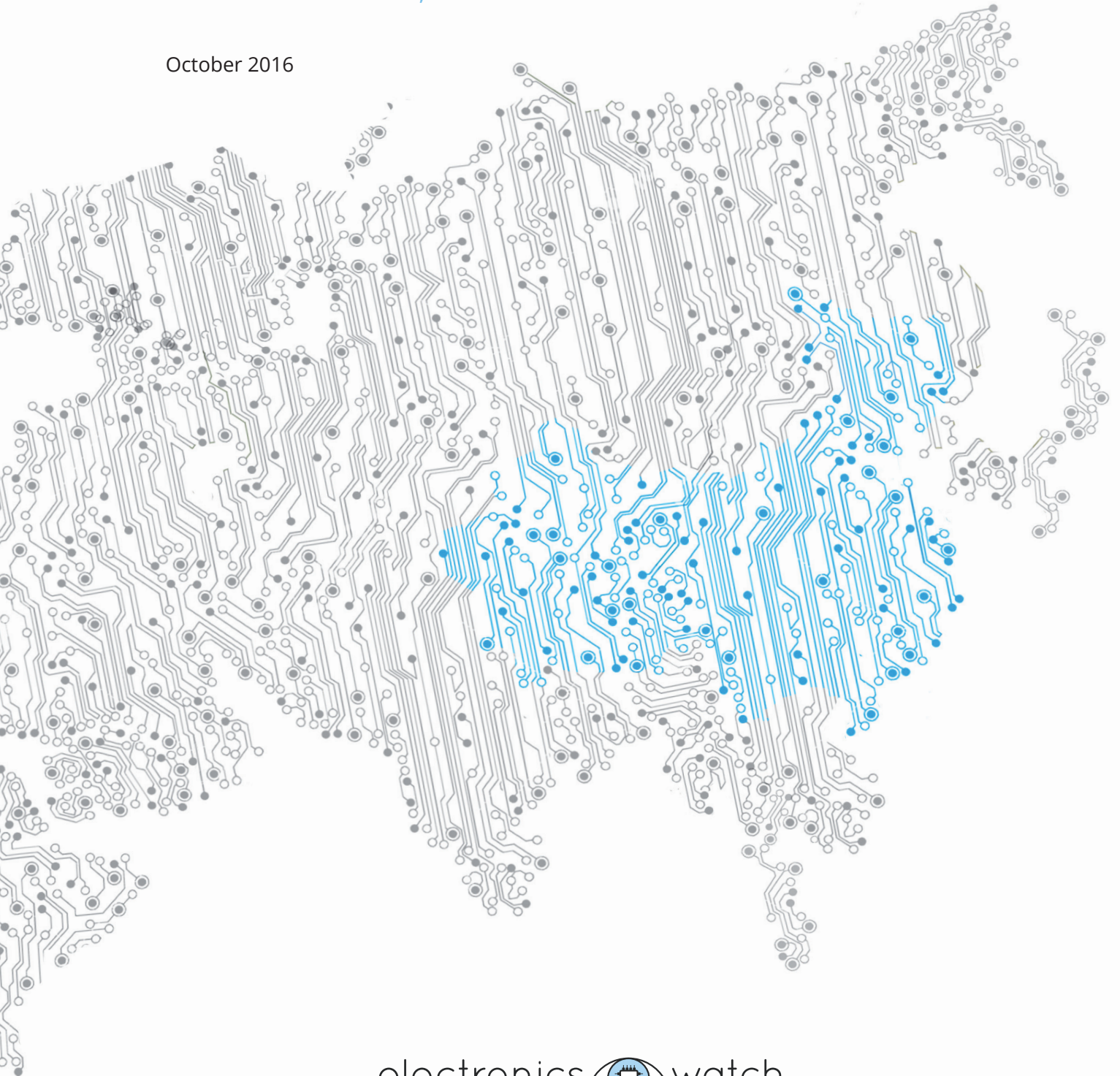


# Regional Risk Assessment Electronics Industry, China

Contributing organisations: Economic Rights Institute,  
Globalization Monitor, and Labour Education Service Network

October 2016



electronics  watch



**ECONOMIC RIGHTS INSTITUTE**  
BUILDING BRIDGES TO BETTER WORK



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## **This risk assessment is made possible by the dues of Electronics Watch affiliates and Bread for All.**

Electronics Watch is an independent monitoring organisation that assists public sector buyers to meet their responsibility to protect the labour rights of workers in their global electronics supply chains more effectively and less expensively than any single public sector buyer could accomplish on its own. Electronics Watch works with an international network of local civil society organisations that conduct worker-driven monitoring, with the goal of strengthening workers' own voices to report on and address labour and safety issues in their factories. Three organisations—Economic Rights Institute, Globalization Monitor, and Labour Education Services Network—conducted the research and monitoring activities for this risk assessment.



