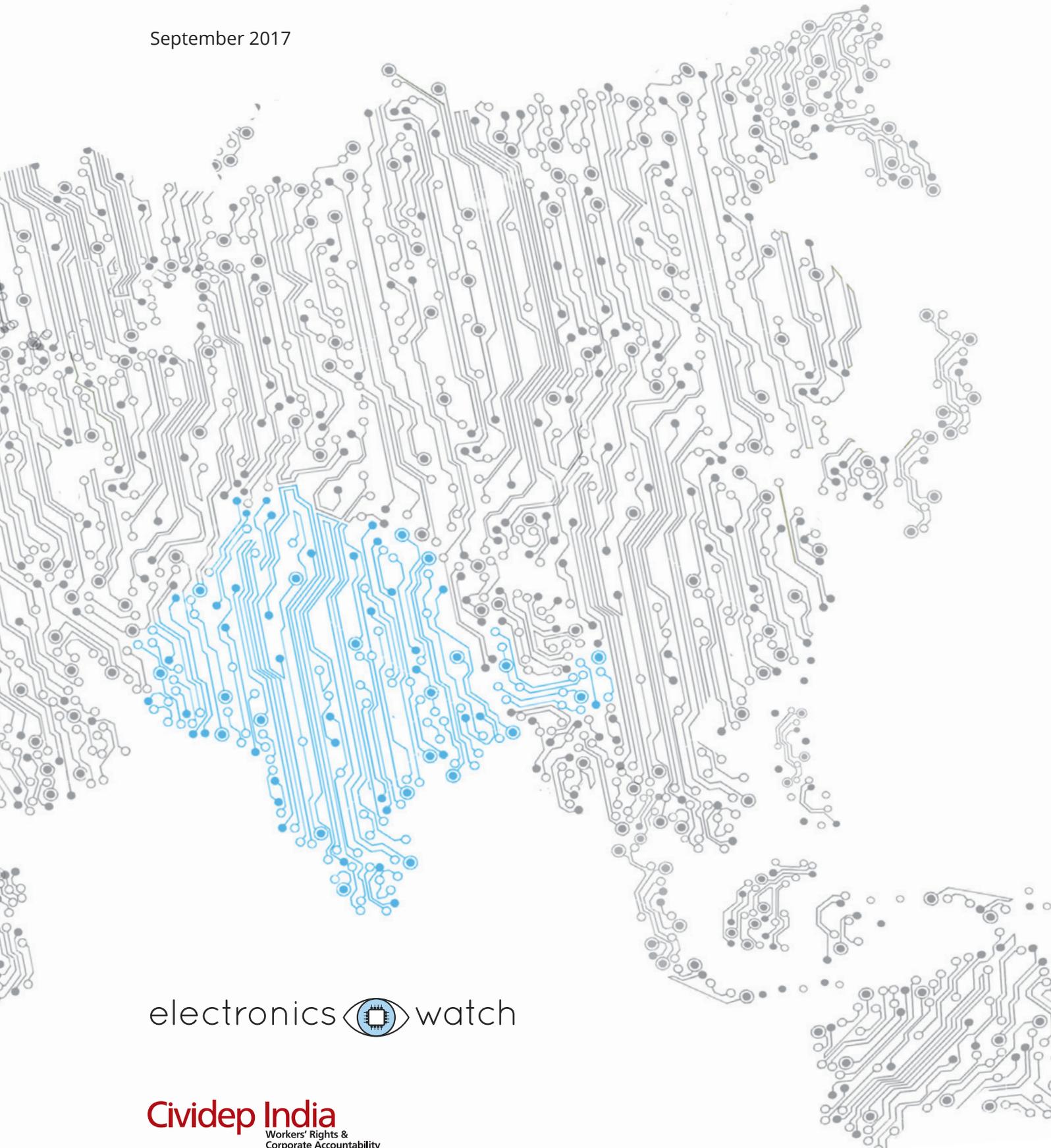
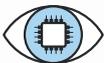


Regional Risk Assessment: Electronics Industry, India

Contributing organisation: Cividep India

September 2017



electronics  watch

Cividep India
Workers' Rights &
Corporate Accountability

This risk assessment is made possible by the dues of Electronics Watch affiliates, and is confidential to affiliates.

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. Cividep India conducted the research and monitoring activities for this report.

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1 Summary

Electronics Watch collaborated with Cividep India¹ to conduct this regional risk assessment from March 15 to July 15, 2017. Because a significant concentration of electronics production in India is situated in the southern state of Tamil Nadu, Cividep focused its assessment of compliance and risks in the region close to the state capital, Chennai. This is the area in which Nokia established its largest mobile phone manufacturing plant within a cluster of suppliers and contract manufacturers in a special economic zone (SEZ). Since 2014, when Nokia closed its operations and moved out of India following a tax dispute, the local landscape of electronics production has been reconfigured, but continues to attract further investment.²



¹ Cividep India is a non-governmental organization based in Bangalore, India dedicated to workers' rights and corporate accountability. For more information, see: <http://www.cividep.org/>

² http://www.business-standard.com/article/companies/tamil-nadu-s-electronics-it-hardware-sectors-see-recovery-115092600833_1.html

³ www.business-standard.com/article/companies/tamil-nadu-s-electronics-it-hardware-sectors-see-recovery-115092600833_1.html

The state's hardware industry is estimated to have attracted a cumulative investment of USD 711 million in about eight years, and has created employment for over 10,000 workers in both the organized and unorganized sectors.³ Multinational companies such as Foxconn, Flextronics, Salcomp, Dell, Sanmina and Samsung, have been operating in the region for many years due to the accessibility of the Chennai port and the proximity to domestic suppliers. These companies recruit their workforce from surrounding villages and, increasingly, from other parts of Tamil Nadu and the country. A large number of the migrant workers in the electronics factories either travel long distances every day or live in factory hostels and rented

accommodation closer to the factories. Most of the companies provide transportation to cover a pre-defined distance between the plants and their workers' residences. The bus service, offered for a fee, promotes worker recruitment and makes a significant difference in workers' choices of employers, particularly among women for whom safety is a great concern.

