Threads of Injustice

Investigating the precarious working conditions of garment workers in selected Export Processing Zones in Sri Lanka

FORUM-ASIA

LAW & SOCIETY TRUST

Author
Rashmini de Silva

Editors
Sandun Thudugala
Rajavelu Karunanithi
Prarthana Rao

Copyeditor
Fritzie Rodriguez

Fact-finding team
Rashmini de Silva
Sakuna Gamage
Amila Udagedara

Photographer / Videographer
Sakuna Gamage
Amila Udagedara

Local Assistants
Ashila Niroshani Dandeniya
Chamila Thushari
Sugath Rajapaksha

Designer
Camikara Yuwono

www.forum-asia.org

/FORUMASIA

forum_asia

ForumAsiaVideo

forumasia.humanrights

Sign up to our newsletter here

Bangkok Office
S.P.D Building 3rd Floor, 79/2
Krungthonburi Road, Khlong Ton Sai,
Khlong San, Bangkok, 10600 Thailand
Tel: +66 (0)2 1082643-45
Fax: +66 (0)2 1082646

Geneva Office
Rue de Varembé 1, 2nd floor,
1202 Geneva, Switzerland
Tel: +41 (0)22 740 2947

Jakarta Office
c/o KontraS
Jalan Kramat 2 No. 7, Senen
Jakarta Pusat 10420, Indonesia
Tel/Fax: +62 (0)21 391 9006

Kathmandu Office
c/o INSEC
Syuchatar, Kalanki ,
Kathmandu, Nepal
Tel: +977 (0)1 521 8770

Email: info@forum-asia.org

Acknowledgements

FORUM-ASIA is grateful to the Law and Society Trust (LST) for their partnership in conducting this fact-finding mission, and producing this timely, comprehensive, and meaningful report. FORUM-ASIA and LST would like to thank the fact-finding mission team for their thorough work on the ground. We thank our participants for trusting us with their stories. We hope this report contributes to the discourse around Sri Lanka's factory workers, and helps uncover their stories and address their grievances. Our sincerest gratitude also goes to Brot für die Welt for financially supporting this endeavour.

The Law and Society Trust (LST)—based in Colombo, Sri Lanka—is a not-for-profit organisation founded in 1982. It conducts legal research, human rights documentation and advocacy. LST uses rights-based strategies to promote and protect human rights, enhance public accountability, and strengthen respect for the rule of law.

LST's main activities include legal empowerment, capacity building of communities in the former war zones, rights awareness raising, monitoring, and documentation of human rights violations. LST also disseminates information on human rights to the general public and networks and builds coalitions among human rights defenders at a national and international level.

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 85 member organisations across 23 countries, mainly in Asia. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development, and solidarity actions in Asia and beyond.

FORUM-ASIA has consultative status with the United Nations Economic and Social Council and a consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. The FORUM-ASIA Secretariat is based in Bangkok, with satellite offices in Jakarta, Geneva, and Kathmandu.

Foreword

Apparel exports play a crucial role in Sri Lanka's export economy. Apparel garments amount to over 44 per cent of the country's total exports. Despite the accelerated growth in this industry, apparel workers have not been at the receiving end of any benefits ranging from increased wages to better working conditions. The rampant spread of the COVID-19 pandemic in garment factories in Sri Lanka's Export Processing Zones (EPZs) sheds light on the atrocities and hardships faced by apparel workers within these production facilities, including the callous disregard for their health and safety.

This report seeks to outline the human rights and labour rights violations and challenges faced by a selected sample of apparel workers in three EPZs. The study includes separate narratives from permanent factory workers and casual workers (referred to as manpower workers) who are a particularly vulnerable group within an already exploited workforce in the apparel industry.

This fact-finding mission report presents evidence collected through focus group discussions and interviews with workers from Katunayake, Biyagama, and Wathupitiwala EPZs. It seeks to provide tangible evidence to substantiate claims that apparel workers in Sri Lanka receive unfair wages and endure unsafe and discriminatory working conditions.

In a country where over 15 per cent of its labour force is employed in the apparel sector, it is vital that the State, apparel factories, and international brands are held accountable for the harsh working conditions that apparel workers in Sri Lanka are faced with. The findings of the mission will be used to build a broader public and policy discourse around the importance of setting accountability standards and specific measures to safeguard the rights of apparel workers.

Dr. Sakuntala Kadirgamar
Executive Director
Law and Society Trust

Foreword

The Asian Forum for Human Rights and Development (FORUM-ASIA) has been working on issues of development and human rights in Asia for more than 30 years. As a regional organisation, FORUM-ASIA is committed to working for marginalised and vulnerable communities and amplifying their voices at regional and international forums.

This research report particularly focuses on issues faced by workers from garment factories in selected Export Processing Zones (EPZ) of Sri Lanka. Through this study, we have been able to identify long-standing systemic, structural, and legal issues that affect workers, mainly the casual workers. Although Sri Lanka's textile exports amount to more than 5 billion USD and 15 per cent of its workforce—mostly women—is employed in this sector, the workers remain to be among the country's most underpaid and over-exploited. Despite Sri Lanka having a robust legal framework on labour rights, in practice, the statutory obligations of employees toward workers are not fulfilled—especially for casual workers who do not fall under this gambit of labour laws due to the temporary nature of their employment. This leaves casual workers extremely vulnerable to exploitation not just at the hands of employers but also of so-called 'manpower agencies,' which use the system's loopholes to keep workers in a vicious cycle of poverty.

I believe and hope that this report will serve as an important advocacy tool to highlight the challenges faced by garment factory workers in Sri Lanka. It shall shed light on the policy and legislative changes needed in order for casual workers to enjoy equal and fair treatment. Lastly, this report aims to help ensure that people's right to decent work is recognised and respected at all times.

