed views were found on the degree of influence of the crisis on the observed increases in CL use.

The available information on post-crisis trends in India, China, Bangladesh and Turkey is presented in more detail below.

### ***India***

#### **NCR**

Both of the two key sources providing information on NCR agreed that CL use has increased in this region since the crisis (Burns 2012 and John 2012). However, whereas one source (John 2012) believed that the increase was simply a continuation of an existing (pre-crisis) upwards trend in use of CL, the other source (Burns 2012) had observed significant shifts in global brands' purchasing practices since the recession and believed that this shift contributed to an accelerated rise in CL use since 2007/8. Further discussion of the perceived drivers is provided in **Chapter 3** below.

#### **TIRUPUR**

As reported by Verité (2010), a number of local NGOs and trade union organizations testify that the use of CL has been increasing in recent years in Tirupur; the respondent from Brand/Retailer B (2012) also believed that CL use in Tirupur is likely to have increased since the recession. Retailer B's representative also confirmed that Tirupur garment factories have experienced a reduction in the number and regularity of orders in recent years, and surmised that this may be an important factor in the possible increase in CL use in this region. However, both sources emphasized the importance of other factors in driving the increase, including government policies and socio-economic factors: these are discussed further in **Chapter 3**.

### ***China***

The available evidence indicates that so far, prevalence of CL use in the export garment sector in China has not increased significantly since 2007/8. Insofar as the crisis has had an impact on garment production patterns, garment factories have adopted alternative responses to the resultant financial pressures that do not involve increasing reliance on CL. Nevertheless there appeared to be some degree of concern that reliance on CL in the garment sector might increase in the near future, given the recent rapid increase in its use in electronics factories and other export manufacturing sectors and the underlying trends that have given rise to this increase (see **Chapter 3**).

### ***Turkey***

As already noted, no specific evidence could be found on whether CL use has increased in Turkey since 2007/8. However, FWF's impression was that, since the crisis, the practice of sub-contracting out the main

sewing/production work to smaller production units (Vrieling 2012b) had increased. Whether this trend has been accompanied by an increase in “in-house subcontracting”, a form of CL, is not confirmed.

### ***Bangladesh***

Verité’s impression was that the use of CL in Bangladesh has increased since 2007/8, although they do not have any specific evidence of this trend for the garment sector (Khan 2013). Indeed in her view, up until 2012 the garment sector in Bangladesh had not been seriously affected by the global recession; however, in recent months she has observed some factory closures, and if this trend continues then there are likely to be future implications for CL use.

## 3. Key Drivers: Why Suppliers Use Contract Labour

### 3.1 Introduction

This chapter looks at the key reasons why export garment factories choose to use CL, and the specific drivers behind changes in CL use since 2007/8. Unfortunately, the researcher was unable to directly question individual suppliers about their reasons for using CL (see Chapter 1). She was able to obtain relevant information on the issue from a wide range of other sources, however. Taken together, this evidence provides a sufficiently reliable, albeit potentially incomplete, overview of the key drivers behind CL use in the export garment sector.

A crucial point that emerged from the study findings was that garment factory managers consider CL to be only one among several options in responding to price pressures, irregularity of orders and other commercial and legal pressures. In fact, CL is not always the favoured response. Other options, which may be used instead of or alongside CL, include direct employment of irregular workers on short term contracts, and outsourcing or sub-contracting of production to third party off-site production units.

The question as to why garment factories choose to use CL is therefore two-pronged. Firstly, why do factories move away from the “conventional” production/labour model of having 100 per cent of production performed in-house, with a 100 per cent permanent/regular workforce? And secondly, having decided to move away from this conventional model, why do factories specifically choose to use CL, as opposed to directly employing irregular workers and/or sub-contracting production off-site? This chapter therefore addresses these two parts of the question in turn. Thus:

- **Section 3.2** explores how CL is being used by garment factories as one (among several) responses to adverse buying practices of international brands/retailers, including downward price pressures, short lead times and variability/irregularity of orders
- **Section 3.3** looks at key reasons why, in the face of these commercial pressures, suppliers specifically choose to use CL as opposed to directly employing irregular workers and/or sub-contracting production off site.
- **Section 3.4** explores the specific drivers behind observed post-crisis changes in CL prevalence.

### 3.2 CL as a Cost-Effective Response to Commercial Pressures

#### 3.2.1 Responding to Low Prices

In the face of continued downward pressure on the price paid to suppliers, garment suppliers are continually looking for ways to reduce their labour costs. One way to achieve this is to reduce the per unit/worker wage bill; replacing directly employed workers with CWs is frequently perceived to be an effective approach for doing so. CWs typically cost less per unit because they often receive lower wages than directly employed workers, and rarely receive non-wage benefits such as paid leave and social security benefits (see **Section 6** below). While engaging labour contractors also adds costs in terms of the fee or commission paid to the contractor, the evidence indicates that factories make net savings from using CWs as compared to directly employing temporary/seasonal workers, as box 3.2.1 below shows.

#### Box 3.2.1: Evidence of CL Being Used as Means to Reduce Labour Costs (Per Worker)

- **NCR, India:** According to CEC, garment factories use CL because of the reduced labour cost. CWs cost less partly because they receive lower wages than direct employees, and also importantly because they tend not to receive social welfare benefits (John 2012).
- **Bangladesh:** Verité believed that many knitwear factories in Bangladesh use CL because it “suits factory management. The management just have to pay the wages; they don’t have to pay all the other benefits such as overtime pay, bonuses, maternity benefits etc.” (Khan 2013).
- **Pakistan:** According to an ILO report (ACTRAV 1997), use of CL is common in the weaving and garment industry due to the importance of financial flexibility (i.e., sensitivity to production and labour costs) in this sector. Use of CL has allowed factory managers to avoid employers’ legal obligations regarding non-wage benefits, because they are not considered to be direct employees.

### 3.2.2 Responding to Short Lead Times and Seasonality/Irregularity of Orders

Garment suppliers face increasingly unpredictable and extreme seasonal variations in production volumes, as well as frequent style/product changes that require shifting skill sets. CL is often seen as a cost-effective and efficient response to these pressures, since labour contractors can provide access to a variety of workers with a range of skills sets at different points throughout the year, and can source large numbers of extra workers at short notice to respond to peaks in demand and last minute orders/modifications (Barrientos 2011). The evidence presented in Box 3.2.2 highlights how CL is being used in the NCR region in India to respond to such seasonal variations in demand.

#### Box 3.2.2: Use of CL in NCR, India to Respond to Seasonal Variations in Demand

**Brand/Retailer B** noted that: “as well as legal differences, another reason why CL use is highest in the north/NCR is because of the seasonal nature of production in this region, i.e., value-added embroidery, woven fabrics etc. These product types are higher value but are only used for summer fashion, so the production season is shorter than in the south of the country, where the focus is more on basic garments. Thus in the north, many factories close for 4-5 months per year. In this context it does not make sense to have a large permanent workforce, so factories rely heavily on CL” (Brand/Retailer B 2012: ##).

Similarly, Verité (2010: 46) reports that “Work peaks during winter between September and March... Because of this ebb and flow, companies are hesitant to hire a large number of permanent workers, instead relying on CWs during the peak season and decreasing hiring during the off season”.

### 3.3 When and Why Suppliers Specifically Use CL Instead of Other Approaches

This section looks at the specific reasons why garment suppliers choose to use CL to increase labour flexibility and reduce cost, as opposed to directly employing temporary/seasonal workers and/or subcontracting out production. We consider first the general advantages of using CL as compared to these other two options (sub-section 3.3.1); we then identify some of the variables that influence whether or not CL is used under specific circumstances (see sub-Section 3.3.2).

#### 3.3.1 Key Incentives for Using Labour Contractors Rather than Directly Employing Temporary Workers

The study indicated that key advantages (as perceived by suppliers) of using labour contractors as opposed to employing temporary workers directly included: poor regulation/scrutiny of labour contractors; increased access to labour; reduced transaction costs; restriction of trade union activity; and access to financial incentives (bribes). Each of these is addressed in turn below.



## POOR REGULATION OF LABOUR CONTRACTORS VIS-À-VIS COMPLIANCE WITH LABOUR LAWS

A common theme that emerged from the study was the weak regulation of labour contractors in most key sourcing countries, and hence the poor enforcement of labour laws in relation to CL. As a result, it seems that labour contractors typically get away with paying lower wages to CWs, and paying reduced non-wage benefits – or none at all (see Section 6). Using labour contractors is therefore an attractive option for factory management not only because it allows them to absolve their own legal responsibility and liability for the workers involved, but also because it actually costs them less (since the price/fee they pay to contractors typically excludes the cost of non-wage benefits). Evidence of weak regulation of labour contractors and the impact of this trend on CL use is provided in box 3.3.1 below.

### Box 3.3.1: Weak Regulation of Labour Contractors Makes CL an Attractive Option for Suppliers

- **NCR and Tirupur, India:** According to Verité (2010: 7), “High levels of employment informality and lack of legal enforcement mechanisms contributed to ...the prevalence and influence of labor brokers, ... reliance on labor brokers as production facilitators and large-scale employment of contract laborers”.
- **Labour contractors involved in cross-border migration:** According to the Clean Clothes Campaign’s report on migrant workers in the global garment industry in most destination countries the regulation of recruitment agencies/labour contractors is weak or non-existent. Moreover, the report states that “Governments in the countries of origin may view labour exports as both an important foreign exchange earner and a strategy for tackling domestic unemployment. They are therefore [also] reluctant to take measures against unregulated labour recruitment” Clean Clothes Campaign 2012: 5)
- **China – general (not specific to garments).** According to China Labour Bulletin, using CL “cuts down on social insurance contributions and costs borne by the employer, because these are passed onto the contractor. And in reality, because regulation of employment agencies is very poor, there is in fact no mechanism to ensure the conditions of CWs are OK. So even though the law says that dispatch agencies have to meet social insurance obligations as well, in practice this is not policed/implemented” (Crothall 2012)

## INCREASED ACCESS TO SUITABLE LABOUR

In the context of sudden surges in demand for labour, and the need for different skills at different times of the year to meet seasonal style changes, it can be challenging for factory management to be able to source the right type and amount of labour to meet orders in time. Labour contractors add value because they can make use of their extensive networks, including in particular their contacts with migrant workers in different locations, to source workers that factory management would otherwise not be able to reach (Barrientos 2011). Thus several sources affirmed that recent labour shortages in Tirupur and NCR in India, and the resultant need to source additional labour from further afield, was a key factor that increased garment factories’ reliance on labour contractors to source workers (Brand/Retailer B 2012; Verité 2010; Burns 2012).

## REDUCED TRANSACTION COSTS ASSOCIATED WITH SOURCING AND MANAGING A FLUCTUATING WORKFORCE

Given the high degree of seasonal fluctuation in both the volume and type of labour required, there is a continual need to recruit, train up, manage and eventually re-trench new workers. This can be both time-consuming and costly. Use of labour contractors reduces these transaction costs by shifting these responsibilities onto a third party (Barrientos 2011).

For instance, Verité (2010) reports that garment suppliers use labour contractors to decrease their responsibility for workers. Contractors accept responsibility for specific jobs and for managing the workers (either recruited by the contractor or by the employer) required to complete these jobs. “If the employer were to utilize regular (permanent) workers, the company would have to oversee all aspects of production and be responsible for the product quality, the timeliness of production, human resource

management, and paying worker wages and benefits. With the job contractor functioning within the factory itself, the employer is one step removed from direct, day-to-day management of these workers” (Verité 2010: 20).