This report documents the degree of corporate compliance with labour laws in India as well as the Electronics Watch Code of Labour Standards in order to highlight the risks workers face. A special emphasis has been placed on precarious forms of employment and their impact on workers' lives. Precarious employment is the defining feature of the industry, reflecting a wider pattern in the Indian labour market, with serious negative implications for workers and their communities, as explained in the sections below. Precarious work refers to jobs on a casual, temporary, daily wage, contract, trainee and apprenticeship basis.

According to data collected by Cividep, the estimated proportion of precarious workers in relation to the total workforce at seven multinational electronics firms ranged between eight and 94 percent.⁴ Table 2 below presents the approximate figures of contract workers, apprentices and trainees in the workforce at each of the seven companies.

Table 2: Precarious versus permanent workers in electronics production⁵

	A	B	C	D	E	F	G
Permanent	1500	450	3000	350	400	400	180
Contract	2000	2500	200	30	100	2000	20
Apprentices	0	50	0	0	0	100	0
Trainees	0	0	300	0	0	0	0
Total	3,500	2,700	3,500	380	500	2,500	200
Percentage	57	94	14	8	20	84	10

The risk assessment suggests the following areas of concern with respect to the Electronics Watch Code of Labour Standards as well as the national laws in the country:

- **Freedom of association and the right to collective bargaining:** Union presence in the industry is very limited. Workers fear job termination if they form or join unions. In some factories, the presence of workers' committees is a substitute for unions. However, workers are largely unaware of the way these committees function. They do not understand their rights and do not have access to effective grievance mechanisms.

⁴ Cividep maintains an ongoing industrial database based on primary and secondary sources. The data is periodically verified through worker surveys and interviews so that the changing contours of the industry and of individual companies are recorded. The data on the precarious workforce in electronics manufacturing was originally compiled in 2016, updated in January 2017, and confirmed in July 2017.

⁵ The letter headings A, B, C, and so on represent the companies to protect their identity.

- **Living Wages:** While companies pay the legal minimum wage, it is not enough for workers to save or have a decent standard of living. Workers with five or more years of experience get just Rs. 400 to 500 (€5.4 - 6.75)⁶ more per month than the minimum wage. It is an unstated norm for workers in India to support their parents and siblings with their wages but workers face bleak prospects for marriage and starting their own families with the wages they earn.
- **Excessive working hours:** Companies regularly violate the eight-hour work day mandated by law. In one company case, workers put in an extra day of work on Sundays with compensatory time off in lieu of overtime wages. Although workers are entitled to annual leave, they find it difficult to get approval for their earned leave.

The report ends with recommendations to public sector buyers and their contractors who can exercise their purchasing power to raise the standards of employment for a flexible workforce at the lowest rungs of the production chain.

2 Methodology

Cividep used multiple sources of data and research methods to conduct the risk assessment. It draws upon previous Cividep research on working conditions in the electronics industry. Two studies, in particular, have directly informed the present appraisal of labour rights in electronics workplaces: a 2016 survey of 71 precarious workers who were employed at six multinational electronics companies; and five focus group discussions (FGDs) with 36 contract workers employed at five multinational companies in separate sessions by company. The surveys and the FGDs represent the experience of a total of 123 workers.

Cividep also conducted 16 original worker interviews for this risk assessment, including interviews with both regular and contract workers. The structured interviews covered workers' demographics, employment history, terms and conditions of employment, wages and benefits, and perception and experience of unions. All the interviews were conducted in Tamil, the language of Tamil Nadu, in the workers' residential areas.

Cividep's long-standing presence in the electronics production belt of Tamil Nadu and consistent interactions with electronics workers through training workshops and other activities at Cividep's Workers Resource Centre have also shaped the risk assessment. Inaugurated in 2015, this centre offers personal counselling, legal counselling, training on workers' rights, and training on communication skills and financial skills to workers.

Although workers' experience and perspectives form the core of

⁶ At the rate of exchange: 1 Euro = 74 Indian Rupees as on 20 July 2017 <www.xe.com>

the risk assessment, Cividep successfully reached management representatives at five companies in order to incorporate their views on the prospects and challenges of complying with the multiplicity of existing labour laws and human rights codes. Cividep contacted two managers at each of 13 contract manufacturers and brands over a period of four weeks. The purpose of the interview was explained, verbally and in writing, within the framework of the collaboration with Electronics Watch. Cividep consulted representatives of the following companies: YCH Logistics, Salcomp, Dell, Nokia Siemens, and Delta Electronics. Cividep conducted two interviews by phone, two interviews in person and received written responses via email from the overseas corporate office of one company. Other companies declined or did not respond to repeated interview requests. This experience demonstrates that corporate transparency is far from being a standard industry practice.