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## 1 Summary

This regional risk assessment of the electronics industry in China is intended for Electronics Watch affiliates internal education and contractor education. It can be used to promote dialogue on steps that contractors, brand suppliers, and contracting authorities (affiliates) can take to avoid practices that may cause or contribute to breaches of labour rights and safety standards. The risk assessment suggests that breaches of particular concern include: forced labour, discrimination against women workers, excessive and illegal working hours, underpayment of social security obligations, health and safety hazards, abusive termination of employment, and violations of collective bargaining rights.

Three Hong Kong-based civil society organisations with extensive experience in monitoring electronics factories and conducting worker and management training programs contributed the research for this risk assessment. It covers the following key electronics production areas in China: Pearl River Delta, Changjiang River Delta, Jiangxi Province, Chongqing City, and Wuhan City.



The risk assessment covers the following industry and products:

<sup>1</sup> OEMs, or Original Equipment Manufacturers, are the original manufacturer of a component for a product, which may be resold by another company. ODMs, or Original Design Manufacturers, are companies that design and manufacture a product as specified and eventually rebranded by another company for sale.

- Computer OEMs and ODMs<sup>1</sup>, including manufacturers of desktops, workstations, notebooks and Macs, computer peripherals, such as printers, keyboards, mouse and accessories.
- Smartphone OEMs and ODMs, including iPhone, iPad and Android handsets; and smartphone peripherals, including watches, cables and accessories

## Methodology

# 2

The contributing organisations to this risk assessment are:

- The Economic Rights Institute (ERI), founded in Hong Kong in 2012, supports alliances of stakeholders that strive to actualise economic development that respects the rights of all. ERI supports multi-tiered discussions between front-line workers and management, NGOs and the business community, and buyers and suppliers. The organisation strives to promote enterprise improvements and positive development for the wider society.
- The Labour Education and Service Network (LESN), established in Hong Kong in 2001, provides labour services and labour rights education in the Pearl River Delta and Central China. LESN also provides legal consultation and assistances to manufacturing workers and victims of work injuries and occupational disease in collaboration with local organisations. LESN has worked with electronics brands and assembly factories since 2009 to promote labour rights compliance.
- Globalization Monitor (GM), based in Hong Kong, was founded shortly before the Seattle protest against the World Trade Organisation in 1999, its editorial board members are activists from trade unions, the green movement, regional groups and grassroots organisations. GM promotes public awareness of the adverse effects of globalisation, neo-liberalism and corporate monopolies; lobbies for legislation that will restrain the behaviour of corporations and protect the rights of workers, women, consumers, and marginal groups; and promotes an autonomous social movement in the fight for political and economic democracy and the just distribution of social resources.

The contributing organisations and individuals are among the most experienced labour rights groups and individuals to work on labour issues in mainland China. They have conducted extensive industry and factory research through offsite worker interviews and in-factory training projects for management and workers.

Under the coordination of LESN, the contributing organisations discussed each question of this assessment, and provided relevant reports and case studies for reference. In addition, LESN interviewed two local labour rights CSOs in the city of Suzhou, Jiangsu Province.

## 3 Background

### 3.1. Rule of Law and Enforcement Capacity

The system of labour rights legislation is extensive in China. The most significant national laws for labour rights protection are:

- **General:** Labour Law of the People's Republic of China (1995), Labour Contract Law (2008).
- **Working Hours:** State Council Regulations on Working Hours of Employees (1995).
- **Wages:** Provisions on Minimum Wages (2003), Payment of Wages Tentative Provisions (1994).
- **Social Insurance:** Regulation on Work-Related Injury Insurances (2004, amended 2011), Social Insurance Law (2011).
- **Paid Leaves:** Implementation Measures for Paid Annual Leave for Employees of Enterprises (2008).
- **Occupational Health and Safety:** Law on Prevention and Control of Occupational Diseases (2002), Work Safety Law (2002, amended 2014).
- **Union and Collective Negotiation:** Trade Union Law (1992, amended 2001). Local municipalities individually constitute their regulations on collective contracts and democratic management of enterprises.
- **Child Labour:** Provisions on the Prohibition of Using Child Labour (2002).
- **Juvenile and female workers:** Special Protection for Juvenile Workers (1994), Special Protection for Female Workers (2012).
- **Student Workers:** Management Regulation to Vocational Middle Schools Student Internship (2007), later replaced by Vocational School Student Internship Management Regulation (2016).
- **Dispatch Labour:** Interim Provisions on Labour Dispatch (2014).
- **Labour protection and disputes:** Labor Dispute Mediation and Arbitration Law (2008).