#### **RESTRICTION ON WORKER ORGANIZATION AND COLLECTIVE BARGAINING**

According to Burns 2012, another reason why some garment factories in the NCR region in India prefer to use CWs is to discourage worker organization and collective bargaining. Labour laws stipulate a certain minimum number or percentage of the workforce that needs to be organized for a trade union to be registered.<sup>7</sup> Thus, retaining a large proportion of CWs in a workforce is attractive because these workers are unlikely to become union members. If they do choose to organize, they can be easily moved to another factory to keep the unionized percentage of the overall workforce below the legal minimum required for union registration.

#### **RECEIPT OF FINANCIAL INCENTIVES/BRIBES FROM LABOUR CONTRACTORS**

Also according to one source (Burns 2012), it is common practice in India’s NCR region for labour contractors to pay large bribes to middle managers and supervisors in garment factories in exchange for using the contractors’ services. Thus these managers have a strong personal financial incentive to continue using CL. This study found no data on whether this practice occurs in other sourcing countries.

#### **3.3.2 Key Variables Influencing the Extent of CL in Specific Contexts**

The research findings indicate that key variables influencing the degree of reliance on CL include: explicit and implicit government laws and policies; the degree of labour scarcity; the nature of the production cycle; and the skill level of workers required. Each of these variables is addressed in turn below.

#### **EXPLICIT AND IMPLICIT GOVERNMENT LAWS/POLICIES**

A number of sources pointed to the importance of government labour laws and policies in influencing prevalence of CL use in garment factories. Most examples highlighted the negative impact of inappropriate government policies (i.e., where laws have encouraged increased use of CL), although one source drew attention to the fact that better laws and/or stronger enforcement can have a positive influence: see box 3.3.2a.

##### **Box 3.3.2a: The influence of government policies/laws on CL use in India**

According to Verité (2010), at the national level Indian trade unions and other worker advocates have opposed the Contract Labor (Regulation and Abolition) Act of 1970, in part because the Act has encouraged CL use and has also had a negative impact on the conditions of contract labourers, due to the poor provisions made for their social security and other rights.

However, Brand/Retailer B (2012) highlighted the fact that within this national policy context, variations in regional/state laws are also important. Different states have varying degrees of tolerance regarding CL, and one factor that has allowed the high levels of CL use in the NCR region is that the local laws are more tolerant of CL as compared to some other states.

A couple of sources also drew attention to the influence of “implicit” government policy regarding CL use. Brand/Retailer B highlighted the fact that the public sector is in fact the largest user of CL in India, and hence the government is implicitly endorsing the practice (Brand/Retailer B 2012). Similarly, Verité (Yao 2012) indicated that the public sector is also the biggest employer of CL in China, creating a policy

---

<sup>7</sup> Source: [www.amrc.org.hk/node/1227](http://www.amrc.org.hk/node/1227)

environment that implicitly supports a high reliance on CL in some sectors (although currently not in the garment sector).

#### DEGREE OF LABOUR SCARCITY

Several sources pointed to the fact that the degree of labour scarcity influences the extent to which garment factories rely on labour contractors and CL. When there is a significant labour shortage that cannot easily be filled by local workers, factory managers are more likely to turn to labour contractors to assist in recruiting (and sometimes managing) migrant workers from further afield (see **sub-Section 3.3.1** for examples and evidence).

#### NATURE/SEASONALITY OF THE PRODUCTION CYCLE

The study findings also indicate the importance of the nature of the production cycle in determining the degree of reliance on CL, which is in turn influenced by the type of product or production stage taken on by factories. This was highlighted by Brand/Retailer B in relation to differences between NCR and Tirupur, as explained in Box 3.3.2b.

##### Box 3.3.2b: Importance of Product Type/Production Cycle in Determining Degree of Reliance on CL (India)

According to Brand/Retailer B (2012), one reason CL use is higher in NCR than in Tirupur relates to the different types of garments being produced in the two regions. As already noted, factories in NCR tend to concentrate on high value production/products associated with a short production season (e.g., value-added embroidery), leading to a high reliance on CL. In contrast, Tirupur production is more concentrated on plain basic garments, which are of lower value but generally have a longer production season. Hence, until recently, the demand for and use of CL has been lower in Tirupur than in the north.

Although this issue was only mentioned directly by one source, the author suspects that product type is a key factor influencing the degree of reliance on CL in any given context, and that this may be one reason why CL is not (yet) a significant issue in Chinese garment factories. However, this proposition is not verified and requires further investigation.

#### SKILL LEVEL OF WORKERS REQUIRED

Two sources referred to the differing skill levels of workers as a key factor explaining differences of CL prevalence between sectors/sub-sectors. However, the sources provided conflicting views as to the direction of the relationship between the two variables – that is, whether higher skill levels are associated with higher or lower reliance on CL. Box 3.3.2c describes this contrast.

##### Box 3.3.2c: Influence of Skill Level of Workers on Degree of CL Reliance

- **Bangladesh:** On the one hand, Verité's Bangladesh representative (Khan 2013) associated higher skill levels with greater use of CWs. Khan stated that: "CWs tend to be the very skilled workers; less skilled workers tend to be employed directly by the factories" She also suggested that factories use labour contractors for sectors/workers associated with higher wages. Thus, she associated the higher use of CL in knitwear than in woven garment factories with the higher wages commanded by knitwear workers. Knitwear factories pay labour contractors a fixed fee or "piece rate" (rather than an hourly/daily wage), so this is a way of keeping labour costs and risks down.
- **China:** In contrast, Verité's China representative believed that the need for more skilled workers was the main reason why garment factories (as opposed to electronics factories) in China did *not* use CL, preferring to hire temporary workers directly. By hiring workers directly, for example through job fairs, the factory retained greater control over which workers were hired (Yao 2012).

The implication is that skill level is indeed an important factor influencing use of CL, but that in different circumstances, it can lead to different outcomes in terms of degree of reliance on CL. Again, the conflicting evidence points to the need for further research.

### **3.4 The Drivers Behind Observed Changes in CL Use Since the Crisis**

Relatively little information was found on the drivers behind post-crisis changes in CL use. Nevertheless, some information was gathered on perceived drivers in India and China: this information is summarized in sub-sections 3.4.1 and 3.4.2.

#### **3.4.1 India**

##### **NCR:**

As noted in Chapter 2, it seems clear that CL use has increased to some extent since 2007/8 in garment factories in the NCR region. However, there were differing views on the drivers behind this increase. One source (John 2012) believed that the most significant changes in patterns of CL use occurred before the crisis – in the early 2000s – and that these were primarily due to the changing purchasing practices of international clothing brands that occurred around that time. In his view, the observed rise in CL use since 2007/8 has not been substantial and simply represents a continuation of pre-crisis trends, rather than a significant structural shift.

In contrast, Burns (2012) observed that the recession led to further significant changes in brands' purchasing practices with respect to NCR garment factories, including increased price pressure and reduced order sizes, and surmised that these were likely to have been a key driver behind increases in CL use since 2007/8. In addition, Burns indicated that the recent rise in labour shortages in this area had also played a part in driving the post-crisis increase in CL use.

##### **TIRUPUR:**

As previously noted, Brand/Retailer B (2012) partly attributed the observed post-crisis increase in CL use in Tirupur to the recessionary climate and the decreased number and greater irregularity of orders that have resulted. However, Brand/Retailer B and a second source (Verité 2010) also emphasized the equal if not greater influence of other factors in bringing about this change. The main additional factors mentioned were:

- **Factories' continual drive to cut costs:** The day-to-day, continual pursuit by factories to cut costs and minimize their legal obligations to workers was cited as a key driver behind this trend. The implication was that factories are always looking for new ways to cut costs, and that this takes place regardless of global market trends (Verité 2010).
- **Economic growth and change in socio-economic aspirations:** Brand/Retailer B (2012) emphasized the importance of local socio-economic factors in driving recent trends in CL use. Recent economic growth and an increase in education levels in Tirupur has led to higher socio-economic aspirations, with the result that parents are increasingly reluctant to send their children to work in garment factories. This has led to a labour shortfall and the need to look further afield to the poorer, Eastern states for garment workers. Thus, garment factories are increasingly turning to labour contractors to meet this need for migrant workers.

- **Local government development policies:** Brand/Retailer B (2012) also highlighted the role of local rural development policies in shaping the demand for migrant labour, and hence CL. According to this source, a local government scheme in Tirupur commits to providing a range of benefits to local rural communities, including the guarantee of a minimum of 100 days' work per year. Consequently, those benefiting from the scheme are less keen to leave their villages to look for work in Tirupur garment factories, a trend which is also contributing to the current local labour shortage.

### 3.4.2 China

As previously noted, the incidence of CL does not seem to have increased significantly since 2007/8 in the **garment** sector in China. Garment factories have been impacted to some extent by the recession, but have tended to respond not so much by increasing flexibility of their labour supply, but by relocating production to cheaper production areas (either inland China or other countries with cheaper production costs) and/or by adapting their core business models (Crothall 2012; Yao 2012).

Interestingly, the picture has been quite different for the **electronics** industry, where CL use is very high and has apparently increased substantially since 2008.<sup>8</sup> For example, CLB (Crothall 2012) estimates that in many factories, CL comprises up to a half of the workforce. FLA puts the figure even higher, stating that CL now accounts for up to 80 per cent of the workforce (Khym 2012). However, it seems fairly widely acknowledged that it has been not so much the economic crisis but the passing of China's Labour Contract Law in 2008 that has driven this rise in CL use (Crothall 2012; CLB 2012; Yao 2012).

The 2008 law was an important and positive watershed in that it represented the first attempt in 20-30 years by the Chinese government to curb the power of employers (Crothall 2012). However, the law did not adequately address the specific roles and responsibilities of labour contractors, and the law has also been poorly enforced with these contractors. This means that many factories chose to evade the stricter employer responsibilities imposed by the law by registering many of their temporary workers with third party dispatch agencies (labour contractors) (Crothall 2012; CLB 2012<sup>9</sup>). This recent experience of the Chinese electronics industry further demonstrates the importance of (national) labour laws and policies in determining the levels of CL use in export manufacturing industries.

---

<sup>8</sup> While of course the Chinese electronics industry does not fall directly within the scope of this study, its recent experience is briefly described here because it provides insights on drivers of CL use that are likely to be relevant to the garment sector.

<sup>9</sup> <http://www.clb.org.hk/en/content/clb-urges-chinese-government-further-restrict-use-employment-agency-labour>

## 4. Different Types of Labour Contractors

### 4.1 Introduction

This chapter discusses the different types of labour contractors operating in export garment supply chains. A key theme that emerges from the study findings is the huge variety of forms that labour contracting can take. On the one hand, labour contractors variously perform a range of different roles or functions, either in isolation or in various combinations, which means that the nature of the contractual relationship between contractors and workers varies enormously. This is the subject of **Section 4.2**.

On the other hand, there is also great variation in the types of enterprises that act as labour contractors, which range from individuals to large formal businesses: this is addressed in **Section 4.3**. **Section 4.4** concludes the chapter by briefly reviewing whether new forms of labour contractors or contractual relationships have surfaced since the global financial crisis.