National Context

As the following sections will show, India's legislative framework covers all areas of employment and, in theory, holds employers accountable to certain social and environmental standards of operations. Labour law monitoring and enforcement, however, has been sorely deficient across the country. With the growing aspiration of the government to facilitate business in India and to reduce the "high compliance cost of manufacturing"⁷ in the country, it has announced a labour reform plan to amalgamate all the existing labour laws. Approximately 44 labour laws will be simplified into four labour codes on wages; industrial relations; social security and welfare; and occupational safety, health and working conditions.^{8,9} The rationalisation of legislation is taking place without any consultation with workers and trade unions. Furthermore, the reform plan does not take into account India's informal economy in which 92% of the working population earn their livelihood, and the increasingly precarious nature of employment in the formal sector.

A 2009 study conducted by Cividep on employment conditions and environmental standards in the electronics cluster near Chennai revealed that most of the workers were employed directly by the companies without the involvement of third-party labour intermediaries, but that many were hired on 18 month temporary contracts and as trainees.¹⁰ They were given only a vague, verbal promise that they would be made permanent following their training period or 18 months on the job. Three years later, only 20-54% of the workforce in four leading companies in the Nokia SEZ was employed in regular, permanent jobs.¹¹ The rest were hired as trainees or on a contract basis through two to five labour agencies in each company. The contract workers were considered employees of the agencies, rather than the multinational company in whose factories they worked, and carried out work of the same nature as their permanent

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⁷ Source: http://www.business-standard.com/article/companies/tamil-nadu-s-electronics-it-hardware-sectors-see-recovery-115092600833_1.html

⁸ 'Budget 2017: Finance Minister revives Labour Law reforms from cold storage', Goutam Das, Business Today, February 1, 2017. See <http://www.businesstoday.in/union-budget-2017-18/news/budget-2017-finance-minister-revives-labour-law-reforms/story/245541.html> (Accessed April 17, 2017)

⁹ 'Union Budget 2017: Government keen on labour reforms for ease of doing business said Arun Jaitley', February 1, 2017. See <http://www.financialexpress.com/budget/union-budget-2017-government-keen-on-labour-reforms-for-ease-of-doing-business-said-arun-jaitley/533747/> (Accessed on April 20, 2017)

¹⁰ Ferus-Comelo, A. (2009) Corporate Geography, Labour Conditions and Environmental Standards in the Mobile Manufacturing Industry in India, Bangalore: Cividep-India. Available at: <http://cividep.org/corporate-geography-labour-conditions-and-environmental-standards-in-the-mobile-manufacturing-industry-in-india/> (last accessed 28 June, 2017).

¹¹ Ferus-Comelo, A. and Pöyhönen, P. (2011) Phony Equality: Labour Standards of mobile phone manufacturers in India, Finnwatch, Cividep and SOMO, pg. 24. Available at: <http://cividep.org/phony-equality/> (last accessed 28 June, 2017)

co-workers. A contract worker does not necessarily have a written agreement or appointment contract to prove the employer-employee relationship, but may be employed loosely without the benefits or legal protection of labour laws.

Hiring contract workers to carry out labour processes that are core to the company's business and perennial in nature violates the Contract Labour Abolition and Regulation Act 1971. According to this law, a "contract worker" has to be absorbed in the standard, permanent workforce of the company after 240 days of work in a year. Under the state of Tamil Nadu Rules related to the Contract Labour Act, the stipulated period is 480 days. However, companies regularly violate this regulation with impunity, citing fluctuations in production cycles that require a flexible workforce.

At the state level, the Tamil Nadu Industrial Policy 2014 promotes "flexibility" in labour laws and employment conditions, by permitting the hiring of contract labour, among other investor-friendly social and economic benefits.¹² Trade unions held nation-wide strikes in 2015 and 2016 to protest the government's apparent indifference toward their demands, which included a limit of precarious jobs to no more than ten percent of the firm's workforce. An Amendment to the Industrial Employment Standing Orders passed on 4 July, 2016 mandates employers to declare the percentage and the working conditions of non-permanent workers in relation to total workers in companies' Standing Orders. While this Amendment is a positive step, it does not limit contract labour or affirm equal treatment for contract workers.

Workers in precarious work situations face many hardships. When Nokia shut its operations in the SEZ in 2014, over 2,000 contract workers were among the first to lose their jobs.¹⁴ Economic insecurity, low wages, workplace discrimination, exemption from legal protections, and the lack of freedom of association combined with inadequate representation on internal workers' committees are associated with the casualisation of employment in the electronics sector. These hardships demand cogent remedies at scales beyond the individual workplace, and need to be tackled urgently by a variety of social actors, including buyers. The findings outlined below in relation to the Electronics Watch Code of Labour Standards bring to date Cividep's record of tracking working conditions in the Indian electronics industry.

¹² http://www.investingintamilnadu.com/tamilnadu/doc/policy/Tamil_Nadu_Industrial_Policy_2014.pdf

¹³ Source: <http://tnlabour.in/factory-workers/4008> on standing orders amendment

¹⁴ Cereal, Cividep and SOMO (2015) *Nokia Disconnected: A corporate history from a workers' perspective*, May. Available at: <http://cividep.org/backdoor/wp-content/uploads/2015/11/Nokia-Disconnected.pdf> (last accessed 29 June, 2017).

Findings

4

4.1. Employment is freely chosen

The Indian Slavery Act, 1843 (also known as Act V, 1843) was passed under the East India Company rule of British India abolishing all forms of slavery.¹⁵ Bonded labour is prohibited in India under Articles 21 and 23 of the Constitution,¹⁶ and a specific law known as the Bonded Labour System (Abolition) Act was passed in 1976 to prohibit the practice.¹⁷

Instances of bonded labour or slavery have not been found in the electronics sector in Tamil Nadu. Workers are recruited through family or village ties, either by agents or through advertisements. They are free to choose their employer, even though they do not have much control over the nature of their employment, whether in a regular or precarious position. Additionally, the pressure of poverty that places a premium on a stable income prevents workers from leaving jobs even if they are dissatisfied with them.