Provinces and municipalities develop the implementing guidelines and regulations for these national laws. Therefore, the details of implementation may vary from locality to locality. For example, the minimum wage standards and social insurance payment ratios differ from city to city. Jiangsu Province has clear regulations on wages and

hours for student workers, but Chongqing City has no implementation guidelines. Rules and regulations should be understood at the major zones of production, working with local organisations familiar with the local regulatory regime.

While local labour inspection departments can receive complaints and penalise employers for violating labour rights, the labour arbitration system and the courts are the key legal enforcement mechanism for workers. The contributing organisations annually conduct more than 2,000 labour case consultations in the Pearl River Delta, 5,000 consultations in the Changjiang River Delta, and several hundred consultations in the Wuhan area. Workers use the law to defend their rights more actively in the Pearl River Delta and the Changjiang River Delta, which have longer histories of NGO activism and a larger number of labour rights NGOs than other areas in China. In Wuhan, an inland city, a small group of labour rights NGOs are active since 2009. After more than a decade of work, workers in the Pearl River Delta and the Changjiang River Delta are more knowledgeable about the law and the law is better enforced through the court system. In Wuhan government officers are less responsive and workers less interested in defending their rights through legal actions.

Unfortunately, since the 2012 economic downturn<sup>2</sup> many municipalities appear to have relaxed labour rights enforcement. For example, courts in Shenzhen have stopped supporting severance payments to workers dismissed because of factory relocation.<sup>3</sup> Lawyers have reported seeing internal guidelines for judges on this relaxation of laws, but these documents have not been made public.

### 3.2. Trade Union Rights and Capacity

According to the China Trade Union Law, “all workers have the right to participate in and form trade union organisations pursuant to the law.”<sup>4</sup> However, the Trade Union Law also states that the “All-China Federation of Trade Unions shall operate uniformly at a national level.”<sup>5</sup> Per Article 13, the establishment of any grassroots trade union “must be reported to the trade union organisation at the next highest level for approval.”

Thus, the law ensures that the All-China Federation of Trade Unions (ACFTU) is the only legal union in China. The government-sanctioned ACFTU structure prevents workers from freely organising themselves without government authorization in violation of the International Labour Organisation’s Convention on Freedom of Association and Protection of the Right to Organise (No. 87).<sup>6</sup>

The Chinese Labour Contract Law, Articles 51-56, states that employees have the right to bargain on an equal basis with employers. The collective contract can cover matters such as wages and benefits, working hours, rest, leaves, safety and hygiene, and insurance. The draft of the collective contract shall be presented to the employee

<sup>2</sup> Starting 2012, annual GDP growth of China dropped from beyond 10% to below 8%.

<sup>3</sup> Chinese labour law states that the employer must pay severance compensation to employees who lose their jobs because of factory relocations.

<sup>4</sup> Article 1, Trade Union Law of the People’s Republic of China.

<sup>5</sup> Article 12, Trade Union Law of People’s Republic of China.

<sup>6</sup> Article 2 of Convention No. 87 states, “Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.”

representative congress or to all the employees for discussion and approval. However, the collective contract must also be concluded by the factory ACFTU, or the upper level ACFTU if the factory ACFTU is absent, limiting workers' capacity to realise their right to collective bargaining.

The organisations contributing to this assessment have observed some factories with registered ACFTU unions. Most of these ACFTU unions were requested by local government officers to fulfil government requirements. Some of these unions only exist on paper while others fill the union representative positions with managerial staff such as the human resources manager or production director.