### 4.2 Different Roles Performed by Labour Contractors

Due to the large variety of roles played by labour contractors, sometimes even within a single garment factory, it is extremely difficult to classify labour contractors into clear groups or types. However, what is possible and likely to be of more practical use is to identify the **key functions** variously performed by labour contractors. Building on a typology presented in one comprehensive (but non-industry specific) academic paper on CL (Barrientos 2011), and drawing on further empirical examples identified during Phase 2 of this study, the main functions performed by labour contractors can be summarized as follows:

- **Sourcing and supply (recruitment) of workers:** This refers to the task of identifying, contacting, convincing, and signing up workers who have the skills and characteristics specified by the user enterprise (factory). In the case of migrant CWs, this often also includes the transportation of workers to the factory and the arrangement of immigration procedures/paperwork where needed.
- **Remuneration of workers:** This refers to the payment of wages and non-wage benefits to workers (including relevant social security benefits, paid leave, maternity benefits, transport and accommodation allowances, etc).
- **Supervision of work:** This refers to the direct supervision or management of the productive work performed by CWs, including providing necessary training and instructions, setting of production/work targets, and monitoring of work performed. Labour contractors often perform this function when they are contracted by a factory to manage a whole production stage (e.g., embellishing a batch of garments).
- **Provision of production and/or other non-labour related services:** Many labour contractors also perform other functions that fall outside the scope of “labour contracting”, including managing other non-labour aspects of garment production (e.g., provision and management of production facilities and inputs), and provision of more suspect services such as the supply of female CWs into the sex trade.

Various labour contractors perform different combinations of the above functions (and possibly other related functions as well). **Table 4.2** below provides some examples of the range of functions performed by different types of labour contractors identified in Phase 2 of this study.

**Table 4.2: Examples of Labour Contractors and the Range of Functions They Perform**

EXAMPLES OF LABOUR CONTRACTORS	FUNCTIONS PERFORMED BY LABOUR CONTRACTORS			
	Sourcing/supply of workers	Remuneration of workers	Supervision of work	Provision of other services
<b>Tirupur, India: labour contractors operating in Sumangali scheme</b> <sup>10</sup>	Yes	No	No	Some labour contractors also involved in commercial sexual exploitation of female CWs
<b>NCR, India – Type 1: Labour contractors involved with adult garment workers</b> <sup>11</sup>	Only rarely	Yes	Yes, usually	Often these contractors are also involved in managing the whole production process, i.e., they are production sub-contractors
<b>NCR, India – Type 2: Labour contractors involved with child workers</b> <sup>12</sup>	Yes	Not known	Not known	Not known
<b>China: labour contractors involved in placement of student interns (<i>shixisheng</i>)</b> <sup>13</sup>	Yes	Yes (implied)	Not known	Not known
<b>Turkey – Type 1: Labour contractors involved with “in-house subcontracting”</b> <sup>14</sup>	Not known	Yes	Yes	The implication is that these contractors are also involved in managing the whole production process for a specific production stage/section
<b>Turkey – Type 2: individual workers acting as labour contractors</b> <sup>15</sup>	Yes	Yes	Not known	These labour contractors are also factory workers in their own right
<b>International: Labour contractors supplying cross-border migrant workers to garment factories</b> <sup>16</sup>	Yes (via recruitment agent/s in country of origin)	Yes	Not known	None mentioned

### 4.3 Who the Labour Contractors Are

Labour contractors not only vary widely in terms of the functions they perform: they also vary enormously in terms of the type and size of business they represent. Interviews and literature reviewed during Phase 2 revealed the following variety of entities that function as labour contractors in the export garment industry:

<sup>10</sup> Source: Verité 2010

<sup>11</sup> Sources: Verité 2010 and Burns 2012

<sup>12</sup> Source: Verité 2010. The report refers to “contractors” being responsible for paying and supervising child CWs, but it is unclear whether this refers to the labour contractors responsible for recruiting child workers, or to the managers of the fabrication units/lower tier factories (since the latter are also typically referred to as “contractors”).

<sup>13</sup> Sources: Zhang 2011 and Yao 2012

<sup>14</sup> Source: Vrieling 2012b

<sup>15</sup> Source: Vrieling 2012b

<sup>16</sup> Source: Clean Clothes Campaign 2012

- **Many individual garment factory workers or supervisors** operate as labour contractors on the side. For example, this is commonly found in both Tirupur and the NCR region in India, and in garment factories in Turkey (Verité 2010 and Vrieling 2012b).
- **Independent individuals** may also provide labour contracting services, a role often performed alongside other income earning activities. Since a certain degree of industry knowledge and access to suitable networks of workers are needed to perform the labour contracting role, these contractors are often (but not always) former garment factory workers. For example, ex-garment workers functioning as independent labour brokers were reported to be common in Bangladesh as well as in India (Khan 2012; Verité 2010).
- **Smaller garment sub-contracting firms** in the NCR region in India, many of which are unregistered, are often involved in labour contracting as well as production sub-contracting. Indeed, the local term “*tekhedaar*” does not distinguish between these two functions (Verité 2010). The firms that operate as “in-house subcontractors” in Turkish garment factories might also be placed in this category; these firms are believed to be formally registered businesses on the most part (Vrieling 2012b).
- **Formal medium-large scale labour contracting firms** also exist. For example, according to two separate sources, the CL system is so well-established in the NCR region in India that there are now highly professional large-scale firms involved in labour contracting for the garment industry. Some of these have tens of thousands of workers on their books, supply multiple factories, and are large enough to have considerable power over individual garment factories (Burns 2012; John 2012).
- **Government agencies/schemes** can be significant players. For example, in its report on cross-border migrants employed in the garment sector, CCC (2012) refers to government-run agencies in origin countries as being one important source of migrant CWs supplied to labour contractors in destination countries.
- **Organized crime** plays some role. The involvement of criminal gangs is referred to either explicitly or implicitly in relation to labour contracting in both the NCR region and Tirupur in India, and also in relation to contracting of cross-border migrants in general (Shift et al. 2012a). In NCR, one source (Brand/Retailer A) referred to the “mafia-like” intimidation tactics of the large-scale labour contractors supplying garment factories, and Verité (2010) refers to the contractors involved in recruitment of child workers as having extensive connections with local police and inspectorates. Similarly, Verité reported that labour brokers specializing in recruiting Sumangali girls in Tirupur routinely bribe police, political and religious leaders, and other local officials in order to facilitate their operations. In fact, they, typically spend over a third of their earnings on such payments. However, what is unclear in relation to the contracting of national (as opposed to cross-border migrant) CWs is the extent to which the contractors involved are engaging in organized crime, or rather are acting as “normal” formal and informal businesses for which bribery is part of standard business practice.
- **Informal networks of individuals and small firms** are often involved. A crucial theme that runs through much of the literature is the multiplicity of contractors or agents that can be involved in the recruitment and management of CWs. This is particularly relevant in the case of international migrant CWs, where the involvement of several “layers” of labour brokers appears to be the norm (e.g., CCC 2012; Barrientos 2011). However, it is also common in the case of national (internal) migrant workers: thus for example, the labour contractors who supply Sumangali girls to factories in Tirupur make use of large informal networks that include multiple local sub-agents in key labour supplying states (Verité 2010).



The above list is by no means exhaustive. Indeed, labour contractors in one category may often be co-operating with those in one or more other categories as part of a network, thus further complicating the labour contracting landscape (Barrientos 2011). Nevertheless, some degree of separation between different types of contractor and/or areas of operation is hinted at by a couple of sources. Thus in Bangladesh for example, Verité (Khan 2013) attests that the contractors involved in supplying CWs to domestic garment factories are distinct from those involved in supplying labour overseas. Similarly, Verité (2010) states that those involved in supplying child workers to garment factories in NCR India are separate to the networks of contractors involved in contracting and managing adult workers in these factories.

#### **4.4 New Types of Contractors or Contractual Relationships since the Crisis**

Limited information was available on whether and to what extent new types of contractors and contractual relationships have emerged since 2007/8. However, available evidence does not indicate that substantial post-crisis changes have occurred in this regard. As already highlighted, despite having only received substantial publicity and attention in recent years, the Sumangali scheme has in fact been operational since well before the onset of the global recession. Nevertheless, several possible trends were indicated that are worthy of note:

- **Increasing involvement of internal factory supervisors and workers as labour contractors** – One source (Burns 2012) said supervisors and other internal factory workers are increasingly involved as labour contractors in NCR India. Recent reports also highlight that this is now a common occurrence in Turkey (Vrieling 2012a) and that it is current practice in garment factories in other countries, including Uganda (Jones 2012). As far as the author is aware, the prominent role of in-factory labour contractors had not been identified prior to 2007/8 as a significant trend. However, it remains unclear whether this reflects a lack of previous attention to a well-established practice, or whether it has really emerged more recently as a new phenomenon.
- **Increasing involvement of criminal elements in labour contracting** – The presence of criminal elements in labour contracting in the garment sector was, as far as the author is aware, not widely reported prior to the crisis. Of course, this could be due to a lack of awareness rather than the lack of previous involvement of criminal elements. However, the report by Shift et al. (2012a) does note an increasing involvement of criminal gangs in the international employment and recruitment agency industry in general, which raises the question of whether an increase is also taking place in the garment industry specifically.
- **Labour contractors increasingly being used to avoid employer obligations under law** – The recent increase in the use of CL in the electronics industry in China seems to reflect a shift in the nature of the contractual relationship between the factory (user enterprise) and the labour contractor. It appears that following passage of China's 2008 Labour Contract Law, dispatch agencies have been increasingly used by electronics factories mainly as holders of legal responsibility and liability for workers, rather than as providers of recruitment and/or labour management services. Thus, Crothall (2012) reports that many electronics factories now insist that all new workers are registered with a dispatch agency for the first six months of employment, even if the factory has sourced the workers directly. The main rationale for this practice is for the factory to avoid costs associated with firing recent employees – costs which, under the 2008 law, are to be borne by the formal employer.

## 5. Socio-Economic Characteristics of Contract Workers

This study found information on the socio-economic characteristics of CWs only for India, and the vast majority of this information was from a single study (Verité 2010). The available evidence is summarized below; however, it should be emphasized that it cannot be generalized to other countries.

The Verité study provided information on the characteristics of three separate groups of CWs in two different regions: adult CWs in NCR, adult CWs in Tirupur and adolescent female workers recruited under the Sumangali scheme. The evidence suggested that:

- **Adult CWs are predominantly male**, although an increasing number of (adult) female CWs was reported in Tirupur.
- **All types of CWs are predominantly migrant**, and come from India's more deprived rural areas and cities.
- **Within these communities, all types of CWs are typically drawn from among the poorest and most socio-economically disadvantaged households**, and are often from lower castes and more marginal ethnic groups (Barrientos 2011).
- **Adult CWs most commonly seek work in garment factories due to the higher wages and/or the need to pay off dowries of female relatives.** According to Verité's estimates, a typical monthly wage in a garment factory is equivalent to three months' earnings from agricultural work.
- **Adult CWs typically migrate only on a seasonal basis, returning to their home areas during the low production season.** In the NCR in particular, work in garment factories is predominantly seasonal, and CWs typically migrate without their families and return home during the low (garment) production season to carry out agricultural work. However, recent trends in Tirupur have seen more women migrating to work in the garment factories; many of these are following husbands or other male family members who are already working in the factories.

## 6. Key Workers' Rights Abuses Experienced by Contract Workers

### 6.1 Introduction

This chapter outlines key workers' rights abuses typically experienced by CWs (Section 6.2), including how their conditions differ from those experienced by other types of workers (Section 6.3), and what factors increase or decrease the vulnerability of CWs to abuse (Section 6.4). Although some variation was found between countries and regions, overall there was a high degree of similarity in the types of abuses identified in different sourcing countries. Therefore, this chapter does not report abuses on a country-by-country basis, but is structured instead around the key types of abuse identified, highlighting examples from different countries in each case.

In terms of data limitations, while a considerable amount of information is available on working conditions for CWs in India, limited data could be identified for other sourcing countries. Thus in some cases it is difficult to draw general conclusions. Moreover, no information could be identified on the impacts of the global financial crisis on the conditions faced by CWs; it therefore remains unclear whether their conditions have changed significantly since 2007/8.