Omer Dawoodjee
Interim Executive Director
FORUM-ASIA

List of Abbreviations

BOI	Board of Investment
CSO	Civil Society Organization
EPF	Employees' Provident Fund
EPZ	Export Processing Zone
ETF	Employees' Trust Fund
FFM	Fact-Finding Mission
FGD	Focus Group Discussion
FTZ	Free Trade Zone
HR	Human Resources
IEC	Information Education and Communication
LST	Law and Society Trust
PCR	Polymerase Chain Reaction

Table of Contents

Permanent female worker working in the Katunayake Export Zone reporting for her factory in a morning

A female worker sewing clothes with the help of a sewing machine in a small textile factory in Biyagama Export Processing Zone, Sri Lanka

Introduction

Sri Lanka's apparel sector has experienced rapid growth, with 44 per cent of the country's total exports consisting of apparels. Approximately 15 per cent of the country's labour force is employed in the apparel sector. And yet, they receive unfair wages and are made to endure unsafe and discriminatory working conditions.

FORUM-ASIA and LST conducted a fact-finding mission (FFM) from October to December 2022 in three Export Processing Zones (EPZs) in the Western Province of Sri Lanka. The FFM documented the challenges faced by casual workers (commonly referred to as manpower workers) in Katunayake, Biyagama, and Wathupitiwala EPZs. The FFM report sheds light on the various labour law violations in the Sri Lankan apparel sector. It also outlines the stark differences between permanent factory workers and manpower workers.

Manpower workers are a high vulnerability group within the apparel sector since they do not receive any benefits nor protection through statutory obligations placed on an employer or the third party contractor (manpower agency) which recruits them. Manpower workers are paid on a per day basis. They do not receive any health insurance, social security benefits, and overtime pay. They are often made to complete high-risk and labour-intensive tasks without wearing any safety equipment.

The FFM collected evidence through focus group discussions (FGDs), individual case interviews, and interviews with subject matter experts. Based on the testimonies of permanent factory workers and manpower workers, the FFM report provides recommendations to the Government of Sri Lanka as well as to factories, international brands, civil society organisations (CSOs), and trade unions on how to improve the working conditions of workers in EPZs.

Face to face interview with one of the women workers

Methodology

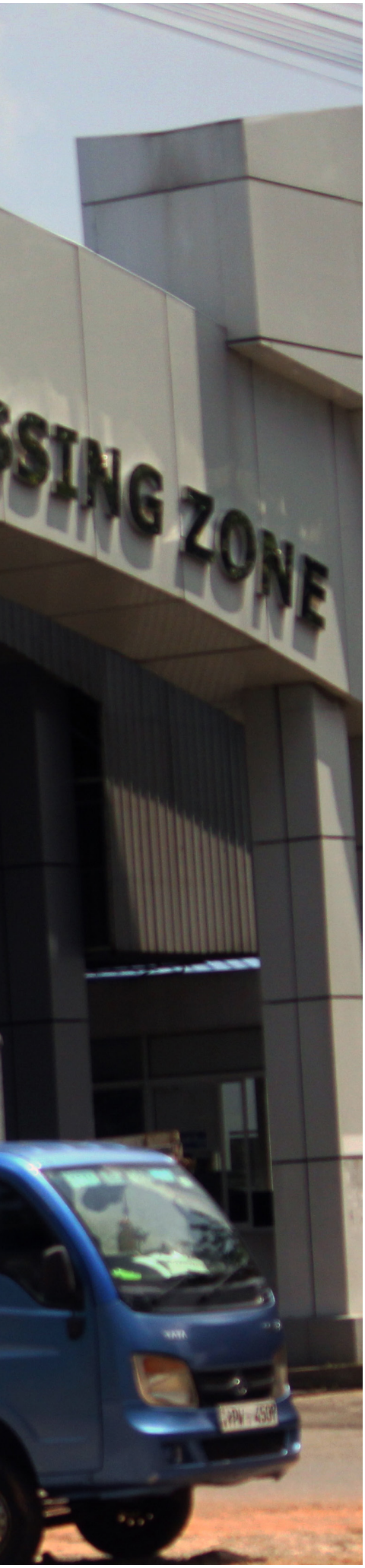
This report is based on interviews and FGDs conducted with a sample of 57 persons. Primary data was collected through six FGDs, nine case interviews, and three expert interviews. Participants include 42 females, 14 males, and one transgender person. From this sample, there are 29 permanent factory workers, 25 manpower workers, and three subject matter experts in labour rights. The FFM's geographical base is in the Gampaha District of the Western Province in Sri Lanka. Three EPZs were selected: Katunayake, Biyagama, and Wathupitiwala. The FGDs were organised by three CSOs working on labour rights issues.

All face-to-face and semi-structured interviews and FGDs were carried out in local languages: Sinhala and Tamil. The FGDs were conducted separately for permanent factory workers and manpower workers from each EPZ. A thorough desk research was also conducted in order to validate findings and to establish context.

All participants were briefed on the objectives and scope of the FFM. They were provided with consent forms in local languages. All participants consented to having their responses included in the FFM report. Consent was also given regarding the collection of their photos and interview videos. To protect the participants' privacy, they were asked to use pseudonyms for the interviews. Strict anonymity was maintained for those who expressed concerns or hesitation in revealing their face on camera. Purposive sampling was used in the selection of participants. The identification of participants was primarily done by three CSOs, namely: Stand Up Movement, Dabindu Collective, and Sharamabhimani. Coordinators from the aforementioned groups led the process of organising participants for the FGDs and interviews.

Even after the publication of this report, LST will closely monitor the safety of participants. LST will check whether the participants are exposed to any acts of reprisals resulting from their testimonies and involvement with the FFM.

Katunayake Export Processing Zone



Background

Sector Overview

In a bid to facilitate Foreign Direct Investment (FDI) and to keep up with the newly industrialising countries in Asia at that time, Sri Lanka set up its first Export Processing Zone (EPZ) in 1978 in Katunayake as part of the government's economic liberalisation policy.[1] EPZs are dominated by textile manufacturing facilities and a majority of its production consists of garments or garment-related products.