4.2 Freedom of association and the right to collective bargaining

Article 19(1)(c) of the Indian Constitution protects citizens' freedom of association and the right to form associations and unions, with reasonable restrictions under Clause (4) in the interest of public order.¹⁸ Freedom of association is also recognised under the Trade Unions Act of 1926, which prohibits discrimination against union members and union organisers.¹⁹ Employers can, in theory, be penalised under this Act in the case of discrimination or retaliation against employees engaged in union activities.

As the electronics industry was setting roots in the Nokia SEZ in 2006, workers could see that older, more established factories such as those of Larsen & Toubro and Ashok Leyland had unions and as a result, higher wages, better working conditions and no sudden layoffs. Employees of Nokia and Foxconn conducted strikes in 2009-2010 and 2010, respectively, which were among the first in a special economic zone in India.²⁰ Today, the presence of unions in the electronics industry is sparse and fragile. Only one company has a union that is recognized by management for collective bargaining, but workers consider this union to be pro-management and have sought representation by another union. The fear of job loss among workers is palpable as protesters and union activists are easily replaced with a precarious workforce.²¹ Six contract workers at Company C recounted the case of a contract worker who had asked the labour agent for a raise.²² He was told to leave work and come back the next day, but was never called back to work thereafter.

Contract workers are aware of their lack of power in the factories and do not get involved in unions as they fear termination of their jobs.²³ It is common practice among the electronics firms to set up committees to address workers' grievances about various aspects

¹⁵ Indian Slavery Act, 1843. See https://www.revoly.com/main/index.php?s=Indian%20Slavery%20Act,%201843&item_type=topic (Accessed on April 20, 2017)

¹⁶ Article 21: Protection of life and personal liberty; Article 23: Prohibition of traffic in human beings and forced labour)

¹⁷ Keynote address on Bonded Labour, NHRC. See http://nhrc.nic.in/Documents/SPEECH_2012_10_25.pdf (Accessed April 20, 2017)

¹⁸ <https://indiankanoon.org/doc/1218090/> (accessed 21 June, 2017)

¹⁹ <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/32075/64876/E26IND01.htm> (accessed 21 June, 2017)

²⁰ makeITfair report 'Phony Equality' (2011), page 38

²¹ Thozhilalar Koodam, "Troubles brew at Oragadam Sanmina plant," 5 April, 2017 <http://tnlabour.in/automobile-industry/5120> (26 July, 2017)

²² Focus Group discussion with contract workers of Company C conducted by Civedep, 26 June 2016

²³ makeITfair report 'Phony Equality' (2011), page 36

of work-life, such as the canteen food, travel, safety, production and cleaning. The workers' committees offer, in principle, an effective grievance mechanism and a mode for constructive dialogue with management. However, workers report that management effectively control workers' committees²⁴ and that they may exclude contract workers (see box for case study).²⁵ Although they address workers' interests at times (see box), workplace committees do not have the same powers as trade unions to represent workers collectively under the law.

Workers' committees as a substitute for unions?

Company A is a components manufacturer for well-known brands such as Apple, Samsung, Motorola and others. It employs 3,500 workers in a unit in Tamil Nadu, of which 80 percent are women. According to the manager, the ratio of permanent workers to contract workers is 70:30. Fourteen of the 16 workers who responded to a survey conducted by Cividep in May 2017 said that the number of contract workers was higher than permanent workers. In June 2017, workers stated that approximately 2000 of the company's total workforce of 3,500 comprised contract workers who were recruited and placed by four contract agencies and that there were no apprentices and trainees. Thus managers and many workers have a different understanding of the workforce composition.

A manager interviewed for this risk assessment explained the welfare measures provided to all workers: (a) transportation to and from the factory up to a radius of 70 kilometres; and (b) lunch at a highly subsidized rate during a 30-minute lunch break.²⁶ Workers reported that 30 minutes are not enough as they have to stand in a long queue and by the time they get the lunch, they have only ten minutes to eat.²⁷ Moreover, some workers complained that the company deducted double the amount of food charges from their salary when they took approved leave from work.

These are issues that a workers' committee would be expected to resolve. A workers' committee that consists of about five to ten worker representatives, with at least two workers from each shift, meets with workers once a month and reports grievances to the management. The management tries to resolve issues within two to seven days.²⁸ However, in an interview in 2016, contract workers reported that the previous committee was dissolved by the company management, and they were asked to nominate a new committee. None of the 16 workers interviewed was aware of why the committee had been dissolved.²⁹

In the words of the manager: "[We take] care of not only the employees but also their families." Company A has a corporate social responsibility (CSR) program in partnership with a non-governmental organisation through which they provide vocational training, among other services, to the workers' families. The manager stated that this programme prevents unionisation because families are dependent on it and, as such, puts pressure on employees against striking. Workers have the option of taking company loans, which may be

²⁴ Focus Group Discussion with contract workers of Company B conducted by Cividep India, 28th August 2016

²⁵ Focus Group Discussion with contract workers of Company D conducted by Cividep India, 30th July 2016

²⁶ Interview with Sales and Marketing Manager, 16th May 2017

²⁷ Workers Survey conducted by Cividep India on 26th May 2017.