### 6.2 Key Workers' Rights Abuses Experienced by Contract Workers

In reviewing the available evidence, a distinction emerged between common abuses suffered by all types of CWs and a subset of abuses that tend to be experienced specifically by certain types of CWs, namely: child, adolescent and cross-border migrant CWs who are recruited by a labour supplier/contractor. This section is therefore sub-divided accordingly.

#### 6.2.1 Abuses Commonly Experienced by All Types of Contract Workers

##### LACK OF PAYMENT OF SOCIAL SECURITY AND OTHER NON-WAGE BENEFITS

The study findings clearly indicated that non-payment, or at best reduced payment, of social security and other non-wage benefits was the norm for CWs. Evidence of this was found in all four focus countries (Bangladesh, Turkey, India and China), as well as in Pakistan (see Section 3.2.1 and Vrieling 2012b; Crothall 2012). Indeed, as mentioned in **Section 3.2.1**, the avoidance of payment of social security benefits is commonly cited as a key rationale for using CL as opposed to directly employed workers.

##### LOW/SUB-MINIMUM WAGES

Evidence was also found that CWs tend to receive low wages, and often below-minimum wages. Verité reports with respect to garment factory workers in the NCR region in India that "even before illegal deductions, payment rates for contract workers are generally below the minimum wage" (Verité 2010: 52); Burns (2012) also confirmed the frequent payment of sub-minimum wages by labour contractors in NCR; and the ACTRAV (1997) attested to the low pay of CWs in Pakistani factories. Moreover, a number of other sources highlighted the fact that CWs typically earn even less than their directly employed co-workers; this is discussed further in Section 6.3.

#### **LACK OF WRITTEN/CLEAR CONTRACTS OF EMPLOYMENT**

The lack of clear, written contracts of employment was reported as a concern in the NCR region of India. Thus, Verité reports that in the case of CWs in first tier garment factories: “Legally, all contract workers are entitled to receive a copy of any signed contracts in their native language; in practice workers are asked to sign many documents in English, do not receive a personal copy, and have a limited understanding of their contents” (Verité 2010: 50). In the case of the fabrication units (workshops), workers do not receive any written documentation relating to their employment conditions at all (Verité 2010). Although no explicit evidence could be found regarding lack of clear employment contracts in other countries, it is likely to be a wider concern due to the informal nature of most labour contracting arrangements.

#### **LACK OF PAID LEAVE AND WEEKLY REST DAYS**

Lack of paid leave and weekly rest days was also reported to be commonplace among CWs in the NCR region in India and in Pakistan. Thus, Burns (2012) attested to the fact that contract labourers rarely receive holiday or sickness entitlements in garment factories in the NCR region. ACTRAV (1997) notes that CWs in Pakistan garment and textile factories tend not to have a weekly rest day and are unable to take sick or annual leave.

#### **REDUCTION OF PAY THROUGH ILLEGAL DEDUCTIONS, DECEPTION, UNDER-PAYMENT, ETC.**

Reduction of pay through illegal deductions, deception and/or underpayment is widely reported in relation to cross-border migrants and child and adolescent CWs, as discussed further in **Section 6.2.2**. In addition, these practices have also been found to affect CWs in NCR India. Verité (2010) reports a number of common practices used by labour contractors to reduce payments to workers, including siphoning off a portion of workers’ wages allegedly deducted to pay social security contributions (in reality pocketed by the contractor and/or factory), paying workers a lower wage than is actually recorded and signed for by the worker, and under-recording of hours worked or pieces completed. Burns (2012) found similar practices, highlighting further that contractors use more extreme forms of deceit with female workers due to their high levels of illiteracy.

#### **RESTRICTIONS ON FREEDOM OF ASSOCIATION (FOA)**

As already noted in **sub-section 3.3.1**, CWs tend to face severe restrictions on their freedom of association, given their insecurity of tenure and the fact that they are moved frequently from site to site. Burns (2012) also found direct anti-union discrimination by contractors in garment factories in the NCR region in India, for example black-listing and/or dismissal of trade union members. ACTRAV (1997) also found that garment CWs in Karachi (Pakistan) faced restrictions on FOA due to lack of a clear employer/employee relationship.

#### **EXCESSIVE WORKING HOURS, COMPULSORY OT AND LACK OF APPROPRIATE OT COMPENSATION**

A number of sources confirmed that excessive working hours, compulsory overtime (OT) and a lack of appropriate OT compensation is widespread for CWs in garment factories. For example, Verité (2010) identified excessive working hours and lack of appropriate overtime pay in the NCR region in India. One adult male CW they interviewed reported that he was working 13-15 hours per day on a regular basis during peak periods, of which 4-6 hours were classed as overtime but for which he did not receive double pay as promised. Similar working hours and practices were reported for adult migrant CWs in Tirupur, and

additionally workers spoke of being required to do two or three “double” (24 hour) shifts every month. ACTRAV (1997) also reported long hours and poor overtime compensation for CWs in Pakistan.

#### **VERBAL, PHYSICAL AND SEXUAL ABUSE**

Verbal, physical and sexual abuse are commonly reported in relation to child, adolescent and cross-border migrant CWs in garment factories; this is discussed further in sub-section 6.2.2. In addition, verbal and physical abuse were found in relation to adult/national garment workers in the NCR region in India. According to two separate sources, in first tier factories supervisors verbally abuse workers on a regular basis; and physical abuse is not uncommon, for example if a worker questions instructions they are given, with reports of workers being directly hit, struck with brooms or scissors, and being grabbed by the neck (Burns 2012 and Verité 2010).

#### **POOR HEALTH AND SAFETY STANDARDS AND FACILITIES**

CWs in both India (Tirupur) and Pakistan were also reported to suffer poor health and safety standards and facilities. CWs in garment factories in Karachi were found to have no access to canteens or medical services (ACTRAV 1997). Girls working under the Sumangali scheme in Tirupur are frequently exposed to hazardous chemicals and other occupational health and safety hazards; for example, Verité (2010) provides one case study of a factory where girls working in the bleaching area are not provided protective clothing, and consequently many of the workers suffer from burn marks on their skin.

#### **6.2.2 Specific Abuses Experienced by Child, Adolescent and Cross-Border Migrant Contract Workers**

As the evidence in this sub-section shows, CWs who are actively recruited from their home areas by labour suppliers or contractors tend to be more vulnerable to abuse than workers who find work of their own accord. It is not surprising that child, adolescent and cross-border migrant workers recruited by labour contractors are particularly vulnerable. In addition to the abuses described in Section 6.2.1, these workers are also at heightened risk of forced labour; restrictions on freedom of movement; large illegal deductions from pay and other deception; and poor accommodation and sanitation facilities. Further information and evidence of these abuses are described below.

#### **FORCED LABOUR**

Evidence of pervasive trafficking, forced labour and/or debt bondage have been reported in the case of Sumangali girls in Tirupur garment factories, child CWs in NCR textile factories and fabrication units, and cross-border migrant CWs, as Box 6.2.2a shows.

##### **Box 6.2.2a: Evidence of Forced Labour: Child, Adolescent and Cross-Border Migrant CWs**

- **Sumangali scheme, Tirupur, India:** It is widely recognized that girls recruited under the Sumangali scheme are in a clear situation of forced labour, principally due to the fact that the bulk of their pay is withheld until the end of a two-three year period (e.g., Solidaridad 2012; Verité 2010).
- **Child workers in textile factories and embroidery sector, NCR India:** Child workers in textile units in the NCR region of India face similar circumstances to those of Sumangali girls; apart from an advance on their salary paid to their parents upon recruitment, pay is withheld in its entirety until the child fulfils his/her contract of one-two years. Child workers in the embroidery sector are being trafficked by brokers from other states and being held captive in clear situations of forced labour (Verité 2010).
- **Bangladeshi emigrants working in garment factories overseas:** These workers are typically prevented from changing their minds during transit under threat of violence, and have their legal documents confiscated on arrival in the host country (CCC 2012).

## RESTRICTIONS ON FREEDOM OF MOVEMENT

Closely mirroring the presence of forced labour conditions, evidence was found of severe and pervasive restrictions on freedom of movement in the case of Sumangali girls in Tirupur garment factories, child CWs in NCR textile factories and fabrication units, and cross-border migrant CWs, as Box 6.2.2b shows:

### Box 6.2.2b: Restrictions on Freedom Of Movement: Child, Adolescent and Cross-Border Migrant Workers

- **Sumangali scheme, Tirupur, India:** Girls recruited under the Sumangali scheme face severe restrictions to their freedom of movement. They are housed in hostels, and are not permitted to leave the premises unless accompanied by the hostel warden or guards. While on-site, girls are under constant supervision, and all communications are monitored, including phone calls and visits from family members. In addition, their contracts prohibit them from discussing their employment conditions (Solidaridad 2012 and Verité 2010).
- **Child workers in textile factories and fabrication units, NCR India:** Child workers are not allowed to leave the worksite and their movement is under constant surveillance (Verité 2010).
- **Bangladeshi emigrants working in garment factories overseas:** Restrictions on freedom of movement are imposed as soon as the contracts are signed by the workers, even before they reach their destination. Once recruited, the worker are typically placed in “holding centres” in Dhaka, sometimes for up to two months, during which time they are not allowed to go out alone (CCC 2012).

## REDUCTION OF PAY THROUGH ILLEGAL DEDUCTIONS, DECEPTION, UNDER-PAYMENT ETC

As already noted, the evidence indicates that reduction of pay through illegal deductions and similar practices are commonly experienced by all types of CWs. However, due to their greater vulnerability, child, adolescent and cross-border migrant workers appear to suffer particularly large reductions in pay and greater levels of deceit, as the examples in Box 6.2.2c indicate:

### Box 6.2.2c: Illegal Reductions in Pay: Child, Adolescent And Cross-Border Migrant Workers

- **Sumangali scheme, Tirupur, India:** Work under the Sumangali scheme is supposed to be remunerated in two separate ways: an end-of-contract lump-sum payment, and a monthly “stipend” payment ostensibly to help support the workers’ family. In reality however, deductions made for the workers’ food, accommodation and other expenses significantly reduce their monthly earnings, to the point that the net earnings are typically insufficient to send any money home. Indeed, in many cases parents actually have to supplement their daughters’ living expenses during their employment. Sumangali girls interviewed as part of the Verité study reported deductions representing up to two-thirds of the monthly stipend (Solidaridad 2012; Verité 2010).
- **Bangladeshi emigrants working in garment factories overseas:** Almost all workers still owe money to the labour contractor at the end of their working period, due to excessive deductions and other deceptive practices. For example, despite having made payments prior to departure, workers are charged additional recruitment fees and travel costs on arrival at their destination. They typically also have money deducted for accommodation costs and are fined for mistakes made. Moreover, the labour contractor in the host country often does not pay the worker directly, but pays his/her wages to the recruitment agent in the home country. This exposes the worker to further abuse: for example, often both the family at home as well as the worker overseas are being asked to make loan repayments, so they are in fact double paying the loan (CCC 2012).

## POOR ACCOMMODATION AND SANITATION FACILITIES

Since child, adolescent and cross-border migrant CWs are typically working away from their homes, they are often housed by their employers/contractors and as such experience very poor accommodation and sanitation conditions. For example, poor accommodation facilities are reported by CCC (2012) with respect to Bangladeshi migrant workers; and child workers in textile factories/units in the NCR region in India “generally sleep on-site, exposing them to stuffy, unsanitary mosquito-filled rooms with a lack of water and other personal hygiene requirements” (Verité 2010).