The ACFTU traditionally does not side with workers in labour conflicts. Thus, most workers know neither the role and function of the trade union nor the assigned union representatives in their factories. For example, during the 2014 strike in an IBM Shenzhen factory, workers reported that the factory branch of the ACFTU was "a farce."<sup>7</sup> In rare cases when the union representative supports workers in labour conflicts, the representative receives no support and may even be penalised by the upper level union. The case of the Walmart Changde Branch struggle is an illustrative example. Huang, a manager who served as union representative, organised workers to ensure they would receive their legally mandated severance compensation when the shop closed down.<sup>8</sup> But Huang soon lost all support from his upper union officials who urged him to make concessions. According to Huang, the head of the municipal ACFTU told him: "We hope you take care to ensure that no damage is done to the investment environment of Changde."<sup>9</sup> Determined to pursue the case, Huang was dismissed from the union.

Thus, most workers would rather approach senior management than the union to solve their problems. But talking to the managers usually only resolves individual disputes; channels for communication and negotiation on collective issues are lacking. This situation had led to a series of pilot programs for worker-management dialogue mechanisms.<sup>10</sup> These programs include civil society organisations to provide trainings and support to workers to help them form committees of communication through which worker representatives can have regular dialogue with factory managers. The committee of communication provides workers with a mechanism to consult with management on collective issues, but it is not comparable to a trade union as it is not protected by law.

### 3.3. Industry Factors

#### 3.3.1. Type of product

Factories manufacturing lower-end products (lower added value) usually employ older and less educated workers, compared to factories manufacturing higher-end products (higher added value). These

<sup>7</sup> "IBM factory strike shows shifting China labor landscape", Reuters, Mar 9, 2014, <http://www.reuters.com/article/us-china-strikes-idUSBREA2804K20140309>.

<sup>8</sup> "Union star rises from Walmart China labour dispute", Financial Times, April 7, 2014, <http://www.ft.com/cms/s/0/fb915628-bd60-11e3-a5ba-00144feabdc0.html#axzz4lhRnvLFJ>

<sup>9</sup> "Taking a stand: Trade union chairman fights back against Walmart," China Labour Bulletin, June 24 2014, <http://www.clb.org.hk/en/content/taking-stand-trade-union-chairman-fights-back-against-walmart>.

<sup>10</sup> For example, IDH Electronics Program (2012-2015), covers over 50 suppliers to five major brands (Apple, Dell, HP, Microsoft, Philips), <http://elevatelimited.com/idh/en>.



lower-end factories struggle to meet basic labour standards. Lack of labour contracts, working hours beyond legal limits and wages below the legal minimum are more common in these factories. Workers in these factories also show less interest in worker-management dialogue mechanisms. They frequently lack hope and are more likely to keep quiet until problems give rise to more dramatic disputes.

Factories manufacturing higher end products are usually capable of meeting minimum legal standards. On the other hand, high-end products face more fluctuation in orders because of fluctuating sales. Thus flexible and short-term employment, including the use of student interns and dispatched workers, is more common. Although workers in these factories show more interest in worker-management dialogue mechanisms, high turn-over in the workforce undermines the stability of worker representation.

### **3.3.2. Tier in the supply chain**

Usually only first-tier suppliers that receive direct orders from brand companies use advanced production technology. The brands closely control the operation at this production level to control the implementation of the technology. For example, a major brand calculates the production costs of each worker with some suppliers. These suppliers may need to get the brand's prior approval to make modifications to its production lines. Brand companies have less influence over factories in subsequent tiers that do not receive direct orders from the brands

### **3.3.3. Capacity of brand companies' compliance departments**

While most major brand companies have developed codes of conduct, their resources and capacity to implement and enforce these codes vary greatly. Remediation programs take resources, time and effort.

At the same time, the order price and lead-time for product delivery directly affects wages and working hours, as does the fluctuation of orders. Overtime hours may rise to more than 100 hours per month in peak seasons, and drop to zero in low seasons. For many suppliers, complying with labour standards compliance is merely an added bonus, but meeting order demands is life and death. Thus, the influence of the compliance department on sourcing decisions, such as where and how to place orders, shapes brand companies' capacity to enforce their codes of conduct.

### **3.3.4. The size of OEM and ODM manufacturers**

While involvement of the brands with first-tier suppliers can result in better code compliance, brand influence can also be more limited with larger OEM and ODM manufacturers.

Major OEM and ODM manufacturers for ICT hardware products

usually supply more than one brand. For example, Apple, Dell, HP and Microsoft all source from Foxconn. The production lines for each brand are segregated and sometimes different management rules apply to different lines. The compliance requirement of each brand company can only influence its designated production lines, not the whole factory.

## 4 Findings

### 4.1. Forced labour

Formally employed workers can usually choose their employment freely and are not subject to forced labour. However, flexible work arrangements in which the factory does not fill the formal employer function increase the risk of forced labour.