²⁸ Interview with the Sales and Marketing Manager, 16th May 2017

²⁹ Focus Group Discussion with workers of Company A conducted by Cividep India, 10th July 2016

repaid within one year. The staff also contributes to a collective fund that is given as grants, not loans, to workers who need money for weddings or education.³⁰ The manager argued that Company A is the only company in the area that has had no union unrest, because the management is in constant touch with the workers to ensure their wellbeing.³¹

The 16 company workers surveyed in May 2017 explained that there were mainly two reasons for the lack of a union: one, that the company does not allow the workers to form a union, and two, that women workers do not want to face any backlash for forming a union. One major fear that workers expressed was the loss of employment or the possibility of discrimination. Some workers felt that the formation of a union would help them voice their concerns and challenge the management.

A precarious workforce is vulnerable to job termination. Contract workers at Company D reported that when ten workers attempted to form a union to demand a raise, their employment was terminated.³² Cividep was unable to trace the workers who had attempted to unionize as they had moved back to their home villages soon after they lost their jobs. There are ongoing internal hearings in relation to management harassment of a workplace union leader at Company G when he supported a co-worker's right to take leave.

4.3 No discrimination in employment

Article 15 of the Indian Constitution prohibits discrimination on the basis of religion, race, caste, sex and place of birth in employment opportunities. The socio-economic rights under Article 39 in Part IV of the Constitution urges the state to ensure that men and women have an equal right to an adequate means of livelihood, right to shelter, food, education and work.³³ Section 4 of the Equal Remuneration Act, 1976 (ERA) provides for payment of equal remuneration to men and women for the same work or work of similar nature and for the prevention of discrimination against women in employment. Finally, the Maternity Benefits Act, 1961 protects women from termination of employment while on maternity leave.³⁴

Discrimination in the electronics manufacturing industry takes four primary forms, discussed below: employment status, age, gender and union membership.

One of the prime axis of discrimination is between permanent and contract workers. The contract labour system in India divides the workforce into a two-tier system: the first tier comprising relatively privileged workers who have the security of full, standard employment with legally mandated benefits, and the second tier consisting of part-time, temporary workers without any job security or legal protection who aspire to regular jobs. The Contract Labour (Regulation and Abolition) Act, 1970 is intended "to regulate the employment of contract labour in certain establishments and to provide for its

³⁰ Ibid.

³¹ Interview with Sales and Marketing Manager, Company A, 16th May 2017

³² Focus Group Discussion with workers conducted by Cividep India, 30th July 2016

³³ The Constitution (93rd Amendment) Act, 2005.

³⁴ Section 12 of the Maternity Benefits Act, 1961.

abolition in certain circumstances..."³⁵ However, the law is poorly enforced.

According to the Contract Labour Act, upheld in a Supreme Court ruling in October 2016, contract workers must be paid the same wage rate as that of permanent workers if they do the same work. The principle of "equal wages for equal work" is also reiterated in the Electronics Watch Code of Labour Standards on discrimination in employment, which is based on the International Labour Organisation's (ILO) Equal Remuneration Convention (1951) 100. Similarly, the Electronic Industry Citizenship Coalition (EICC) code of conduct (version 5.1) states: "In the absence of local law, the wage rate for student workers, interns and apprentices shall be at least the same wage rate as other entry-level workers performing equal or similar tasks."³⁶ However, contract workers are paid only the legal minimum wage, not on par with permanent workers, and do not receive any other employment benefits such as an annual bonus, for which permanent workers are eligible. In the case of Company D, contract workers were excluded from workers' committees, although they could raise work-related complaints with the committee members. Contract workers also do not receive casual leave, sick leave or maternity leave.

At Company D, permanent workers can get medical treatment at a private hospital through the company's medical insurance for serious or chronic illnesses, but contract workers have to go to the public hospital paid for by the employees' state insurance (ESI). Workers complained that the contractor deducted money for the ESI every month from their salary but they had not received their ESI card, even after more than one and a half years (in the case of one worker). Another symptom of discrimination between permanent and contract workers at the same company was in the area of personal safety equipment. Twice a year the company provides shoes and uniforms for the permanent workers, but not for contract workers. Yet, the company does not allow the contract workers to enter company premises if they do not wear safety shoes. The contract workers are thus obliged to buy the safety shoes themselves, as the contract agency does not provide them either.³⁷

Other forms of discrimination in the electronics industry include age and gender bias in recruitment, and discrimination against pregnant women and union activists. Younger workers are preferred and some companies have upper age limits at the recruitment stage. Cividep's 2011 study found that the mobile phone manufacturing industry had a strikingly young workforce. Some job advertisements stated a desired age category of 18 to 24 years. In 2011, 95% of the 3,600 workers employed at Salcomp were women between the ages of 18 and 25 years, while the average age of workers at both Foxconn and Flextronics was 22 years, and Foxconn management admitted having an upper age limit of 27 years.³⁸ The average age of the 16 workers Cividep interviewed for this risk assessment was 22 years.

Young workers are usually single and ready to relocate closer to the

³⁵ The Contract Labour (Regulation and Abolition) Act, 1970. See http://labour.bih.nic.in/Acts/contract_labour_regulation_and_abolition_act_1970.pdf (Accessed April 17, 2017)

³⁶ Electronic Industry Citizen Coalition© Code of Conduct Version 5.1, Section A (2), (2016)

³⁷ Focus Group Discussion with contract workers of Company D conducted by Cividep India, 30th July 2016

³⁸ makeITfair report 'Phony Equality' (2011), page 18

factories. They are available for flexible shifts and long working hours, eager to earn as much as possible and have few commitments outside work. Their youth and inexperience in the labour market make them vulnerable to exploitation. The workers who are recruited by the industry are usually first-generation industrial workers with no prior knowledge of the world of wage work and the existing employment laws. They are unlikely to question unfair labour practices or seek help from unions.