As of 2021, 15 per cent of the country's labour force is employed in the apparel sector, as revealed by the Board of Investment (BOI).[2] In 2020, it was reported that 44 per cent of Sri Lanka's total exports are from the said sector, bringing in a recorded revenue of 5.6 billion USD.[3]

Ever since the establishment of EPZs, there has been a high density of factories in the Western province. Due to the Province's comparatively better infrastructure and facilities, 54.8 per cent of factories are located here.[4]

At present, Sri Lanka has a total of 10 EPZs and two industrial parks which are located in Katunayake, Biyagama, Koggala, Kandy, Mirigama, Malwatte Seethawaka, Mirijjawila, Wathupitiwala, Horana, and Polgahawela.[5] Investors are offered a range of benefits and advantages: leniency in custom duties and foreign exchange regulations as well as tax exemptions under the Inland Revenue Law; the Port and Airport Development Levy Act; the Value Added Tax Act; and the Strategic Development Project Act.[6]

In its most recent efforts to promote and further expand FDI, the BOI of Sri Lanka—which is the apex body for FDI in the country—offers the following incentives:

- 5 to 10-year tax holiday for exports.
- Zero per cent duty and taxes on imported capital goods and raw materials.
- Exemptions for import substitution under: Value Added Tax (VAT), Port and Airport Levy (PAL), Customs Import Duty (CID), and Commodity Export Subsidy Scheme (CESS).

- Dividends to non-resident entities are exempted from income tax and withholding tax.
- 100 per cent repatriation of capital and profits permitted.
- Access to a talented, affordable (cost is 30 per cent lower compared to other regions) and highly literate human capital (92 per cent literacy rate).[7]

The 2018 Annual Report of the Central Bank of Sri Lanka states that the manufacturing of textiles and apparel has generated a gross national income of 654,482 million Sri Lankan Rupees (3 million USD).[8]

In January 2022, Sri Lanka's apparel exports were worth 487.6 million USD, the highest it has been in five years. This is noticeably higher than the country's pre-pandemic apparel exports worth 452 million USD as of January 2019 as per the reports of the Joint Apparel Association Forum. The apparel sector targets for its exports to reach 8 billion USD by 2030.[9]

Although 78 per cent of the sector's overall workforce are female, they are predominantly assigned to lower level routine work (i.e., sewing machine operators).[10] Despite this, women from rural communities still choose to work in factories since they feel that agricultural work cannot provide them with a steady monthly income. 60 per cent of these female workers are between 18 to 25 years old. They do not stay in the sector for more than five years. Such quick turnover rates are mostly due to the sector's poor working conditions and low wages.[11]

The Wake of the COVID-19 Pandemic

In contrast to the rapid growth experienced by the Sri Lankan apparel sector, the workers themselves have not received increased wages nor improved working conditions. Over the past four decades, working conditions in apparel factories have remained unchanged for the most part. The COVID-19 pandemic exacerbated the already existing social stigma and marginalisation directed against EPZ workers. In fact, the workers were among the first to be affected by the nationwide curfew declared in March 2020.[12]

According to BOI, 137,478 employees are serving across 278 factories in EPZs. There are 5,144 workers located in Katunayake; 3,264 in Biyagama; 450 in Meerigama, Wathupitiwala, and Malwatte; 962 in Horana; and 280 in Seethawaka. In March 2020, during the wake of the COVID-19 pandemic, workers were sent home to their villages. It was uncertain whether they had jobs to return to. Likewise, it was unclear whether they would receive wages during their absence from the factories.[13]

The table below illustrates some of the major changes experienced by the Sri Lankan apparel sector as a result of the COVID-19 pandemic.

First Wave of COVID-19 (January to October 2020)	Second Wave of COVID-19 (October 2020 to April 2021)
• Disruption of supply chains and global trade restrictions. • Factories started to terminate workers and reduce wages. • Due to the suddenly imposed curfews, workers were stuck in boarding houses. As factories operated until the very last moment until curfew and mobility restrictions came into full effect, several workers were unable to return to their hometowns. • Since most workers received reduced or no wages at all, they had to borrow money just to afford their basic needs. This led them to a cycle of debt. • Due to interventions from the State and trade unions, during the lockdown period, factory owners were compelled to pay either a worker's basic salary as stipulated in their contract or a fixed rate of 40 USD per month. However, it is estimated that one person needs a minimum of 80 USD per month to survive.[14] • Workers who tested positive for COVID-19 were sent to quarantine facilities run by the Sri Lanka Military. While in such facilities, the worker's absence from the factory was deducted from their annual allowance of 14 days of unpaid leave.[15]	• FTZ factories became the epicentre of the second wave of the COVID-19 pandemic. • Many manufacturers responded to the COVID-19 outbreak with wage reductions and job cuts. With a smaller workforce, factory workers struggled to reach new production targets. This led to several breaches of labour rights related to the regulation of working hours, leaves, and holiday entitlements.[16] • In October 2020, after an outbreak in a factory owned by Brandix Lanka Private Limited, the government made it mandatory for all factories to have a COVID-19 health committee which included management and workers' representatives. • Workers were asked to report to work even during the government-imposed curfew. They used their factory-issued identification cards as curfew passes. In doing so, the workers risked exposure to COVID-19and arrests for curfew violations.[17]

Vulnerability of Manpower Workers

Save the Children reported in 2022 that the Sri Lankan apparel sector directly employed 400,000 permanent workers and indirectly employed two million workers.[18] Casual workers are often referred to as manpower workers. They are brought to work on a contract basis through manpower agencies. They are remunerated on a daily basis with a payment of 2.50 to 3.30 USD. They are not entitled to the same benefits and incentives as permanent factory workers. Manpower workers do not receive any health and social security benefits (i.e., provident fund, gratuity).[19] Thus, they represent the most vulnerable category of EPZ workers.

Globally, especially among industrialised countries, the practice of using manpower workers arose under the concept of flexible labour, which was developed to increase the adaptability of the labour force. In reality, however, this practice creates conditions for exploitation. Factories prefer such a practice since its lack of regulation works in their favour.[20]

Manpower agencies operate as a third party entity which recruits and deploys workers to factories. These agencies negotiate a worker's daily wage with the factories. Oftentimes, the agency pockets 25 to 30 per cent of the amount paid by the factory. The menial amount left is then given to the worker. Many manpower workers are unaware of the name and complete details of the agency which recruits them. Their contact person is usually an agency

Regular employees working in the Katunayake EPZ are taken to work in the morning by buses deployed by the factory management

representative, who then stays by the entrance of the EPZ.