#### 4.1.1. Student interns

Chinese education policy requires secondary vocational education institutions to provide their students with internships. The law requires internship placements in the last year of school and prohibits internships in the first year of study. The law also requires the internship to be related to the student's field of study. As of 2016, the law also regulates the ratio of student interns to the workforce as a whole.<sup>11</sup>

It has become common practice for electronics factories to collaborate with vocational schools to recruit student interns as short-term workers. Factories pay a "management fee" to schools as an incentive to schools to provide student interns. The fee varies by the number of students provided. To maximize the number of students available for internships, many schools send students in their second year of study. Students generally do not have a choice over when and where to intern, and the internship is often not related to their studies. Still, the students must undertake the internships or they will not receive their educational diplomas. In this case, student internships may be forced labour, that is "work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself (sic) voluntarily," as stated in ILO Convention No. 29, Article 2.<sup>12</sup>

#### 4.1.2. Dispatched workers

Factories use dispatch labour agencies to obtain low cost labour for periods of high production. Dispatch agencies function as referral companies, introducing workers to job opportunities, but also as the employers of workers. They collect fees from both employees and factories. Dispatched workers usually receive comparable income to regular workers, or even higher income when necessary to recruit enough workers for unexpected surges in orders. However, employers often use dispatch labour to avoid social security contributions and

<sup>11</sup> The vocational School Student Internship Management Regulation (2016) regulates student internships as follows:

- 1) It defines three types of internships: Cognition Practice, Job Shadowing, Full-duty Internship.
- 2) All internship should be related to or close to the subject studied.
- 3) Students under 16 years old are not eligible for job shadowing and full-duty internship.
- 4) No first year students are eligible for full-duty internship.
- 5) Students can apply to arrange full-duty internship by themselves; cognition practice and job shadowing are arranged by the school and students cannot freely choose their placement.
- 6) Full-duty internship students should not exceed 10% of the total worker population, and full-duty internship students in specific positions should not exceed 20% of the worker population in the same position. There is no limit on other types of student internship.
- 7) Full-duty internship students should not be paid less than 80% of the probation wage for the same work position. There is no regulation in remuneration of cognition practice and job shadowing student interns.

<sup>12</sup> The ILO has further explained that "menace of penalty" includes various forms of coercion, such as physical violence, psychological coercion, and the loss of rights or privileges. The prospective loss of an educational diploma, necessary to obtain jobs and a decent livelihood, is an example of a "menace of penalty." ILO, "Giving Globalization a Human Face," 2012, International Labour Conference 101/III/1B, [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@relconf/documents/meetingdocument/wcms\\_174846.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_174846.pdf), at paragraph 270 (accessed October 19, 2015).

other disbursements, such as bonuses for workers who complete their fixed term of employment. Thus, regular workers may receive a lower base wage, but benefit from job security and social security, while dispatched workers might receive higher wages in the short term, but have no job security or social security. Dispatched workers are also more vulnerable to exploitation, deprived of the protections in a formal employment relationship with their factory.

In order to regulate and limit the use of dispatch labour, the Chinese government amended the *Labour Contract Law* in 2012 and promulgated the *Interim Provisions on Labour Dispatch* in 2014. The Interim Provisions, which came fully into effect in March 2016, state that an employer may only use dispatched workers in temporary, auxiliary and substitute job positions and for no longer than six months. Furthermore, the *Interim Provisions* limit the number of dispatched workers for any employer to 10% of the total number of its employees.

Despite the new regulations, dispatch labour is still very common in the Jiangsu and Zhejiang provinces (the Changjiang River Delta) as well as in Guangdong and the limits are often violated.

#### **4.1.3. Production line outsourcing**

The new limits on dispatch labour may cause some companies to look for alternative approaches to maintaining a low-cost flexible workforce. Production line outsourcing, in which a factory contracts out an entire production line to an agency that both recruits the workers and manages the workers on the line, is one such strategy. The equipment, technology, supplies and production output all belong to the original factory but, unlike dispatch labour, management is also outsourced. The government does not count these workers as dispatched workers because they are considered workers of an independent employer. Interviews in Jiangsu Province by the contributing organisations indicate increasing use of production line outsourcing. Whether or not the inequalities between regular workers and dispatched workers will be replicated in this arrangement is still too early to tell.