### 6.3 Difference in Abuses Experienced by CWs and Directly Employed Workers

The restricted scope of existing literature means that only limited conclusions can be drawn about the impact on employment conditions of being a CW as opposed to a directly employed worker. This is because where the literature does compare the conditions of CWs with direct employees, the comparison is typically made with permanent/regular workers in direct employment, rather than with seasonal or temporary workers in direct employment (e.g., Bahdari et al. 2006; ITGLWF 2010). This means that any identified variation in conditions could be due to differences in employment status (i.e., permanent vs. non-permanent), rather than to the identity of the employer (i.e., labour contractor or factory).

Nevertheless, available evidence does indicate some significant differences in conditions between contract and directly employed workers. As already described (sub-Section 6.2.2), child/adolescent and cross-border migrant CWs, as compared to directly employed workers, are at greater risk of several types of serious labour abuses, including various forms of forced labour. In addition, the study findings indicate that in general, *all* types of CWs tend to have poorer conditions compared to direct employees. CWs are typically more vulnerable to abuse because of their invisibility, their frequent change of workplace, and their social and geographical isolation. Specific evidence was found that, as compared to direct employees, CWs tend to earn lower wages, are less likely to receive social security benefits and other non-wage benefits, face greater restrictions on freedom of association and collective bargaining, and are at greater risk of suffering illegal deductions to their pay. This evidence is explored further below.

#### LOWER WAGES

Evidence was found that CWs tend to receive lower wages than their directly employed counterparts in garment factories in India and China, as Box 6.3 indicates:

#### Box 6.3: CWs Tend to Receive Lower Wages than Their Directly Employed Counterparts

- **Child CWs in textile factories/workshops, NCR India:** Although the salary of a child CW generally increases with age, overall their wages still remain far below an adult's wage. According to research conducted by Verité, a child's salary might represent as low as 5 per cent, and at best 20 per cent, of an adult's wage (Verité 2010).
- **Adult CWs in NCR, India:** According to a study conducted by the Institute of Development Studies (Barrientos and Smith 2006), CWs are less likely to receive the minimum wage than their directly employed counterparts. The fact that adult CWs in NCR receive lower wages is also supported by other sources (e.g., Bahdari et al. 2006; John 2012).
- **Adolescent female workers under Sumangali scheme, Tirupur, India:** The girls working under the Sumangali scheme earn significantly less than adult male workers doing the same category of work (Solidaridad 2012; Verité 2010).
- **Trainee CWs, China:** Dispatch workers from skills-training schools working in garment factories receive less remuneration than a regular worker labouring in the same position (Zhang 2011).

However, it is important to recognize that CWs do not always receive lower wages than their directly employed counterparts. As already noted, Khan (2013) associates CWs in the knitwear sector in Bangladesh with higher wages and skill levels. In addition, Vrieling (2012b) found evidence that CWs receive a higher wage than their directly employed counterparts in garment factories in Turkey, and that as a result some workers actually prefer to work as CWs. Nevertheless, available evidence on wages of CWs in other sectors, including in the agricultural and electronics sectors, strongly indicates that this is very much the exception rather than the rule – in other words, for the most part CWs earn significantly less than other workers (Chan 2011; Barrientos and Smith 2006; Crothall 2011).

#### **LESS LIKELY TO RECEIVE SOCIAL SECURITY BENEFITS**

As already highlighted in sub-Sections 3.2.1 and 6.2.1, the avoidance of social security benefits is a key driver for garment factories to use CL as opposed to direct employees, so it is strongly implied that CWs are less likely to receive these benefits than their directly employed counterparts. However, direct evidence of this discrepancy was actually difficult to identify. Nevertheless, two separate sources confirmed that CWs in garment factories in NCR, India receive less access to their social security benefits/entitlements than direct employees (Barrientos 2006; John 2012). Garment CWs in Bangladesh and Turkey were also reported to have poorer access to social security benefits than other garment workers (Khan 2013; Vrieling 2012b).

#### **MORE LIKELY TO FACE RESTRICTIONS ON TRADE UNION RIGHTS**

As sub-section 6.2.1 describes, it seems clear from the available evidence that CWs in the garment sector generally face substantial restrictions on freedom of association and collective bargaining, and that very few CWs are organized. However, little direct evidence could be found that CWs suffer greater restrictions on FOA than directly employed temporary/seasonal workers, although this is often indirectly inferred.

Nevertheless, John (2012) confirmed that CWs in Indian garment factories do tend to have poorer access to the Provident Fund than other workers. Moreover, ACTRAV (1997) attested to the fact that, on account of their contractual status, it is virtually impossible for CWs in Pakistan to join or form a trade union. According to the report, “CWs cannot join unions as the law relating to unionization (Industrial Relations Ordinance 1969) requires workers to identify their employers in order for the union to be registered and legally recognized”, yet the garment factory management “refuses to recognize them as his employees”. Presumably, contract workers cannot identify their labour contractor as their employer in this context, given that most labour contractors are unregistered/informal businesses.

#### **GREATER RISK OF UNCLEAR CONTRACTS AND ILLEGAL DEDUCTIONS?**

No direct evidence was found indicating that CWs in the garment industry are at greater risk of having unclear contracts and illegal deductions from their wages, as compared to directly employed workers. However, the fact that the majority of labour contractors are unregistered businesses (e.g., according to Verité 2010, 60-70 per cent of labour contractors in NCR India are unregistered) implies that CWs are less likely to have written employment contracts and/or other documentation of their pay and conditions, and hence are more vulnerable to illegal deductions.

### **6.4 Factors that Increase or Decrease the Vulnerability of CWs to Abuses**

The study identified a number of factors that influence the extent to which CWs are vulnerable to the abuses outlined in Section 6.2. These factors, many of which are interlinked, are briefly described below.

- **Whether or not the worker is proactively recruited by a labour contractor** – As implied in sub-Section 6.2.2 and supported by other sources (Verité 2010; Shift et al. 2012a), workers who are recruited by a labour contractor or supplier appear to be more vulnerable to labour abuses, as compared to CWs who actively approach a contractor for work. This presumably reflects the former group’s poorer access to information about employment opportunities and standard working conditions, which weakens their bargaining power.



- **Whether or not the labour contractor is involved in supervising work/production** – There is also evidence to suggest that labour contractors who are actively involved in supervising workers in garment factories are less likely to seriously abuse their workers, compared to those contractors who only supply and/or pay the workers (Verité 2010; Shift et al. 2012a). As implied by Barrientos (2011), this is likely to reflect the fact that contractors involved in the actual production aspects are typically paid based on their completion of a particular job or productive task, rather than simply on the number of workers supplied. Hence, they have more to gain from positively incentivizing their workers, since they will increase their profit margin if workers' productivity is higher.
- **Distance of worksite from place of origin** – A number of sources indicate that migrant CWs (both national and international) are more vulnerable to abuse as compared to non-migrant workers, due to the former group's isolation from their families and support networks and the socio-cultural and linguistic barriers they often face (Bahdari et al 2006; Verité 2010.; Viederman 2012). Cross-border migrants are particularly vulnerable due to more extreme degrees of isolation, and also because their legal immigration status is often tied to their employer/labour contractor in the host country (which increases the power of the contractor over his/her employees) (CCC 2012).
- **Complexity of labour contracting chain/number of intermediaries involved** – Evidence suggests that the greater the complexity of the labour contracting network, and the larger the number of labour contractors/agents involved, the greater is the risk of worker abuse (Shift et al 2012a; Verité 2010). This is effectively demonstrated by the experience of Bangladeshi emigrants previously referred to, where the involvement of labour agents in both source and destination countries creates the opportunity for a whole host of deceptive practices, including extracting two sets of repayments on the same loan (CCC 2012).
- **Degree of poverty and indebtedness of originating households** – The literature also highlights the fact that poverty and indebtedness of worker households increases the likelihood of worker abuse. For example, a number of studies on the Sumangali scheme emphasize that extreme poverty, indebtedness and/or lack of alternative employment opportunities are key drivers for families to agree to sending their daughters to work under the scheme, despite the risks and uncertainties involved. And once the girls are enrolled, these same factors also act as a strong disincentive for families to allow girls to leave the scheme before completion of their contract, since the bulk of their remuneration is only received at the end of their contractual term (Solidaridad 2012; Verité 2010; Anti-Slavery International 2012).
- **Socio-economic status of individual workers** – Likewise, as inferred in previous sections those individuals with lower socio-economic status are more vulnerable to abuse. As shown in sub-Section 6.2.2, child and adolescent CWs (alongside cross-border migrants) are subjected to the most extreme abuse and exploitation, and there is also evidence that women CWs are more vulnerable to abuse than their male counterparts (see Section 7).
- **Degree of access to information and choice of labour contractor/broker** – One study (Verité 2010) also highlights that poor access to information and lack of choice of contractors increase the chances of serious abuse in situations where CWs are recruited by a labour contractor. In the case of the Sumangali scheme for example, labour contractors often collude to ensure that only one contractor will operate in any particular village, a practice which severely restricts competition and information flow, and hence places target families very much in the power of the contractor.

- **Integrity of individual labour contractors** – Finally, an obvious but important factor is the degree of integrity of the individual labour contractors concerned. As Chapter 4 details, contractors come in all shapes and sizes, and range from reasonably scrupulous individuals or businesses to highly corrupt operations who systematically use violence and intimidation tactics to ensure workers stay in line (Barrientos 2011; Burns 2012).

## 7. Key Gender Issues

This chapter briefly explores some of the key gender issues associated with CL use. Unfortunately, there is very limited information available about gender concerns. The Verité study on India (Verité 2010) was the only source that provided detailed information on this issue, although two other sources (CCC 2012; Burns 2012) provided additional insights. Nevertheless, the relevant information provided by the Verité report addresses three different groups of CWs in two different production regions (NCR and Tirupur). Moreover, there was a high degree of similarity in the key concerns raised by the three different sources. Despite the limited evidence base, it is therefore possible to tentatively identify a number of general concerns affecting women CWs.

- **Lack of involvement in decision-making at the recruitment stage** – Due to women’s inferior socio-economic status and weak bargaining power within the household, female migrant CWs may not actually have been involved in the decision to migrate and/or accept the employment contract in the first place. Thus, CCC notes that in relation to female cross-border migrant workers engaged in overseas garment factories, “In some cases, the decision for women to migrate is not their own and may be taken by a member of their family (a father or other male relative). In these cases they may not have been involved in negotiations over for example contracts, country of destination, or length of service” (CCC 2012: 6).
- **Greater dependency on labour contractors, and hence increased vulnerability to abuse** – The CCC report also notes that once in the destination country, female cross-border migrants may feel more dependent on labour contractors for protection and safety, in face of the perceived and actual risk of sexual abuse. Women workers may also be less likely to report any such abuses if the contractor is from the same country of origin, for fear that the allegations could reach back to their own community and families and cause problems for them on their return (CCC 2012). For both these reasons, female migrant CWs are less likely to complain about labour abuses and are therefore more vulnerable to continued exploitation.
- **Gender discrimination in pay** – All three sources reported that female CWs commonly experience gender discrimination in pay, and often earn significantly less than male CWs performing similar work. Thus, Verité reported that “whether concentrated in home-based or factory work, women in both Tirupur and the NCR worked in the lowest paying positions” (Verité 2010: 9); and CCC notes that “women migrant workers usually earn less than men” (CCC 2012: 6). Burns (2012) reported that in her experience, women workers in NCR garment factories were sometimes deliberately targeted by labour brokers for certain pay deductions, due to their low literacy levels and the fact that they were less likely to complain. These practices included deducting the employers’ social security contribution from women workers’ pay: brokers do not use this practice with male CWs because they are more likely to complain.
- **Sexual harassment and abuse** – Both Verité and CCC highlighted the fact that sexual harassment and abuse of female CWs is widespread. In the case of female cross-border migrant CWs, CCC notes that “sexual harassment in factories and dormitories is...common” (CCC 2012: 6), and is often perpetrated by labour contractors themselves, as well as by factory managers and supervisors. Regarding NCR garment factories, Verité notes that “when women are contracted as factory workers, they are highly vulnerable to sexual harassment and abuse; even male workers reported witnessing cases when

women were threatened with dismissal if they did not perform sexual favors.” (Verité 2010: 54). Sexual harassment of Sumangali girls is also reported to be commonplace; according to one former labour these girls are very often asked for sexual favours by other male workers and supervisors (Verité 2010; Solidaridad 2012).