The agency representative takes the manpower worker's government-issued national identity card and keeps it in their custody until the end of each work day. Manpower workers are not entitled to health benefits, termination benefits, insurance, and social security since they do not have any formal contract of employment.

Manpower workers have no choice or decision-making power over the factories they are deployed to. They are not provided with any basic training on the preliminary skills needed in their jobs. They also lack opportunities for further skills development. In addition, they are constantly exposed to occupational safety hazards.

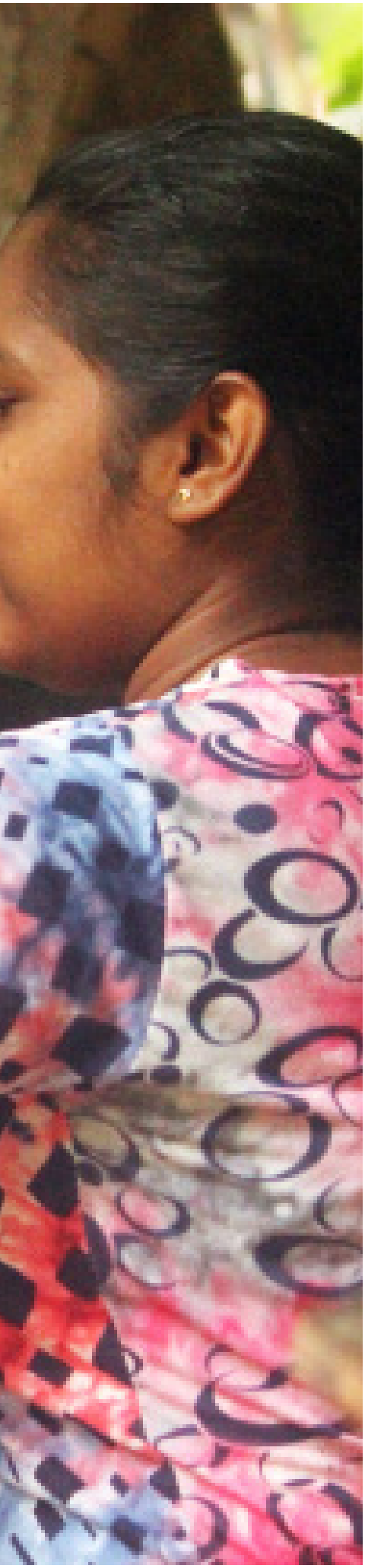
In the context of the COVID-19 pandemic, manpower workers were stigmatised as virus carriers since they are deployed to different factories on a regular basis.

In October 2020, a massive outbreak in a factory owned by Brandix, a key player in Sri Lanka's apparel sector, resulted in more than 1,000 workers testing positive for COVID.[21] Chamila Thushari from the Dabindu Collective—a CSO advocating for the rights of apparel workers—shared that during the outbreak, permanent workers were sent back to their homes without conducting PCR tests. Likewise, manpower workers were deployed to other factories without PCR tests. Thushari added that no safety precautions were taken by the factories and manpower agencies following the outbreak.

Group of manpower workers waiting for work opportunities on one side of the main entrance of the Katunayake EPZ


NZ

Manpower worker in their boarding house



Findings

This section details the FFM's key findings and observations based on FGDs and interviews.

Key Issues and Related Case Snippets

I) SEXUAL AND GENDER-BASED VIOLENCE

Women and gender minorities rarely share their experiences with sexual and gender based violence (SGBV), possibly fearing consequences of victim-blaming—especially in the workplace. Female factory workers in the Sri Lankan apparel sector are referred to as 'Juki girls,' a derogatory term for machine operators. They are deemed promiscuous. Because of the low social recognition and bad reputation attached to female apparel factory workers, young women are reluctant to join the sector. Such reluctance also stems from work-related safety concerns as well as female workers' possible exposure to sexual harassment and abuse in the workplace. The latter partly results from poor infrastructure facilities (i.e., inadequate transportation services and housing near factories).[22] Within the Sri Lankan apparel sector, there has been an increasing number of reported SGBV cases.[23]

During an FGD session, it was revealed that transgender workers face regular harassment in apparel factories.

> **'People laugh, stare, and use derogatory terms against transgender workers like me. During the initial days of my transition, I was not sure which washroom to use. Transgender workers are always under immense stress and their safety is always at stake. Other workers in the factory are very curious about us. They even try to undress us.**

During a case study video interview with a worker in Katunayaka EPZ

Factory work is not really for transgender persons like me, but we work here because we have no other choice.'

– Shaun, a 22-year-old transgender person from Katunayake EPZ

Female workers and male sewing machine mechanics work closely together. The support provided by the latter is imperative in minimising delays caused by machine malfunctions. Some male machine mechanics, however, take advantage of the situation. This results in a form of power imbalance in the workplace. FGD participants disclosed how some male sewing machine mechanics and line supervisors ask female workers for sexual favours. In addition, male machine mechanics often ask female workers for their photographs and personal contact information in exchange for technical assistance in fixing sewing machines.

'A supervisor once tried to kiss me. When I complained about it to the human resources department, they scolded me. They refused to take any action or even acknowledge that what happened to me was wrong. Although I made this complaint discreetly, the very next day, everyone in the factory already knew about it. I was made to feel very ashamed. I was

made to work under the same supervisor and he continued to call me derogatory names and humiliate me.'

- Janitha, a 27-year-old machine operator from Biyagama EPZ

Ground level findings confirmed that apparel factories do not have any functioning complaint or grievance redressal mechanisms for workers. FGD participants claimed that workers were not familiar with the purpose and functions of the human resources (HR) department, anti-harassment policies, and complaint mechanisms. They felt that the factory's HR personnel were unsupportive. Hence, workers did not view HR personnel as someone who would make an effort to seriously investigate workers' complaints and to provide unbiased solutions to workers' problems. As a result, workers feel that it is impossible for them to formally communicate their grievances.

II) UNSAFE WORK ENVIRONMENT

Garment production can provide many investment and employment opportunities among developing countries. Fierce competition, however, pressures these countries to offer the cheapest labour and the most unregulated working conditions.[24] Manpower workers in factories perform dangerous tasks without any safety gear, sometimes resulting in serious work-related injuries.