Another bias in recruitment is towards women. One manager explained that electronics manufacturing needs “small and soft hands for small pieces” making women better suited for the work than men.³⁹ In the Indian context, there is also an unstated cultural expectation that women will resign from their jobs when they get married and have to relocate to their husbands’ homes. This means that women workers are constantly replaced by a fresh batch of recruits in their workplaces. This allows employers to evade salary raises that accrue with workers’ seniority, and maternity benefits apply only in rare cases. At Company G, workers can continue working up to eight months during pregnancy if they file a request for maternity benefits under the Maternity Benefit Act, 1961.⁴⁰ If not, women are made to resign from their jobs at six months of pregnancy. Many women fear discrimination or job loss if they disclose their pregnancy early on, and as a result, forfeit their maternity benefits.

Workers who unionize have found management treating them differently from other workers. For example, 17 workers at Company G—all union members—have been forced to sit idle at work without any explanation since 28 November 2016.⁴¹ Although they continue to receive wages, they have noticed that new contract workers and apprentices have taken their place. Union members at Company G also reported that they earned less than non-union workers on the same line doing the same work.⁴² Workers at Company A voiced fears of harassment and arbitrary change of duties when asked why they did not form a union.⁴³

4.4 No exploitation of child labour

Article 24 of the Indian Constitution prohibits employment of children below the age of 14 in factories, mines, and other hazardous employment. In 1986, the Child Labour (Prohibition and Regulation) Act prohibited the employment of children below the age of 14 in hazardous occupations. The Child Labour (Prohibition and Regulation) Amendment Act of 2016 prohibits “the engagement of children in all occupations and of adolescents in hazardous occupations and processes,” with “adolescents” referring to those under 18 years and ‘children’ as those under 14.⁴⁴

There have been no instances of child labour found in electronics production in India.

³⁹ Interview with Sales and Marketing Manager at Company A, 16th May 2017

⁴⁰ The Maternity Benefit Act protects the employment of working women during maternity and entitles them to fully paid absence from work. It was amended in August 2016 to increase the maternity leave from 12 weeks to 26 weeks, or six months. See: <http://www.thehindu.com/news/national/Paid-maternity-leave-increased-to-6-months/article14562560.ece> (19 December, 2016).

⁴¹ This was still the case on 17 July 2017

⁴² Focus group discussion with workers of Company G, 20 March 2016.

⁴³ Workers Survey conducted by Cividep India at Company A, 26 May 2017.

⁴⁴ The Child Labour (Prohibition and Regulation) Amendment Act, 2016. http://labour.gov.in/sites/default/files/THE%20CHILD%20LABOUR%20%28PROHIBITION%20AND%20REGULATION%29%20AMENDMENT%20ACT%2C%202016_0.pdf (Accessed April 10, 2017)

4.5 No excessive working hours

According to the Factories Act 1948, workers should not work for more than 48 hours in a week and not more than nine hours in a day.⁴⁵ The Electronics Watch Code of Labour Standards reiterates the national law on working hours.

The general practice in the domestic electronics industry is an eight-hour shift, but production targets and leave policies, which vary among the companies, influence the work hours and work days. For example, a 2017 Cividep study on Samsung Electronics found that workers have fixed, daily production targets and if they are unable to complete the targets within the shift, they are required to work for two to three hours extra. This means that they work for 10 or 11 hours each day when production is high. Moreover, workers cannot decline overtime when production is high,⁴⁶ in violation of the Electronics Watch code prohibition 8.1.3 on non-voluntary overtime.

In response to the Cividep draft report, Samsung stated that: *“Employees at Samsung Electronics in Chennai can punch their overtime work every ten minutes.”*⁴⁷ As the report points out: “No further explanation was provided about whether this policy applied to all workers, including contract workers and apprentices, or how often workers are required to work overtime.”⁴⁸

⁴⁵ The Factories Act, 1948.

⁴⁶ Cividep Report ‘Samsung’s sub standard labour practices in India: A profile of Samsung Electronics in Tamil Nadu’, March 2017. Available at: <https://goodelectronics.org/wp-content/uploads/sites/3/2017/04/Samsung%E2%80%99s-sub-standard-labour-practices-in-India.pdf> (24 July, 2017).

⁴⁷ M. Syn, Senior Manager, Global Public Affairs Group, Samsung Electronics Co., email 21 October 2016, quoted in Cividep Report ‘Samsung’s sub standard labour practices in India: A profile of Samsung Electronics in Tamil Nadu’, March 2017. Available at: <https://goodelectronics.org/wp-content/uploads/sites/3/2017/04/Samsung%E2%80%99s-sub-standard-labour-practices-in-India.pdf> (24 July, 2017).

⁴⁸ Ibid.

⁴⁹ Interview with Sales and Marketing Manager, Company A, 16th May 2017

⁵⁰ Focus Group Discussion with Company B contract workers conducted by Cividep India, 28th August 2016 in Thiruvalluvar District

A manager explained that Company A operated on three eight-hour shifts and a six-day work-week, with Sunday as the weekly off-day. According to him, there is no overtime at the company and the workers always meet their targets as they are incentivised very well. For example, if a production line exceeds their targets, they have the chance to travel to China for training.⁴⁹ None of the workers mentioned the prospect of such incentives during the survey. Instead, they explained that during peak production periods, they were asked to work on Sundays. This is not a regular occurrence, nor is it mandatory for all workers. However, instead of paying overtime wages, as the national law and the Electronics Watch code 8.1.5 require, the company asks the workers to take compensatory time off on another day. All the 16 workers surveyed at this company stated that they would gladly accept overtime if they were paid for it as mandated by law, because their regular wages were not enough for their needs.