#### **4.1.4. Restrictions on the right to resign**

Factories that face unexpected or urgent orders sometimes try to maintain production capacity and lower the cost of recruitment by preventing employees from resigning. A common method is to withhold employees' final month of wages, so that employees must forfeit a non-negligible amount of money if they resign without management's permission.<sup>13</sup> Less common methods include refusing to give workers the proper documents to record the end of their employment which workers may need to transition their pension and other social security benefits to a new employer.

<sup>13</sup> China's Labour Contract Law requires workers to give written 30-days notice to resign. If workers follow this requirement an employer may not withhold the employees' final month of wages. However, workers frequently wish to resign without giving 30-days notice. The law does not specify the consequence for workers who do not provide such notice. This issue will need to be decided by the courts.

#### 4.1.5. Prison labour

Prison labour is a sensitive issue. For example, foreign university researchers who found evidence of prison labour in manufacturing decided not to publicize their results, fearing it would jeopardize their ability to get visas to mainland China in the future. Factories know their clients, the brands, would respond dramatically to the suspected use of prison labour. Still, management of one electronics factory reported to one of the contributing organisations of this report that they were considering outsourcing orders of low-end electronic appliances to prisons because they were under price pressure from a brand to compete with other suppliers that had never been audited and used their non-compliance with codes of conduct to reduce their costs. This suggests that the problem of prison labour does exist and is directly linked to the business practices of brands, even if the problem only affects a minority of suppliers and it is difficult to discover links between official suppliers and prisons.

#### 4.2. Freedom of association and the right to collective bargaining

As described in Section 3.2., workers' freedom of association and right to collective bargaining are severely curtailed by law. The organisations contributing to this report have observed only a few cases of workers partially exercising their associational rights and their right to collective bargaining.

In moments of crisis workers may self-organise to negotiate with their employers. In these circumstances employers usually reject workers' demand for negotiations while the ACFTU remains passive.

Brand companies and civil society organisations sometimes work cooperatively with factory management in remediation programs to establish worker-management dialogue mechanisms. Worker representatives can then voice workers' collective concerns in regular meetings with management. However, worker-management dialogue is no substitute for workers' freely exercising their associational rights and few of these mechanisms are sustained after the civil society organisations and brand companies cease their involvement.

#### 4.3. Discrimination

Generally, workers lack awareness of discrimination in employment. Yet, discrimination against women is widespread. *The Employment Promotion Law* and *Women Right Protection Law* clearly prohibit discriminating employment tests, but unlawful tests, such as urine tests or age restrictions to avoid hiring women more likely to become pregnant, are still common.

Discrimination against women may be subtle, for example, when

women are hired only for jobs considered less “skilled” and with fewer opportunities for advancement. These restrictions may be explicitly noted in recruitment notices. Management sometimes note that women are more “detail oriented” than men, more obedient, and less expensive. Thus, despite discriminating against women who are or may become pregnant, electronics factories frequently prefer women overall. Labour dispatch agencies may charge higher recruitment fees from men than women. Workers in the Pearl River Delta and the Changjiang River Delta reported to the contributing organisations of this report that male workers may need to pay several hundred Chinese Yuan (5-10% of their monthly salary) extra to get recruited in low seasons. Vocational schools have also reported to the contributing organisations that factories may request more female than male students, for example two or three female students to every male student.

#### 4.4. Child labour

The *Provisions on the Prohibition of Using Child Labour*, which prohibits the employment of children under the age of 16, is generally respected.

#### 4.5. Working hours

Overtime is a complex issue for workers.

On the one hand, overtime is generally required rather than voluntary, and legal limits are seldom observed. In most electronics factories production is organised into teams. Each worker performs a single small task and it takes a whole team of workers on one line to finish assembling a product. Thus if a line is needed for overtime, all workers must work overtime. Workers who refuse overtime may face penalties. Work weeks of 60-80 hours, including 20-40 hours of overtime, are common in electronics factories. The *State Council Regulations on Working Hours of Employees* limits the regular working day to eight hours and the workweek to 40 hours.<sup>14</sup> Article 41 of the *China Labour Law* declares that employers can only impose overtime after consultation with the trade union and workers, and it is only allowed for three hours per day and 36 hours a month. In other words, mandatory excessive overtime hours, far beyond the legal limits, imposed without the legally required consultation with workers, are common in electronics factories.