'When screen printing is done, the screens have to be washed using acid. The gloves given to us get burnt easily from the acid and yet the factories do not replace them. As a result, most workers sustain burn injuries in their hands. Sometimes they also suffer from sore eyes caused by acidic fumes.'

- Chandana, a 29-year-old manpower worker from Katunayake EPZ

Among apparel factories, it was revealed that permanent factory workers and manpower workers have unequal access to safety gear, safety training, and support provided in case of work-related accidents. Even during the COVID-19 pandemic, manpower workers are not provided with adequate supplies of face masks and hand sanitizers. Furthermore, they are not given any structured training on how to properly use the factory's equipment and machineries. In addition, manpower workers are not included in the factory's routine fire and safety drills. Neither the factory nor the manpower agency takes any responsibility when manpower workers sustain work-related injuries.

'Permanent workers, at least, get some form of proper training from a senior worker. Manpower workers like me are not given any similar considerations. They deploy us to use machines we have never seen before. They expect us to learn how to use machines on

our own. There was an incident where a manpower worker cut his finger because of a machine. The factory just sent him to a hospital and settled the medical bill only for that day. They did not consider that this was an injury that required continuous treatments and that the manpower worker—who is dependent on daily wages—would be unable to work for a while because of this work-related injury.'

- Niluka, a 34-year-old manpower worker from Biyagama EPZ

As seen through the experiences shared by manpower workers, the psychological implications of being treated with no dignity are enormous. Participants shared how demotivated, devalued, and undignified they felt because factories treat permanent factory workers better than manpower workers.

'The factory just wants us to get the job done. They do not give us any boots, helmets, or gloves. Even when we ask for safety gears, they mock us. I felt a huge mental stress when I realised that I am treated with no dignity or even an ounce of respect not only by the factory itself but even by permanent factory workers.'

- Thushan, a 19-year-old manpower worker from Wathupitiwala EPZ

III) RIGHT TO DECENT WORK

The number of manpower workers wanting to get jobs is significantly higher than the actual job opportunities available for them.

Some manpower workers revealed that they stand by the entrance of the EPZ as early as 4:30 am even if their shift does not start until 7 am. They do this to make sure that they get selected for the quota of workers admitted for that particular day.

Both permanent factory workers and manpower workers claimed that the factory's management team constantly pressures them to meet unrealistic production targets. As a result, workers experience much physical and psychological distress.

'We work out of fear. Supervisors always yell at us. The production managers set unrealistic targets. They wanted me to sew 300 pieces of garment in an hour. In my maximum capacity, I can only do 250. If we do not meet targets, they yell bad words at us. Some girls break down in tears, then they scold us even more.'

- Nithusha, 27-year-old a machine operator from Katunayake EPZ

Since most workers are made to take on the workload of three to four people, they do not have enough time to eat meals or even drink water. As a result, it is common for workers to suffer from various health issues such as gastric problems, gallbladder stones, and urinary tract infections. When workers fall ill, they are sent to an on-site nurse in the factory. Participants, however, shared that the medicines given by the factory are often ineffective. Hence, most workers end up going to private clinics and buying medicine at their own expense. For permanent workers, taking a sick leave is not an option since they would be scolded and humiliated by their supervisors for doing so. To take a day off for medical reasons, the HR department requires a medical certificate. If a worker takes a one-day leave, they will be denied an attendance bonus of 13.81 USD (a monthly allowance given if a worker does not take any leaves) and also an economic allowance of 13.81 USD given in addition to the basic salary.

During the focus group discussion with workers in Wathupitiwala

Though manpower workers do not have restrictions in taking days off, a day without work is a day without pay. According to participants, most women leave their jobs as permanent factory workers and transition into manpower workers in order to make more time for their caregiving responsibilities at home. Despite the lack of social security benefits as manpower workers, most women still choose this option because of its flexibility in taking days off. Despite such flexibility, however, manpower workers remain anxious because of the temporary and insecure nature of their employment and source of income. Therefore, in the end, both permanent and manpower workers are left with the short end of the stick, facing a lose-lose situation and with no better alternatives.

Despite receiving very low wages (4.4 USD per day), manpower workers have to shoulder mandatory expenses on their own. To be able to enter EPZs, manpower workers must present a BOI-issued pass (0.22 USD per day) at the entrance gate. While manpower workers receive low-quality food from their manpower agencies, the food is not free of charge. The agency deducts such food costs (0.14 USD per day) from the workers' wages.

If manpower workers in the factory get infected with COVID-19, they pay for their own PCR tests. When deployed to factories where wearing masks is mandatory, manpower workers must purchase their own face masks. Meanwhile in some factories, manpower workers are required to wear a uniform; however, the price of the uniform is deducted from their salaries. While most apparel factories do not require uniforms, participants disclosed that not wearing uniforms actually draws negative attention from others. As a result, manpower workers receive unnecessary comments regarding the way they dress. In addition, the participants expressed that their regular clothes are unsuitable and unsafe for factory work.

The food served to manpower workers in factories is restricted in quantity and inferior in quality when compared to the meals received by permanent factory workers. In addition, manpower workers can only eat after all permanent workers have finished eating. Although this is not a formal rule among factories, it is a practice that is enforced by the factory's management team. At times, manpower workers are left with stale food or without any meals at all.

A shared notion among manpower workers and permanent factory workers is that factories deliberately create a division between the two groups to ensure that there is no unity or solidarity among workers.

'During the height of the COVID-19 pandemic, they increased our target from packing 316 boxes of gloves a day to packing 400 boxes a day. Once the production line met this target, they gave gift vouchers as a token of appreciation only to permanent workers, completely overlooking the significant contribution made by manpower workers. They also distributed COVID-19 relief packs only to permanent staff. They did this right in front of us.'

- Malini, a 43-year-old manpower worker from Biyagama EPZ

According to participants, manpower agencies and the factories' management teams constantly remind manpower workers that they are easily replaceable.