- **Sex trafficking/sexual exploitation** – In addition, the most vulnerable groups of female CWs also appear to be at significant risk of being trafficked into the sex industry. For example, Verité found evidence that girls working under the Sumangali scheme are “systematically” threatened or forced into the sex trade (Verité 2010: 21). Sex traffickers are apparently strongly linked into the networks involved in recruiting Sumangali girls; supervisors, other factory workers, company managers, and hostel managers are often also implicated.
- **Greater restrictions on freedom of association** – The Verité report also indicated that, while unionization is low for all CWs, female CWs face even greater restrictions on FOA than their male counterparts. Cultural restrictions on women’s social interaction constitute one key factor that continues to limit these women’s participation in trade unions. In addition, the report indicates that garment factories deliberately recruit young female CWs as apprentices, in order to restrict their ability to organize and bargain collectively.

# 8. Ongoing Initiatives Relevant to Contract Labour in the Garment Sector

## 8.1 Introduction

This chapter provides a brief overview of key ongoing initiatives and recent studies relevant to contract labour issues in global garment supply chains. The list is not necessarily exhaustive; in particular, there may be important country-level initiatives in key sourcing countries that were not identified as part of this study.

As already noted, few existing initiatives deal specifically with CL in the garment industry. However, all of the initiatives described below were judged to contribute in a partial way to addressing the issue. These programmes can be grouped into the following five categories, and the remainder of this chapter is structured accordingly:

- garment-specific initiatives on CL
- cross-sector initiatives on CL
- initiatives campaigning for a reduction in precarious work
- initiatives aimed at protecting the rights of (cross-border) migrant workers
- initiatives with a specific focus on addressing abuses under the Sumangali scheme

## 8.2 Garment-Specific Initiatives on CL

Several garment-specific CL initiatives were identified by the study; however, all without exception focused on India alone. Relevant initiatives include:

- **Research and advocacy by Indian NGOs** – Several leading NGOs in India, including the Association for Stimulating Know-How (ASK), the Center for Education and Communication (CEC) and the Centre for Development Studies (CDS) have been active in conducting research and advocacy work on CL in the Indian garment industry (Verité 2010; John 2012). Other more academic studies have been conducted on this issue; the most relevant of these are listed in the bibliography below.
- **Multi-stakeholder event on CL (2010) organized by Gap Inc., Next and the Apparel Export Promotion Council (AEPC)** – This event aimed to bring together key stakeholders, raise awareness of CL issues in the garment sector, and discuss how the risks involved might be managed.
- **Brands Working Group** – The Brands Working Group has set up a sub-group to look specifically at the issue of CL. Activities carried out to date include the preparation of a standard email to be sent to suppliers regarding a common position on CL. This email states that the first preference is to have an entirely regular workforce; if this is not possible, then the second preference is to ensure that CWs have certain conditions in place, including avoidance of rolling temporary contracts. The sub-group is also in the process of preparing an ideal employment contract for CWs (Brand/Retailer A and Brand/Retailer B).

- **Activities carried out by Brand/Retailer A and/or Brand/Retailer B** – Steps taken to address CL concerns include: asking factories how they hire workers (as standard procedure during audits); showcasing examples of suppliers who employ a fully permanent workforce; and ensuring all workers receive contracts in their local languages (Brand/Retailer A and Brand/Retailer B).
- **Ethical Trading Initiative (ETI)** – ETI is in the process of developing a project to tackle CL concerns in the garment and textiles sector in India. However, at the time the research was conducted (Autumn 2012) the project was only at concept stage and thus the specific scope had not yet been determined (Kilbourne 2012).

### 8.3 Cross-Sector Initiatives on CL

A number of international initiatives have emerged to address CL concerns at a cross-sectoral level. These include:

- **Institute for Human Rights and Business (IHRB) – Employment & Recruitment Agencies (E&RA) Sector Project** – Undertaken on behalf of the European Commission, this project has developed draft guidance for formal E&RAs on how to ensure respect for human rights in their business operations (see IHRB 2012b). The initiative is relevant in that it is specifically looking at CL and labour contractors; however, it is mainly focused on large-scale formal agencies operating in European and global markets, and is not specific to the garment industry. See [www.ihrb.org/project/eu-sector-guidance](http://www.ihrb.org/project/eu-sector-guidance).
- **Fair Labor Association (FLA)’s revised labour code** – FLA’s new labour code (2011/2/12) includes a new code element on the “Employment Relationship”. This element includes specific compliance benchmarks setting out quite detailed conditions for use of labour contractors and CL. FLA companies have broadly been behind this approach in principle, but it is too soon to know if they are really implementing it (Khyam 2012; Perez-Lopez 2012).

At the national level, **recently agreed amendments to China’s Labour Contract Law**, which will come into effect on 1 July 2013, are worthy of note. These amendments are intended to close some of the loopholes in the 2008 law that have increased substantially the use of CL in some manufacturing sectors in China, as referred to in previous parts of this report. Core amendments to the law include stipulations that compensation for dispatched employees must be equal to that of full-time, formal employees within the company; that dispatched employment must be on a temporary, auxiliary, or substitute basis; and that both the dispatch agency and employer are liable and subject to fines if the employer violates the revised law.<sup>17</sup>

### 8.4 Initiatives Campaigning for a Reduction in Precarious Work

A number of global NGOs working on labour rights issues, as well as the global union federation with responsibility for the garment industry (IndustIALl), have been involved in recent or ongoing initiatives to push for a reduction in precarious work in the sector.

---

<sup>17</sup> Source: [www.bsr.org/en/our-insights/blog-view/chinas-labor-contract-law-new-protections-for-workers](http://www.bsr.org/en/our-insights/blog-view/chinas-labor-contract-law-new-protections-for-workers)

- **IndustriALL**, or the International Textile, Garment and Leather Workers' Federation (ITGLWF) as it was then known, conducted a survey in 2010 on the incidence and recent growth of precarious employment in the garment industry in over 40 countries in which its affiliates were operational. CL was included in the scope of the survey, but respondents did not provide disaggregated data on CL as distinct from other types of precarious employment (ITGLWF 2010; Seely 2012).
- **Maquila Solidarity Network and World Solidarity (WSM)** both published recent research on the growth in precarious employment in the garment industry, and are working with other workers' rights organizations, including the **Clean Clothes Campaign (CCC)** on these issues.

## 8.5 Initiatives Aimed at Protecting Immigrant Workers' Rights

**Verité**, under its **Help Wanted programme**, has been carrying out extensive research and advocacy work on migrant workers hired by labour brokers/contractors, with a focus on those workers who are vulnerable to trafficking and forced labour. **Background research included** detailed case studies in four countries, one of which focused on the Sumangali scheme and child labour in the garment industry in India. What distinguishes Verité's research on these workers is the focus on the role of labour contractors and how they affect conditions faced by CWs, a level of analysis that is mostly lacking from other studies on the Sumangali scheme.

The **advocacy** element has included the development of the Fair Hiring Framework and Toolkit ([www.verite.org/fair-hiring-toolkit](http://www.verite.org/fair-hiring-toolkit)), which provides industry-generic tools to support brands, suppliers and other stakeholders to address these issues. A number of brands, including Apple and Arcadia, have responded positively and started using aspects of this toolkit; however, uptake has so far been piecemeal. Verité is also working with the global employment agency Manpower to develop a scheme to register labour contractors and regulate their practice (Viederman 2012).

While this work is focused primarily on international rather than national migrant workers, many aspects of the research and advocacy tools are relevant to national migrant workers and other types of CWs.

**The Clean Clothes Campaign** has also commissioned and published recent research on migrant labour in the global garment industry (CCC 2012).

## 8.6 Initiatives Focused on Addressing Abuses under the Sumangali Scheme

A substantial number of reports have been published on the Sumangali scheme in the last few years, and these have given rise to various responses and initiatives from global garment brands and other stakeholders. Three of these studies are highlighted below; a more comprehensive review of relevant research and responses is provided by SOMO (see below).

- **Anti-Slavery International (ASI)** has conducted recent research and engaged ETI member companies on the issue of forced labour and child labour in the Indian garment industry, with a focus on the Sumangali scheme.

- **Centre for Research on Multinational Corporations (SOMO)**, in collaboration with the India Committee of the Netherlands (ICN) and the Campaign Against Sumangali Scheme (CASS), conducted and published research on the Sumangali scheme in 2011/12. SOMO has also tracked and reported on the responses of garment brands, international and national NGOs, governments, and other stakeholders to report abuses under this scheme.
- **FLA** has also prepared a research report on the Sumangali scheme in India. See [www.fairlabor.org/report/stability-and-security-employment-and-decent-work](http://www.fairlabor.org/report/stability-and-security-employment-and-decent-work).



## 9. Conclusions

Despite the considerable gaps in knowledge that exist, at least one clear conclusion can be drawn from the available evidence: that the issue of CL in the global garment industry is significant and growing, and deserves more attention from key international stakeholders. Although there is substantial variation in the prevalence of CL between and within countries, CL appears to be fairly widespread in a number of key sourcing countries, including India, Bangladesh and Turkey. And while evidence indicates that the global financial crisis has not *per se* led to major structural shifts in patterns of CL use, it points to the fact that for a number of reasons CL prevalence has nevertheless continued to increase post-crisis in a number of key sourcing locations. In other words, the trend is upwards, not downwards.

Moreover, CL is problematic not only because it is widespread, but because CWs experience a wide range of labour abuses, and on average experience poorer working conditions compared to their directly employed counterparts. The most vulnerable groups of CWs also face heightened risk of serious labour abuses. These inferior labour conditions are a result of various factors, including poor regulation of contractors – hence decreased transparency and accountability – and the migrant and socio-economically disadvantaged status of many CWs, which leaves them geographically and culturally isolated from effective support networks.

Thus CWs are numerous, growing in number and suffer particularly poor conditions; clearly their situation needs to be addressed. However, this is easier said than done. One key barrier to action is the complexity of the contractual relationships and networks within which CWs are typically recruited and employed. This means that it can be difficult enough to identify all the key players involved in any one production location, let alone identify and implement an effective strategy for improving CL conditions. The variability in the nature of labour contracting relationships from context to context means that identifying generic good practice guidelines is also very challenging.

Another set of challenges relates to the underlying drivers behind CL use. The purchasing practices of global garment brands/retailers are clearly influential in this regard: downward pressure on prices, just-in-time production management strategies, and frequent style changes give garment suppliers a strong incentive to maintain a cheap and highly flexible (i.e., temporary) workforce. While CL is not the only possible response to these pressures, it is clearly an attractive one under certain circumstances. Thus, bringing about a significant reduction in CL prevalence would require a substantial shift in the purchasing strategies of global brands – something that is obviously not easily achieved in the short term.

Another key driver behind CL use is the poor regulation of labour contractors, which makes CL use doubly attractive in that it both absolves the factory of its legal liability as an employer, and it can also cut per-unit labour costs due to the poor wages and benefits that these contractors typically get away with paying. But given the predominantly informal nature of labour contracting, and the complexity of the networks involved, effective regulation of labour contractors is also unlikely to be achieved in the short term.