On the other hand, the vast majority of electronics workers want overtime given the low basic wages. Workers rely on overtime to make ends meet and may resist strict enforcement of overtime limits. In many factories granting workers overtime has become a source of managerial leverage in forcing workers to make concession on other areas and withholding overtime a tool to discipline workers. Yet, workers' desire for overtime is not without limits. Excessive overtime

<sup>14</sup> The labour law provides for a 44-hour work week, but since 1995 the implementing rules require a 40-hour work week with Saturday and Sunday being weekly holidays. Article 3 of “Provisions of the State Council on Working Hours of Workers and Staff” states: “Workers and staff shall work 8 hours a day and 40 hours a week.” See, “Decision of the State Council on Revising the “Provisions of the State Council on Working Hours of Workers and Staff” (1995), available at <http://www.asianlii.org/cn/legis/cen/laws/dotscortpotscowhowas1103/>.

has contributed to worker strikes in some factories, especially when combined with overtime premiums lower than the legal rate (150% of the base salary for weekdays, 200% of the base salary for weekends, and 300% of the base salary for national holidays).

This discussion suggests three general strategies to address the issue of overtime to benefit workers:

- First, ensure that workers are properly compensated for overtime and that overtime is not pushed to weekdays to avoid higher premiums on the weekend.
- Second, promote worker-management negotiation on working hours as required by law. *China's Labour Contract Law*, Article 4, explains how the legally required process of consultation is to be implemented to ensure that workers can refuse excessive overtime and have a voice in other matters that impact their working conditions.<sup>15</sup> Unfortunately this process is rarely implemented though some factories have begun surveying workers' preferences on hours following worker protests. If the right to consultation on working hours were more widely respected and implemented, more workers would also be engaged in de facto collective bargaining. Workers, acting through a collective platform, could, for example, grant consent for overtime in return for other concessions from employers.
- Third, recognise the link between low wages and excessive overtime and address both issues together. Experience suggests that suppliers that enforce even a 60-hour work week sometimes need to raise their wage levels above the legal minimum in order to recruit employees. This is a positive development, which may increase pressure for timely revisions of the minimum wage.

<sup>15</sup> China's Labour Contract Law, Article 4, states: "Employers shall establish and improve internal rules and regulations, so as to ensure that Employees enjoy their labor rights and perform their labor obligations. When an Employer formulates, revises or decides on rules and regulations, or material matters, that have a direct bearing on the immediate interests of its Employees, such as those concerning compensation, work hours, rest, leave, work safety and hygiene, insurance, benefits, employee training, work discipline or work quota management, the same shall be discussed by the employee representative congress or all the employees. The employee representative congress or all the employees, as the case may be, shall put forward a proposal and comments, whereupon the matter shall be determined through consultations with the Trade union or employee representatives conducted on a basis of equality. If, during the implementation of an Employer's rule or regulation or decision on a crucial matter, the Trade union or an employee is of the opinion that the same is inappropriate, it or he is entitled to communicate such opinion to the Employer, and the rule, regulation or decision shall be improved by making amendments after consultations. Rules and regulations, and decisions on material matters, that have a direct bearing on the immediate interests of Employees shall be made public or be communicated to the Employees by the Employer."

<sup>16</sup> In one recent unpublished study of 62 electronics factories workers reported suicide attempts in 13 factories (discussion with ERI in review of IDH Electronics results)

#### 4.6. Health and Safety

The key risks of breach of occupational health and safety standards in the electronics industry are:

- Poor ventilation systems and high temperatures. Workers fainting in summer is common and has even resulted in worker deaths.
- Some positions require the use of chemical solvents but relevant training and personal protective equipment may be lacking.
- Noise hazards.
- Poor implementation of health checks for workers exposed to work hazards.
- Workers' mental health. This issue is generally ignored despite evidence that up to 20% of electronics suppliers have experienced incidents of worker suicide linked to harsh managerial methods.<sup>16</sup>

- Cover-up of occupational hazards. The contributing organisations to this risk assessment have observed factories that require workers or line supervisors to pay fines when occupational hazards are reported to outside inspectors.

#### 4.7. Termination of Employment

One of the most common complaints of electronics workers, reported to the contributing organisations to this report, is being forced to resign by their supervisors and managers.

When factories relocate or close down management may systematically compel workers to resign by not assigning overtime for several months. By limiting workers' income below their living expenses, factories can force workers to resign, allowing them to reduce their workforce during periods of low production without paying compensation to which even short-term workers would be legally entitled were they dismissed by the factory.

Termination of employment is also a key issue linked to freedom of association and collective bargaining, as factories commonly fire employees perceived as playing an active role in strikes or other collective actions.