FGD sessions with manpower workers also revealed that the latter are not paid any overtime allowance unlike permanent factory workers. During the COVID-19 pandemic, several manpower workers experienced sudden dismissals.

'With the rise of the COVID-19 pandemic, they stopped hiring manpower workers. Later on, they realised that permanent workers were not enough to meet their targets. However, permanent workers did not like working together with manpower workers as there was a false notion that manpower workers were spreading COVID-19. I could not get to work for a month during the pandemic. It was a very difficult period. I had to buy essential food on credit from shops nearby.'

- Thanuja, a 22-year-old manpower worker from Wathupitiwala EPZ

IV) RIGHT TO PEACEFUL ASSEMBLY AND ASSOCIATION

Anecdotal evidence reveals the great extent factories would go to to prevent workers from organising and unionising. While some factories established so-called 'Worker's Councils,' many workers believe that such councils do not really look after the welfare of employees.
When workers are 'caught' engaging in trade union activities, they are met with much interrogation and scrutiny. At worst, they could get fired.\

'Workers were under a lot of pressure. The factory does not treat them appropriately. During the COVID-19 pandemic, they made one worker take on the workload of three to four workers. They exploit workers. So we felt the need to make a trade union, especially since people were no longer in the right mindset to work.'

- Gamini, a 35-year-old machine operator from Wathupitiwala. He was fired due to his involvement with trade union action.

Manpower workers do not have any opportunity to engage in trade union activities as they are not considered as part of the factory's permanent labour force—since they are deployed in different factories on a regular basis. The majority of FGD participants did not have any significant experience or knowledge of trade union action. Many permanent workers feared being associated with trade unions, thinking that such an association might result in reprisals from the factory's management team.

In factories which have Workers' Councils, neither permanent factory workers nor manpower workers were familiar with the purpose and functions of such councils. Participants are unaware of how the Workers' Councils make decisions and disseminate information.

Factories use the following tactics to discourage union activities:

- Surveillance and scrutiny of trade union leaders and conveners.
- Unfair and illegal dismissal of workers engaging in trade unions.
- Asking third parties—such as local gang members and politicians—to threaten and intimidate permanent factory workers engaging in trade union action.

'The factory's management team used the COVID-19 pandemic to ensure that workers get more and more distanced from each other. They enforced strict restrictions to disallow workers from communicating with each other. Even if workers spoke with each other for only five minutes, they would be summoned to the manager's office for questioning. Factories monitor workers using CCTV cameras all the time.'

- Christopher, a 38-year-old a machine operator from Katunayake EPZ

Ground Realities of Labour Laws

This chapter analyses key labour laws in Sri Lanka vis-a-vis their actual implementation among EPZs. The ground level data are extrapolated from the six FGDs conducted in Biyagama, Katunayake, and Wathupitiwala EPZs.

FACTORIES ORDINANCE NO.45 OF 1942

Working Hours

As per Section 67(a) of the law, the total number of working hours for female workers should not exceed more than nine hours per day or 45 hours per week. In addition, night work for women should be voluntary and require consent. But in reality, according to participants, asking female workers for their consent is not practised.

Overtime Work Allowance

Women workers are entitled to work overtime for up to 60 hours per month. During an FGD session, however, female permanent factory workers admitted to working for 90 to 110 hours a month since they are unaware of such restrictions set by the law.

Leave Entitlements

At a stretch, workers are entitled to 14 days of annual leave per year. In reality, however, the process of applying for leaves—and getting approval for such leaves—is deliberately made difficult in order to discourage permanent factory workers from even considering taking a day off. As for women, they usually transition from permanent factory workers to manpower workers once they become mothers.

TRADE UNION ORDINANCE NO. 14 OF 1935

Right to Join a Trade Union

Workers are not allowed to form unions. When workers form or join unions, they may be severely penalised or even fired. As a result, workers are afraid of being associated with unions. Although some factories have established Workers' Councils, many workers do not trust such an initiative. There is also a common notion among participants that these councils practise favouritism among workers.

Provident Fund and Trust Fund

As per Employees Provident Fund No. 15 of 1958 (EPF), a deduction of eight per cent from the worker's monthly salary is to be combined with a 12 per cent contribution from the employer. This is then entitled to the workers. Meanwhile, the Employees Trust Fund No. 46 of 1980 (ETF) states that three per cent of a worker's monthly salary is to be contributed by the employer to the worker.

The EPF and ETF benefits were one of the stark differences between the entitlements offered to permanent factory workers and manpower workers. Manpower workers do not receive such benefits since the factory's management team treats them as temporary workers. The criteria for EPF and ETF membership eligibility clearly states that 'the nature of the job is irrelevant. The category of employment is immaterial. Employers should be contributing whether they are permanent, temporary, apprentice, casual or shift workers including employees working on piece rate, contract basis, commission basis, work performed in any manner whatsoever are eligible for membership.'[25]

Hence, manpower agencies are bound by law to pay EPF/ETF to the manpower workers they recruit and deploy to production facilities. Some participants revealed that manpower agency representatives claimed to make EPF and ETF contributions; however, participants said that they have not seen any proof or documentation of such contributions. In general, the majority of the manpower workers interviewed are not even aware of EPF and ETF.

PAYMENT OF GRATUITY ACT NO. 12 OF 1983

Every employer has to pay an amount of gratuity upon termination of an employer who has completed five years in the workplace.25 But in reality, to avoid paying gratuity to workers, some factories tend to discontinue contracts and introduce new ones to permanent factory workers. Since this law applies only to employees with a contract, manpower workers are not entitled to gratuity benefits.

WAGES BOARDS ORDINANCE

TThe Wages Board Ordinance has provisions specifying that decisions regarding salary deductions must be tripartite—involving the government, employers, and employees. The ordinance also states that a wage reduction will only be permissible with the consent of the employee. Labour rights activist and Stand Up Movement founder, Ashila Dandeniya, shared that during the COVID-19 outbreak, some apparel factories made a 50 per cent deduction on a permanent worker's monthly salary. The decision was made only by the employers and the Labour Commissioner. Employees were not considered in the decision-making process.