Fortunately, in recent years a number of international initiatives have emerged to tackle certain aspects of the challenges posed by CL use in the garment industry, notably specific campaigns on the Sumangali scheme, more general NGO and trade union campaigns on precarious work, and initiatives focusing on forced labour and other serious abuses faced by cross-border migrant workers. But while each of these initiatives have helped raise awareness of key aspects of the problem, a more comprehensive and focused effort is needed to address CL as a specific and systemic issue. This is the subject of the final chapter of this report.

# 10. Recommendations

## 10.1 Introduction

A number of factors make it difficult to identify a clear and comprehensive set of recommendations for addressing CL concerns. These factors include: the lack of attention CL has been given to date as a specific and systemic issue, and hence the limited knowledge of its characteristics; the large number and type of actors involved in any one locality; the informal nature of most labour contracting activities; and the high degree of variability in the characteristics of CL arrangements both between and within countries.

Within this context, it is certainly possible (and hopefully helpful) to identify some broad principles of good practice that are fairly non-contentious. However, there are substantial aspects of the problem where good practice is yet to be defined, or where key stakeholders hold conflicting views as to what the way forward should be. And even in areas where some degree of consensus has been reached in principle, there is little understanding or agreement on how, and by whom, these principles might be implemented in practice.

The structure of this final chapter reflects this state of affairs, in that it distinguishes between three different groups of recommendations. **Section 10.2** presents the broad good practice principles that are judged to be fairly non-contentious, and which are in most cases quite widely endorsed by key stakeholders. **Section 10.3** identifies those areas that are more contentious and/or where good practice needs to be more clearly defined; these areas therefore require further multi-stakeholder dialogue and consensus-building. Finally, **Section 10.4** discusses aspects of CL use that remain poorly understood, and therefore require further research.

## 10.2 Broad Good Practice Principles that are Fairly Non-Contentious

### ***10.2.1 Better Understand and Address CL as a Specific Issue (as Part of an Integrated Approach to Addressing Informality)***

While CWs share many common characteristics with other types of workers in precarious employment, the study findings make it clear that CL needs to be better understood as a specific type of informal labour that has its own particular characteristics and needs. This is partly because, compared to directly employed informal workers, CWs are on average more vulnerable to labour rights abuses in general, and also face a heightened risk of specific types of abuses (e.g., forced labour conditions). In addition, the triangular nature of the employment relationship, and the involvement of often multiple additional stakeholders, give rise to a distinct set of drivers, incentives, constraints and challenges that do not affect other types of (directly employed) workers. The implication is that CWs not only experience different and worse labour rights abuses, but that their problems might also require different or additional solutions to those required in the case of direct employees.

At the same time however, it is crucial that attempts to address CL are conceptualized and implemented as part of an integrated approach to tackling the broader trend towards informalization of labour and production in global garment supply chains. In particular, strategies to tackle CL must take into account the links between CL use on the one hand, and use of other forms of precarious employment and sub-

contracting out of production on the other hand. If these links are ignored, any attempts to reduce reliance on CL are likely to simply increase the prevalence of the other two practices – neither of which is desirable from a labour rights point of view.

Within this broad framework, more specific recommendations are provided in sub-Sections 10.2.2 – 10.2.10 below.

### **10.2.2 Promote Supportive Purchasing Practices among Global Brands/Retailers**

There is a need for global garment brands/retailers to change their purchasing practices, in order to remove what many believe to be the most important drivers of CL use. In particular, the following changes to purchasing practices need to be implemented:

- reduce the downward pressure on prices paid to suppliers
- reverse the trend towards shorter and less flexible lead times
- increase the security and regularity of orders
- reduce seasonality of production
- ensure supplier performance on labour standards is given sufficient weight in sourcing decisions, and that good performance is financially rewarded

### **10.2.3 Strengthen Regulation of Labour Contractors**

The need for better regulation of labour contractors is also quite clear. This is both about reform of legislation, and about improving enforcement of existing legislation:

- **Improve enforcement:** Government labour inspectorates need to be given the necessary resources and incentives to effectively monitor labour contractors and ensure that they comply with relevant labour laws. The available evidence suggests that in most cases, the problem is not so much that labour contractors are exempted from legal responsibilities, but that their responsibilities as employers are poorly enforced.
- **Reform legislation:** Nevertheless, relevant labour laws need to be reviewed to ensure that they capture the complexity of labour contracting arrangements, the different types of labour contractor in existence, and the varying roles they play. Labour laws need to iron out existing loopholes and ensure that all types of labour contractor are held to account.

### **10.2.4 Improve Legal Protection for CWs**

Legal protection provided to CWs also needs to be improved. Again, this is both about legal reform and improved enforcement.

- **Improve enforcement:** Particular attention should be given to enforcing existing legal rights in areas where abuses are commonly experienced by CWs, as described in Chapter 6. Special emphasis should be given to ensuring that all CWs are paid at least the minimum wage, taking into account deductions that are made; that they receive social security and other non-wage benefits they are legally entitled to; and that their right to freedom of association is respected. Wages, benefits and trade union rights are particularly crucial not least because they have been identified as key drivers behind CL use.

- **Reform legislation:** Relevant labour laws should be reviewed to ensure that the legal rights of CWs are in line with those of directly employed permanent workers. Particular attention needs to be paid to discrepancies based on (a) employment status (since seasonal/casual/temporary workers often have weaker rights than permanent workers), and (b) size of the employer (since labour laws are often relaxed for enterprises that employ below a certain number of workers).

#### **10.2.5 Make Factories More Accountable for CL and Labour Contractors**

It is also important to promote greater transparency and accountability around CL use at the factory level.

- **Promote greater transparency:** Factory management needs to be more transparent about who hires and manages labour, including CL, in their factories. Global garment brands and national and local governments have a key role to play in encouraging and incentivizing such transparency, through adoption and effective implementation of appropriate policies on CL.
- **Establish legal accountability:** Factory managers also need to be made legally accountable for labour abuses perpetrated in their workplaces, even if they are not legally recognized as the employer. Possible models to consider are those adopted by (a) the UK's Gangmaster Licencing Authority (whereby producers/suppliers can be penalised if they do not use registered gangmasters/labour contractors), and (b) South African labour law, whereby suppliers are held responsible if labour contractors they use fail to adhere to labour legislation (Barrientos 2011).

#### **10.2.6 Promote Practical Measures to Reduce Risk for Most Vulnerable CWs**

Alongside regulatory measures, it is also important to promote practical measures to reduce the risk of serious labour abuses for the most vulnerable groups of CWs. This includes, in particular, child, adolescent and cross-border migrant workers, and also women workers in socio-cultural contexts where gender inequality is high. Practical support should include provision of information, guidance and legal advice to target workers and their families. In particular:

- **Provide information/education in source communities:** It is particularly important to provide relevant education in source communities prior to the agreement of any employment contract. Such education should include a clear and accurate description of the actual working conditions typically endured by workers in destination garment factories/workshops, and the fact that these are often significantly worse than those promised by recruitment agents.
- **Provide legal information and support to both prospective and existing CWs:** Information on their legal rights, and avenues for recourse, need to be made available to target groups of CWs. It is important to ensure that relevant information is provided in languages understood by the workers; even national migrant workers often speak different languages to those of local factory managers and workers.

#### **10.2.7 Promote/Support Organization of CWs**

As well as strengthening their legal rights to freedom of association and collective bargaining, proactive measures also need to be taken to support more CWs to join and/or form workers' organizations.

### **10.2.8 Develop and Implement Good Practice Guidelines on CL use for Labour Contractors and Suppliers**

It is also important to develop good practice guidelines and benchmarks on CL use both for factories/suppliers and for labour contractors themselves. The guidance already developed by Verité's Help Wanted initiative and by the Institute for Human Rights and Business is helpful in this regard. However, more thought needs to be given to how, if at all, the existing guidance can be applied in the context of largely informal operators and/or in a national (rather than international) setting.

### **10.2.9 Promote/Share Existing Good Practice**

Promoting and sharing good practice can be helpful at various levels.

- **Showcase factories who demonstrate a responsible approach to CL:** This includes showcasing those factories that do not use (or only occasionally use) CL, and learning from the strategies they use to manage commercial pressures without resorting to over-reliance on CL. It also includes learning from the practices of factories that do use a significant amount of CL, but who make efforts to ensure that labour contractors provide decent remuneration and working conditions to their workers.
- **Publicize innovative approaches adopted by global brands:** As described in Chapter 8, several global garment brands are piloting approaches to addressing CL concerns in their supply chains. While most efforts to date are concentrated in India, it would be helpful to monitor and share their experience both within India and also in other key sourcing countries where CL is prevalent.
- **Learn from the more responsible labour contractors:** As implied in Chapter 4, labour contractors vary enormously in terms of how they operate, ranging from highly corrupt and unscrupulous operators to relatively responsible, law-abiding employers. Useful lessons are likely to be gained from identifying and sharing good practice from the latter group.

### **10.2.10 Adopt a Gender-Sensitive Approach and Address Women-Specific Labour Concerns**

Finally, it is crucial that all relevant CL interventions include proactive measures to ensure that women as well as men workers benefit from resulting policies and activities. In addition, specific initiatives are required to tackle those labour rights abuses that are of particular concern to female CWs, including gender discrimination in pay, sexual harassment, and commercial sexual exploitation.

## **10.3 Areas Requiring Further Multi-Stakeholder Dialogue and Consensus-Building**

The broad principles outlined in **Section 10.2** above provide a good starting point for improved policy and action on CL. However, there are a number of areas where good practice remains poorly defined and/or where divergent views exist. These include:

- **How should "CL" be defined?** This is not just an academic or intellectual concern. As indicated in Chapter 1, inconsistent and unclear usage of the term is hindering an improved understanding of the characteristics of CL. In addition, greater clarity in the terminology is needed in order to reach consensus on key policy points.
- **How can real traction be achieved on changing brands' purchasing practices?** Brands' purchasing practices have been the subject of concerted campaigning and constructive engagement by

international labour rights organizations for at least a decade. As a result, there is fairly good understanding of what good practice looks like. Yet despite laudable initiatives and policy shifts from a few progressive companies, the study findings indicate that overall, matters seem to have got worse, not better. In light of this, renewed multi-stakeholder debate is perhaps needed to identify the most effective levers for change, and to set realistic short-to-medium term targets for brands that reflect the current economic realities.

- **How can effective regulation of labour contractors be achieved, given the high levels of informality involved?** The need for improved regulation of labour contractors seems fairly undisputable, but how this can be achieved in reality is highly problematic. Effective regulation of labour contractors is challenging because of the informal nature of most labour contracting operations, and because of the large number of operators involved. In addition, it is also important to consider the impact of tightened regulation on the myriads of individuals – often current or previous garment workers themselves – who provide labour contracting services as a means of supplementing their main incomes. These individuals often earn very low incomes themselves, yet tighter regulation is likely to benefit the larger contractors at the expense of these smaller operators, leading to a loss of income for those contractors who can least afford it.
- **How can CL use be reduced without increasing reliance on other undesirable forms of production/labour management?** Sub-Section 10.2.1 highlighted the need to ensure that efforts to reduce reliance on CL do not lead to increased use of other precarious types of employment and/or to an increase in sub-contracting to lower tier (unregulated) production units. Addressing brand purchasing practices that contribute to all these forms of informality is a crucial strategy that must be pursued. However, study findings indicate that other factors drive CL use, even if pressures from global brands are to ease. Further debate is therefore needed on how to influence these other drivers in a way that does not increase reliance on sub-contracting and/or other forms of precarious employment.
- **How should tolerance levels and conditions for CL use be defined?** Perhaps the area of policy that remains most contentious is the degree to which CL use should be tolerated. Should a “zero tolerance” position be adopted, as proposed by the Play Fair 2008 Campaign (Play Fair 2008)? Or should CL use be permitted, but only under certain conditions, as suggested by the Fair Labor Association and Campaign on Short-term Contracting in the Asian Garment Industry (Perez-Lopez 2012)? If the latter, what should these conditions be? Or should the primary focus be on improving existing labour contracting practice (i.e., reducing risk of labour abuses/improving minimum conditions), rather than reducing the level of CL use? While each of these approaches has its strengths, it will be difficult to develop meaningful good practice guidelines, and to ensure their effective implementation by suppliers, without greater consensus on this issue.
- **What are the specific responsibilities of different stakeholders?** The specific and distinct responsibilities of global brands, factories/suppliers, labour contractors and governments in terms of addressing CL concerns also need to be more clearly defined and agreed. Verité’s Fair Hiring Toolkit, and guidance developed in relation to UK’s Gangmasters (Licensing) Act 2004, may both provide useful starting points in this regard. With respect to the responsibilities of national and local governments, consideration also needs to be given to their implicit (as well as explicit) policies on CL use. Given that the public sector is reported to be the largest user of CWs in at least two key sourcing countries (India and China), the extent to which governments should be expected to “lead by example” may also merit further debate.