#### 4.8. Legal Wages, Benefits and Social Insurance

Most workers in first-tier electronics factories receive the legally required minimum wages. But as minimum wage standards rise, some factories cut other benefits, such as the food and housing allowance, the full attendance award, and the performance award, provoking worker dissatisfaction and antagonism.

China has developed an employee-based social security system in which employers, rather than the state, are responsible for contributions to pensions, unemployment, medical, work-related injury and maternity insurance (Social Insurance Law, 2011). However, the majority of workers still lack an effective social safety net. As the workforce gets older, strikes and protests over the failure of employers to pay social insurance are more common.<sup>17</sup>

By law, social insurance payments are based on workers' gross wages. However, most Chinese private sector enterprises pay social insurance based on the minimum wage rather than workers' actual wages. While this is true also in the electronics sector, the contributing organisations have observed a trend of more electronics factories paying their full social security obligations especially in cities where the government enforces the law more stringently in response to strikes.

<sup>17</sup> For example, in 2014 40,000 workers at the Yue Yuen Shoe Factory in Dongguan went on strike when they discovered that the company had been underpaying social insurance contributions for years on end, leaving thousands of employees, who had spent much of their working lives at the company, with a much smaller pension than they were entitled to. See, China Labour Bulletin, "China's social security system," available at <http://www.clb.org.hk/content/china%E2%80%99s-social-security-system>.

## 4.9. Living Wages

The central government has no plan for a nationwide living wage standard; the current minimum wage standard only aims to reach up to 40% of the local average wage in China. For many workers the wages are so low they cannot afford caring for their children in the cities where they live, but leave them in the countryside to be cared for by grandparents or other relatives. There are an estimated 61 million “left-behind children” in China, or one fifth of all children in China, who see their parents perhaps once a year during the Lunar New Year. Researchers report that many of these children have anxiety and depression, and that they exhibit high rates of juvenile delinquency and poor school performance

To address the problem of a living wage comprehensively requires a multipronged strategy involving the brand companies, the employer (factories), and the government.

The fundamental responsibility of the brand is always not to cause or contribute to rights violations in their supply chains. With regard to a living wage brands should ensure that the prices they pay are sufficient to allow factories to pay living wages and comply with other labour rights and safety requirements.

The factory's key responsibility is to allow workers to collectively bargain on wages, consistent with *Chinese Labour Contract Law*, Articles 51-56 (see Section 3.2 above). While the government should also use increases in the legal minimum wage to improve workers' standard of living, this strategy alone, without collective bargaining on wages, contributes to inflation. For example, when the government relies exclusively on minimum wage requirements to revise workers' wages, landlords can predict when and how much workers' wages will rise, and some landlords will then increase rents in direct response to minimum wage increases in a region, reducing the purchasing power of both workers and their employers. Landlords would find it more difficult to increase rents if wages were partially determined by more diverse collective bargaining agreements.

To better ensure workers' income is sensitive to the evolution of their living expenses, employers should also conduct annual housing expense surveys. When rents increase too quickly factories should provide housing subsidies or transportation subsidies, allowing workers to explore additional housing options. Brands, for their part, should also consider these issues when monitoring suppliers to help determine price levels that support the cost of higher wages and housing or transportation subsidies as needed.



## Recommendations for Affiliates

**5**

The Electronics Watch Contract Conditions require the contractor to take steps to avoid causing or contributing to breaches of the Electronics Watch Code of Labour Practices in the production of the goods affiliates buy, and to exercise its leverage to address practices of its suppliers that may contribute to or cause breach of the Code.

Electronics Watch recommends that affiliates use this risk assessment for internal education and contractor education, and to promote dialogue on steps that contractors, brand suppliers, and affiliates themselves should take to avoid practices that may cause or contribute to breaches of labour rights and safety standards. The risk assessment suggests that breaches of particular concern include: forced labour, discrimination against women workers, excessive and illegal working hours, underpayment of social security obligations, health and safety hazards, abusive termination of employment, and violations of collective bargaining rights.

Suggested actions:

- Discuss the risk assessment internally among staff.
- Share the risk assessment with the relevant contractors and ask them to report on steps that they take to mitigate risk and prevent breach in the areas identified in this risk assessment.
- Introduce the Risk Assessment Table and Discussion Guide (Appendix) and request that contractors discuss it internally and with brand suppliers, and provide written responses to the discussion questions. Discuss conclusions and follow-up steps with contractors.

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