During a case study video interview with a female power worker in Wathupitawala EPZ

Findings in a Nutshell

Based on the primary data gathered from 54 workers (29 permanent factory workers and 25 manpower workers)—from Katunayake, Biyagama, and Wathupitiwala EPZs—it was revealed that only less than 6 per cent of interviewed workers claimed to have basic awareness of labour laws. Such awareness, however, was only limited to EPF, ETF, and gratuity laws. Here are the highlights from the primary data:

1. Most workers are aged 16 to 25 (35 per cent) and 26 to 35 (29 per cent).
2. Over 55 per cent of participants have been working in the EPZ for one to five years.
3. 46 per cent of the participants consist of manpower workers.
4. Less than 5 per cent of participants had any experience in engaging with a trade union.
5. All participants said that they do not take breaks at work due to the factories' immense pressure to meet production targets.
6. Workers noted how normalised it was for managers and supervisors to speak in a derogatory manner.
7. All participants said that the pressure to meet targets brings high levels of stress and anxiety, therefore negatively impacting their mental health.
8. Since they do not take breaks at work, 78 per cent of the participants said that they suffer from physical illnesses such as urinary tract infections, gallbladder stones, headaches, muscle pains, and gastritis.
9. All manpower workers said that they are not provided with safety equipment when engaging in high-risk tasks.
10. All manpower workers said that they have to pay for their own protective equipment which they use at work.
11. 76 per cent of the workers interviewed spoke Sinhala. Meanwhile, 24 per cent spoke Tamil. All Tamil-speaking workers shared that language barriers and racial discrimination were prevalent among factories. For example, important sign boards are not available in Tamil. At work, they are wrongfully labelled as ' terrorists,' in reference to the 30-year long civil war in Sri Lanka.
12. 96.2 per cent of participants lived in boarding houses far away from their hometowns.
13. Only 53 per cent of participants said that they have received their basic salary during the COVID-19 lockdowns.
14. All participants admitted that they do not plan on staying in the apparel sector. If only there were opportunities, they would actually prefer other jobs and alternative sources of income.

Katunayaka Export Processing Zone

Recommendations

To the Government of Sri Lanka

- Establish a separate Labour Secretariat within the EPZs and enable the Department of Labour to carry out regular inspections at factories.
- Ensure the rights of all workers.
- Establish sub-offices of the Department of Labour within EPZs to allow workers to directly file complaints if they cannot seek support from a workers' union.
- The Department of Labour should initiate investigations on labour rights violations instigated by manpower agencies and factories against manpower workers.
- Amend existing laws or enact new laws to ensure that employers and manpower agencies stand by their statutory obligations to provide social security and other benefits for manpower workers.
- Manpower workers should be registered under the Labour Commissioner. The latter must ensure that manpower workers receive social security benefits such as EPF, ETF, and gratuity.
- Mandate a high standard of healthcare in all factories.
- Require the Ministry of Health to conduct regular inspections of factories. The inspection can be delegated to the Medical Officers of Health.
- Form monitoring committees for all FTZs that include workers nominated by factory health committees, trade unions, employers, and health officials.
- Strictly enforce the country's labour laws as well as ILO Conventions 87, 98, and 190 as ratified by Sri Lanka.[26]

- Ensure that the Wages Boards—established under the Wages Boards Ordinance—must be tripartite and include representation from the government, employers, and workers. The Wages Boards must be structured in such a way wherein representative workers are selected by the workers themselves rather than by ministers or employers.
- Establish a State-driven mechanism for registering workers when they migrate from their hometowns to work in EPZs.
- Ensure that the children of factory workers have access to schools in the area and that families are recognized as residents so they could participate in electoral activities and receive emergency relief and welfare benefits.
- Establish a sector-wide collective agreement for all export industries. This must be binding on all employers. The latter must recognize that workers have the right to form and join unions.
- The Town and Country Planning Law must set standards regarding sanitary accommodation facilities for workers. Health and safety guidelines must be issued by local authorities or public health inspectors.
- Ensure equal gender representation in the formation of tripartite or bipartite collectives such as the COVID-19 Tripartite Task Force.

To Factories and Employers

- Negotiate a Collective Agreement on health measures, wages and bonuses, basic labour rights, and a dispute resolution mechanism with trade unions.
- Wages must be based on evidence in reference to inflation and profitability of the sector.
- The minimum wage must be revised annually.
- Factories must be aware of workers' rights. They must prioritise workers' safety at all times. This can be operationalized in a mutually beneficial manner with CSOs and trade unions.
- Factories should conduct awareness sessions and open forums regarding workers' rights and workplace safety. They should also disseminate relevant information, education and communication (IEC) materials among all workers. Such IEC materials should be made available in the languages workers normally use.
- Factories should establish complaint and grievance redressal mechanisms which are accessible to all workers.
- Provide a social security system for both permanent factory workers and manpower workers. This should be jointly funded by the Sri Lankan Government, factories, and international brands.

To International Brands

- Consult Sri Lankan CSOs and trade union representatives in the establishment of compliance guidelines, regulations, and safety audits.
- Demand a high standard of worker protection, especially during a health crisis. This can be done through the establishment of bipartite health committees within factories. Special attention must be given to women's health and safety. Such demands should be included in the buyers' codes and periodic audits.
- Recognise the workers' right to unionise. This can be included in the Code of Conduct of Brands established with local factories. Any threat to workers' safety or employment due to their union activities must be properly investigated and addressed. The factory's management team should be held accountable.
- Safety and compliance audits should be conducted with the support of CSOs working on labour rights in the locality.
- Ensure accountability mechanisms for human rights violations within supply chain factories.

To Trade Unions and CSOs

- Recognise, acknowledge, and advocate for the rights of manpower workers, and initiate collective action.
- Include female workers in the decision-making stages of internal discussions and external agreements in trade unions concerning collective action. This is especially important since women lack representation within trade unions even though the Sri Lankan apparel sector has a predominantly female workforce.
- Create a conducive environment to encourage more women to take on leadership roles. This way, more female FTZ workers could voice out their concerns.
- Take an active role in asking international brands to be mindful of how the factories they work with treat its workers.