- **How can organization of CWs best be promoted, given the practical challenges involved?** From the viewpoint of trade unions and other workers' organizations, CWs are very difficult to organize because they are geographically dispersed, frequently moved around, often linguistically diverse, and typically reluctant and/or fearful of becoming trade union members. Thus, given their typically limited resources, mainstream trade unions in key sourcing countries are unlikely to prioritize the recruitment of CWs unless they receive external support and/or incentives to do so. Further debate is needed as to whether and how such support might be provided, and/or whether alternative or additional approaches to organization should be pursued (e.g., supporting CWs to form their own organizations).
- **How can gender sensitivity be ensured in practice?** Finally, more discussion is needed on how to ensure CL policy responses are gender-sensitive. What inputs are needed at different stages of policy design and implementation, to ensure that women and men CWs stand to benefit equally from interventions? Gender sensitization of key stakeholders – including trade union officials, government labour inspectorates, and brand/third party auditors – is likely to be important in this regard.

## 10.4 Areas for Further Research

Further research is also needed to support the development of appropriate policies as outlined in **Sections 10.2** and **10.3** above. Firstly, a more nuanced conceptual framework needs to be developed to help make sense of the drivers behind CL use, and of the factors that can increase or decrease risk of abuse for CWs. This is addressed further in **sub-Section 10.4.1**. Secondly, there is undoubtedly a need for more empirical research on the specific characteristics of CL in key sourcing countries: this is discussed in **sub-Section 10.4.2**.<sup>18</sup>

### 10.4.1 Develop a More Nuanced Conceptual Framework for Understanding CL

A more sophisticated conceptual framework needs to be developed which helps explain the following set of concerns.

#### **UNDER WHAT CONDITIONS DOES A SUPPLIER CHOOSE TO USE CL AS OPPOSED TO ADOPTING OTHER MODELS OF INFORMALITY?**

Labour advocates and researchers often refer to the process of “casualization of labour”, and rightly consider the use of CL as one among several approaches to increasing the flexibility of the labour force. However, the study findings suggest that this conceptualization needs to be broadened to include consideration of informal models of *production* as well as labour management. This is because sub-contracting out of the whole production process is an additional option that often seems to be considered alongside or instead of CL use as a response to the commercial and legal pressures discussed.

In other words, the conceptual framework needs to help explain how garment suppliers choose between the following approaches, and what influences that choice.

---

<sup>18</sup> An improved conceptual framework partly depends on collection of additional empirical data, but at the same time is helpful in framing and guiding the direction of future empirical research. Thus, the two processes should ideally take place simultaneously and feed into each other.

- direct employment of non-permanent workers (seasonal, casual, and temporary workers; apprentices)
- employment of CWs via one or more labour contractors
- sub-contracting out of whole or parts of the production process to third party, off-site factories or production units

#### **WHAT FACTORS INFLUENCE THE TYPE OF LABOUR CONTRACTING ARRANGEMENT(S) USED BY GARMENT FACTORIES?**

As the study findings clearly show, the nature of labour contracting arrangements varies enormously, even sometimes within the same factory, and the nature of these relationships also affects the extent to which the workers involved are at risk of serious abuse. The conceptual framework should therefore help explain how factory managers decide whether to use labour contractors for one or more of the following roles: (a) recruitment or sourcing/supply of workers; (b) remuneration of workers; (c) supervision of work; and/or (d) management of other (non-labour) aspects of production.

#### **WHAT ARE THE KEY FACTORS INFLUENCING DEGREE OF VULNERABILITY TO LABOUR ABUSES?**

Some types of CWs are at higher risk of abuse than others, and **Section 6.4** identifies some likely factors that determine the level of risk involved. However, some of these factors may be more important than others, and additional factors may also be critical. The conceptual framework should therefore better identify and articulate these risk factors, since these are clearly important in informing policy decisions and priorities.

### ***10.4.2 Conduct Further Empirical Research in Key Sourcing Countries***

#### **PRIORITY COUNTRIES**

The study findings indicate that priority should be given to in-country research in Turkey, Bangladesh, Pakistan and possibly Sri Lanka. In addition, a scoping study in China is also proposed to verify whether CL use in the garment sector remains low, given the importance of China as a sourcing country and the high levels of CL use reported in other sectors.

#### **KEY RESEARCH QUESTIONS**

In-country empirical research should focus on the following key questions:

- What is the prevalence of CL use in the export garment sector, both in first tier factories and lower tier production units? Is CL prevalence increasing/decreasing?
- What are the drivers behind CL use? Why do garment factories choose to use CL as opposed to direct employment of non-permanent workers and/or sub-contracting out of production? In particular, how and to what extent is CL use influenced by government policies?
- What factors influence the type of labour contracting arrangement(s) used by garment factories?



- What are key labour abuses experienced by CWs? What are key gender differences, and what are the specific concerns for women CWs?
- What types of CWs are most at risk of labour abuses, and why?
- What is being done by government and other local stakeholders to improve conditions for CWs? What do local stakeholders think should be done in the future?
- Why is CL use higher in some countries than others?

## References

- Anti-Slavery International. 2012. *Slavery on the High Street: Forced Labour in the Manufacture of Garments for International Brands*. London: Anti-Slavery International.
- Bahdari, A. K. and A. Heshmati. 2006. *Wage Inequality and Job Insecurity among Permanent and CWs in India: Evidence from Organized Manufacturing Industries*. Discussion Paper, Institute for the Study of Labor, April 2006.
- Barrientos, S. 2006. *The ETI Code of Labour Practice: Do Workers Really Benefit? Part 2a: Findings and Recommendations from a Case Study in India (garments)*. Institute of Development Studies, University of Sussex.
- Barrientos, S. and S. Smith. 2006. *The ETI Code of Labour Practice: Do Workers Really Benefit? Part 1: Main Findings and Recommendations from an Independent Assessment for the Ethical Trading Initiative*. Brighton: Institute of Development Studies, University of Sussex.
- Barrientos, S. 2011. 'Labour Chains': *Analysing the Role of Labour Contractors in Global Production Networks*. BWPI Working Paper 153, July 2011. Brooks World Poverty Institute .
- Chan, M-K. 2011. *Review of Value Chain Analyzes in the Commodities and Horticulture Sectors: Roles, Constraints and Opportunities for Informal Workers*. Commissioned by WIEGO.
- Clean Clothes Campaign (CCC). 2012. *False Promises: Migrant Workers in the Global Garment Industry (Summary)*
- Gereffi, G. and S. Frederick. 2010. *The Global Apparel Value Chain, Trade and the Crisis: Challenges and Opportunities for Developing Countries*. Policy Research Working Paper 5281. The World Bank Development Research Group, Trade and Integration Team.
- The ILO Bureau for Workers' Activities (ACTRAV). 1997. *Report on the Asia-Pacific Regional Seminar for Trade Union Organizations on Contract Labour*. New Delhi, India, 21-25 April 1997
- International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM). n.d. *ICEM Mini Guide to Dealing with Contract and Agency Labour*.
- International Garment and Leather Workers' Federation. 2010. *Survey of ITGLWF Affiliates on Contract and Agency Labour (CAL)*.
- Perez-Lopez, J. F. 2012. *Stability and Security in Employment and Decent Work*. Paper prepared for presentation at the Multi-Stakeholder International Forum, "Decent Work in the Textile & Garment Sector in Peru: Opportunities & Challenges," Lima, Peru, March 20-21, 2012.
- Play Fair 2008 Campaign. 2008. *Clearing the Hurdles: Steps to Improving Wages and Working Conditions in the Global Sportswear Industry*.
- Shift and the Institute for Human Rights and Business. 2012a. *Discussion Paper for the Employment and Recruitment Agencies Sector Roundtable (Corporate Responsibility to Respect Human Rights Sector Guidance Project)*.
- Shift and the Institute for Human Rights and Business. 2012b. *Guidance for the Employment & Recruitment Agencies Sector on Implementing the UN Guiding Principles on Business and Human Rights: Draft version for public consultation 20 December 2012 – 19 February 2013*.
- Solidaridad. 2012. *Understanding the Characteristics of the Sumangali Scheme in Tamil Nadu Textile & Garment Industry and Supply Chain Linkages: Research Report*.

Verité. 2010. *Help Wanted: Hiring, Human Trafficking and Modern-Day Slavery in the Global Economy. Regional Report – Indian Workers in Domestic Textile Production and Middle East-Based Manufacturing, Infrastructure and Construction.*

Vrieling, M. 2012a. Presentation to Ethical Trading Initiative, 2012.

WSM (World Solidarity). 2011. *Short-Term Employment in the Asian Garment Industry.* WSM Thematic report from Asia No. 1.

Zhang, H. 2011. “Hegemonic Authoritarianism: The Textile and Garment Industry” in Christoph Scherrer (Ed.) *China’s Labor Question.* Mering, Germany: Rainer Hampp Verlag.

## Interviews

“Brand/Retailer A”. 2012. Telephone interview with ethical trade manager, 13 July 2012.

“Brand/Retailer B”. 2012. Telephone interview with global ethical trade manager and regional manager in India, 1 October 2012.

Burns, M. 2012. Telephone interview with Maggie Burns, independent labour rights consultant, 25 September 2012.

Crothall, G. 2012. Telephone interview with Geoff Crothall, Communications Director, China Labour Bulletin, 4 October 2012.

John, J. 2012. Telephone interview with J. John, Center for Education and Communication (India), 26 September 2012.

Jones, E. 2012. Telephone interview with Elaine Jones, Global Trade Program Director, WIEGO, 10 August 2012.

Khan, S. 2012. Telephone interview with Sayeedha Khan, Bangladesh Program Director, Verité, 17 January 2013.

Khym, H. 2012. Telephone interview with HeeWon Khym, Acting Director – Civil Society Engagement, Fair Labor Association, 2 October 2012.

Kilbourne, J. 2012. Telephone interview with Julia Kilbourne, Category Leader: Apparel and Textiles, Ethical Trading Initiative, 24 July 2012.

Seely, A. 2012. Email received from Ashling Seely, IndustriALL, on 27 September 2012.

Viederman, D. 2012. Telephone interview with Dan Viederman, CEO, Verité, 2 October 2012.

Vrieling, M. 2012b. Telephone interview with Margreet Vrieling, International Verification Co-ordinator (Turkey), Fair Wear Foundation, 12 October 2012.

Yao, W. J. 2012. Telephone interview with Wen Juan Yao, China Program Director, Verité, 12 October 2012.