A 2016 focus group discussion with contract workers at Company B revealed that they do not have any paid leave, including sick leave. Contract workers were permitted to take three consecutive days of leave and permanent workers received a total of 14 days that included sick and casual leave, with prior notice. However, contract workers did not get paid for these leave days.⁵⁰

4.6 Safe and healthy working conditions

India has approximately 16 laws that govern the health and safety of workers, but a deplorable record of work-related fatalities, according to data from the International Labour Organisation (ILO).⁵¹ Moreover, India has yet to ratify 12 of the 17 ILO conventions on safety and health at work.⁵² The Ministry of Labour and Employment has noted, in the following words, that the prevailing nature of precarious employment increases workers' risks:

"The changing job patterns and working relationships, the rise in self employment, greater sub-contracting, outsourcing of work, homework and the increasing number of employees working away from their establishment, pose problems to management of occupational safety and health risks at workplaces."⁵³

Workers who are not in regular jobs or employed in firms with ten or fewer employees are not covered by most labour legislation. Besides flexible forms of employment, there are other reasons that increase workers' vulnerability to accidents at work in electronics production. Prominent among these are workers' long commutes between their homes and factories and high production targets that cause fatigue. Union leaders and labour activists suspect that these factors contributed to the death of Ambika, a young woman who died while desperately trying to unjam a machine at Nokia's plant in Sriperumbudur, Chennai in 2010.⁵⁴

Besides fatigue, common health-related complaints concern anaemia due to a variety of reasons such as malnutrition and hard working lives. Some contract workers in the packing section of Company D have complained about breathing problems as they sometimes inhale foam dust scattered around the workplace from the packing material.

In a 2016 interview, workers at Company B reported that the company provides personal protective equipment (PPE) to all workers and it is mandatory to wear the safety equipment such as electrostatic discharge (ESD) slippers, wristbands, and coats on the shop floor. They also explained that no worker has reported any serious occupational health hazards so far. Similarly, workers at Company A reported that all workers were required to wear the necessary PPE such as gloves, goggles, earplugs, safety shoes, wristband, and so on. In fact, the management terminated the jobs of two male technicians as they did not follow the company's safety rules.⁵⁶ An interview with a manager in May 2017 confirmed these views. Workers are provided with anti-static aprons and shoes; machines are programmed to stop functioning if a worker's hand is inside them; and a safety team monitors the conditions on the shop floor.⁵⁷

⁵¹ Manuel, Thomas (2016) "How India's sixteen occupational safety laws couldn't prevent two deaths," *The Wire*, August 26. Available at: <https://thewire.in/61863/occupational-laws-small-enterprises/> (accessed 24 June, 2017)

⁵² See: http://www.ilo.org/dyn/normlex/en/f?p=1000:11210:12533514796484:::P11210_INSTRUMENT_SORT:2 (accessed 24 June, 2017)

⁵³ Ministry of Labour and Employment (2009) *The National Policy on Safety, Health and Environment at Work Place*, New Delhi: MLE. <http://labour.nic.in/sites/default/files/SafetyHealthandEnvironmentatWorkPlace.pdf> (accessed 24 June, 2017)

⁵⁴ Dutta, M. and Radhakrishnan, V. (2011) "Ambika's death," January 21. Available at: <https://kafila.online/2011/01/21/ambikas-death-madhumita-dutta-venkatachandrika-radhakrishnan/> (accessed 24 June, 2017)

⁵⁵ Focus Group Discussion with Company B contract workers conducted by Cividep India, 28th August 2016 in Thiruvalluvar District

⁵⁶ Focus Group Discussion with Company A contract workers conducted by Cividep India, 10th July 2016 in Kancheepuram District

⁵⁷ Interview with Sales and Marketing Manager, Company A, 16th May 2017

4.7 No abusive termination of employment

Chapter V-B of the Industrial Disputes Act (IDA) 1947, amended in 1982, requires firms employing 100 or more workers to obtain government permission for layoffs, retrenchments and closures. In these cases, the law outlines the requisite process and payment of compensation. It also defines unfair labour practices and remedial procedures. The Act covers the whole workforce, including contract workers, apprentices and trainees, but leaves managers, supervisors and administrative staff out of its purview.

In theory, this law provides valuable protection to workers in the absence of unionization in the workplace. In practice, workers have recourse to the law only with union support, and must be prepared to wait for months or years for decisions on their cases. Moreover, the IDA is at the centre of labour reform in India, discussed earlier, which means that the worker protection it provides may be dismantled.

Precarious workers in the electronics industry are the most vulnerable to job loss. They are typically given a “break in service” at varying points in the year to alleviate the company’s liability for continuous employment under the Contract Labour Act, and subsequently, can be dismissed at any time. The situation for non-unionised, permanent workers is not much better because of the lack of enforcement of the law.

Unions can be effective in challenging retrenchments or unfair dismissals, and to negotiate the amount of compensation. However, in the absence of decent alternative employment, their role is limited. For example, when Nokia and some of its suppliers reduced their workforce or shut down operations, unions intervened to obtain higher settlements for their members who were laid off. Group discussions in March 2016 with workers at one company highlighted workers’ disappointment that their settlement packages were not enough for them to start a new business or any other form of decent livelihood.⁵⁸ The workers stated that they would have preferred to get their jobs back or new jobs with wages corresponding to their level of experience.