Endnotes

1 Abeywardene, J., de Alwis, R., Jayasena, A., Jayaweera, S., & Sanmugam, T. (1994). Export Processing Zones in Sri Lanka: Economic Impact and Social Issues - Janaki Abeywardene, International Labour Office . International Labour Organization. https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_126264.pdf

2 Board of Investment. (2021). Apparel New – Investment Opportunities. https://investsrilanka.com/apparel-new/

3 Munasinghe, V.. (2020, October 24). Pandemic Exposes Exploitation of Vulnerable Apparel Workers. Groundviews. https://groundviews.org/2020/10/24/pandemic-exposes-exploitation-of-vulnerable-apparel-workers/

4 Prasanna, R. P. I. R., & Kuruppuge, R. H. (2013). General Wage Situation of Apparel Industry Workers in Sri Lanka. https://asia.floorwage.org/wp-content/uploads/2022/01/Sri-Lanka-Wage-Report-2013.pdf

5 Board of Investment. (2015). Locations – Investment Opportunities. https://investsrilanka.com/locations/

6 Oxford Business Group. (2018, May 22). Sri Lanka expands special economic zones to attract international investment. https://oxfordbusinessgroup.com/reports/sri-lanka/2018-report/economy/expansion-of-economic-zones-to-attract-international-investment-park-life

7 Board of Investment. (2023, January 18). Ready to invest opportunities in Sri Lanka. https://investsrilanka.com/wp-content/uploads/2023/01/Ready-to-Invest-BOISL.pdf

8 Central Bank of Sri Lanka. (2019). Annual Report 2018. https://www.cbsl.gov.lk/sites/default/files/cbslweb_documents/publications/annual_report/2018/en/14_Appendix.pdf

9 EconomyNext. (2022, March 2). Sri Lanka apparel exports in 5-year record in January 2022 amid war clouds: JAAF. EconomyNext. https://economynext.com/sri-lanka-apparel-exports-in-5-year-record-in-january-2022-amid-war-clouds-jaaf-91036/

10 Institute of Policy Studies. (2019, November 1). 4IR and Women in the Workforce: Sri Lanka's Apparel Industry. https://www.ips.lk/wp-content/uploads/2019/11/Policy-insights-Chap-14.pdf

11 Prasanna, R. P. I. R. (2018). Emerging Labor Market Issue in the Sri Lankan Garment Industry in WTO Trade Regime. The Journal of Studies in Humanities, Volume 4(II). http://repository.rjt.ac.lk/bitstream/handle/123456789/5437/05.pdf?sequence=1

12 Munasinghe, V. (2020, October 24). Pandemic Exposes Exploitation of Vulnerable Apparel Workers. Groundviews. https://groundviews.org/2020/10/24/pandemic-exposes-exploitation-of-vulnerable-apparel-workers/

13 Sirimanna, B. (2020, April 5). FTZ workers are now at home but most suffer without wages. The Sunday Times. https://www.sundaytimes.lk/200405/business-times/ftz-workers-now-at-home-but-most-suffer-without-wages-399055.html

14 Munasinghe, V. (2020, October 24). Pandemic Exposes Exploitation of Vulnerable Apparel Workers. Groundviews. https://groundviews.org/2020/10/24/pandemic-exposes-exploitation-of-vulnerable-apparel-workers/

15 Human Rights Watch. (2021, July 12). Sri Lanka: Protect Garment Workers' Rights During Pandemic. Human Rights Watch. https://www.hrw.org/news/2021/07/12/sri-lanka-protect-garment-workers-rights-during-pandemic

16 UNDP. (2022). The Impact of the COVID-19 Pandemic on Women Garment Workers in Sri Lanka's Free Trade Zones. https://www.undp.org/sites/g/files/zskgke326/files/migration/lk/SL-FTZ-Report.pdf

17 Munasinghe, V. (2020, October 24). Pandemic Exposes Exploitation of Vulnerable Apparel Workers. Groundviews. https://groundviews.org/2020/10/24/pandemic-exposes-exploitation-of-vulnerable-apparel-workers/

18 Save the Children (2022). Child rights risk assessment of the textile and apparel sector supply chain in Sri Lanka. https://srilanka.savethechildren.net/sites/srilanka.savethechildren.net/files/library/Child%20Rights%20Risk%20Assessment%20Of%20The%20Textile%20And%20Apparel%20Sector%20Supply%20Chain%20In%20Sri%20Lanka.pdf

19 Business and Human Rights Resource Centre. (2020). Sri Lanka. https://www.business-humanrights.org/en/from-us/covid-19-action-tracker/sri-lanka/

20 Munasinghe, V. (2020, October 24). Pandemic Exposes Exploitation of Vulnerable Apparel Workers. Groundviews. https://groundviews.org/2020/10/24/pandemic-exposes-exploitation-of-vulnerable-apparel-workers/

21 Pandemic Exposes Exploitation of Vulnerable Apparel Workers https://groundviews.org/2020/10/24/pandemic-exposes-exploitation-of-vulnerable-apparel-workers/

22 Madurawala, S. (2017). The Dwindling Stitching Hands: Labour Shortages in the Apparel Industry in Sri Lanka. https://www.ips.lk/talkingeconomics/2017/04/03/the-dwindling-stitching-hands-labour-shortages-in-the-apparel-industry-in-sri-lanka/

23 Solidarity Centre. (2021). Overworked and Underpaid, Sri Lanka's Garment Workers Left Hanging by a Thread Workplace Issues in the Sri Lanka Garment Sector (A. Comstock-Gay Güner, Ed.). https://www.solidaritycenter.org/wp-content/uploads/2021/11/Workplace-Issues-in-the-Sri-Lanka-Garment-Sector.10.2021.FINAL_.pdf

24 Delahnty, J. (1999). A Common Thread: Issues for Women Workers in the Garment Sector | WIEGO. https://www.wiego.org/publications/common-thread-issues-women-workers-garment-sector

25 Skanthakumar, B. (n.d.). "Living for the Day": Contract workers in Sri Lanka's Free Trade Zones. Dabindu Collective.

26 International Labor Organisation. Conventions and Recommendations. https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm

This publication was made possible by
the generous support of Brot für die Welt.

FORUM-ASIA

LAW & SOCIETY TRUST