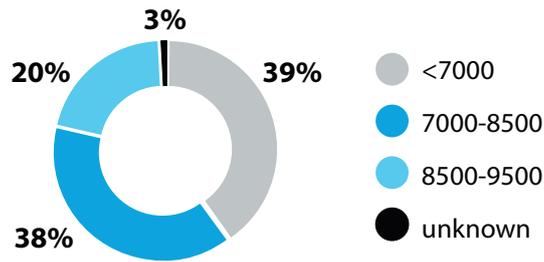
4.8 Legal wages, benefits and social insurance

The current minimum wage in the electronics sector of Tamil Nadu is Rs. 217.54 (€2.96) per day, calculated as a basic daily wage of Rs. 91 plus variable dearness allowance (or cost of living allowance adjustment) of Rs. 126.50.⁵⁹ This amounts to a monthly wage of Rs. 6,526.20 (€88.89). Wages paid to (skilled, semi-skilled and unskilled) workers are generally on par with or slightly higher than the minimum wages mandated by the government. The figure below illustrates the range of monthly salaries among contract workers employed at six multinational companies in the electronics industry in 2016 before the minimum wages were raised in Tamil Nadu.

⁵⁸ Focus Group Discussion with Foxconn Workers conducted by Cividep India, 20th March 2016 at Workers’ Resource Centre, Sriperumbudur (page 1)

⁵⁹ Tamil Nadu Minimum Wages with effect from April 1 2017 to March 31 2018. See <http://www.paycheck.in/main/salary/minimumwages/tamil-nadu> (accessed 14th June 2017)

Monthly salary



Thirty-nine percent of the contract workers earned less than Rs. 7,000 (€94.45) per month but close to the current minimum wage, while only 20 percent earned between Rs. 8,500 and 9,500 (€115-128). The narrow salary range suggests that the salaries do not rise to reflect workers' tenure at the factories. Twenty-one percent of the workers surveyed in the sample above had worked at the same company for one to three years and 16% had worked for between three and five years.

A survey of permanent and contract workers conducted at Company A in 2017 showed that the salaries ranged from Rs. 7,600 to 11,000 (approximately €103-148) per month, while a majority of the respondents (67 percent) earned Rs. 8,000 (€108) or less. All of the 16 workers pointed out that, in a majority of cases, the permanent workers' salaries are only Rs. 400 to 500 higher per month than the contract workers' salaries, and that there was no significant wage increase over time, regardless of their status. Workers who were paid the range above, i.e. Rs. 7,600 to 11,000, had worked at the same company for three months to 10 years. Wage stagnation appears to be a common feature of the electronics industry.⁶⁰

Wages in the electronics industry, for permanent workers and a flexible workforce, need to be considered within the broader economic context. It is widely understood that the minimum wage set by the national and state governments is grossly inadequate. Workers have monthly expenditures towards rent, food, health care, transport and miscellaneous costs, which their salaries do not cover.⁶¹ In order to make ends meet, workers sometimes take loans from friends, colleagues and moneylenders. This results in a vicious cycle of debt.⁶²

Many workers pool their resources by sharing rental rooms and cooking together, or by continuing to live with their families and bearing the impact of a long commute on their health. It is rare that they are able to save any money for their own futures after they remit a portion of their earnings to their families, whom they support as the sole breadwinner. One of the 12-point demands that the national trade union federations have collectively put forward to the government is a national minimum wage of Rs. 18,000 per month for all workers, irrespective of sector, occupation and geography.

⁶⁰ Thozhilalar Koodam, "Troubles brew at Oragadam Sanmina plant," 5 April, 2017 <http://tnlabour.in/automobile-industry/5120> (26 July, 2017)

⁶¹ Other expenses include mobile phone rechargers, shopping, entertainment, hairdressers/barbers, water and electricity bills.

⁶² Suedwind and Cividep Report Shiny Phone- Paltry Pay, 2012 (Pages 12- 23)

4.9 Living wages

Article 43 of the Indian Constitution affirms that “the State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities”⁶³

Yet, the efforts of the labour movement to raise the minimum wage to a uniform, liveable standard have not yet borne fruit. According to surveys of workers’ current wages conducted for this risk assessment, the highest monthly wage that contract workers earned in the electronics industry was Rs. 9,500 (€131) and the highest recorded wage for both permanent and contract workers was Rs. 11,000 (€148). By contrast, eight percent of the workers who were asked for their perspectives on a living wage said Rs. 15,000 (€202) would be a “decent” monthly salary; 20 percent proposed Rs. 20,000 (€270); and 11 percent suggested Rs. 25,000 (€337); while eight percent held that at least Rs. 30,000 (€405) per month should be a living wage. In effect, even the highest reported monthly wage earned by a contract worker is Rs. 10,500 (€142) less than the living wage expected by the majority of the workers surveyed.

5 Recommendations

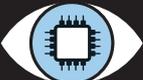
The Electronics Watch Contract Conditions require the contractor to take steps to avoid causing or contributing to breaches of the Electronics Watch Code of Labour Standards in the production of the goods affiliates buy, and to exercise its leverage to address practices of its suppliers that may contribute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

Electronics Watch recommends that public buyers use this risk assessment for internal education and contractor education, and to promote dialogue on steps that contractors, brand suppliers, and affiliates themselves can take to avoid practices that may cause or contribute to breaches of labour rights and safety standards. The risk assessment suggests that risks of breaches of particular concern include the standards on freedom of association, discrimination, working hours, and health and safety.

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.
- Affiliates to Electronics Watch have access to a risk assessment tool, which includes a questionnaire for contractors based on the findings of this risk assessment.

⁶³ Article 43, The Constitution of India. See <http://lawmin.nic.in/olwing/coi/coi-english/coi-4March2016.pdf> (page 22-23) (Accessed March 31, 2017)

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