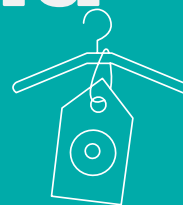




The People's Republic of China

country study 2020



**FAIR
WEAR**

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Introduction

China remains the world's manufacturing capital and global leader of the garment export industry. However, Chinese manufacturing is undergoing rapid change, including labour shortages, a fast-changing workforce, and a transition to higher-end manufacturing. While the country is still the world's largest clothing exporter, oversupply at home, higher labour costs, and rising global protectionism have reduced its competitiveness. China's market share by value in global textile and clothing industry exports fell from 38.8% in 2014 to a record low of 31.3% in 2018¹, with a downward trend in major apparel importing regions such as the US, the European Union, and Japan². There has, however, been a significant shift towards production and export of raw fabrics³.

In terms of governance and human rights, the situation in China has not improved and recent years have seen a marked crackdown on civil society, despite some gains on paper regarding the rule of law. Freedom of association remains restricted by law; no independent unions are allowed, and there is no right to collective bargaining or strike. Other labour issues include low wages, excessive overtime, lack of social insurance, and problems faced by rural migrant workers. Migrants are separated from their children who stay behind with family members at home. In addition, a household registration record that officially identifies a person as a resident of an area known as 'hukou' can prevent them from receiving pensions when returning to their region.

The use of agency workers and short-term contract labour is on the rise despite legislative attempts to limit the use of contract labourers⁴. Successful resolution of labour disputes in the workplace is rare and workplace grievances are commonly dealt with by workers resigning and finding employment elsewhere.

ACTIVITIES IN CHINA

China remains the largest supplier country for Fair Wear brand members. In 2019, 903 Chinese factories supplied to 69 brand members, making up approximately 24% of the total purchasing volume of all member brands.

Due to the limited number of stakeholders and shrinking civic space in China, Fair Wear has to rely mainly on cooperation with its member brands to take action to improve the lives of workers in garment factories.

Fair Wear continued to focus on the purchasing practices of its member brands in 2019 through the assess-

1 Lu, Sheng. Just-style, Apparel Sourcing Strategy. "Latest trends in world textile and apparel trade." 29 August 2019. https://www.just-style.com/analysis/latest-trends-in-world-textile-and-apparel-trade_id136865.aspx

2 Leng, Sidney. South China Morning Post. "China's once-booming textile and clothing industry faces tough times." 30 April 2018. <https://www.scmp.com/news/china/economy/article/2143938/chinas-once-booming-textile-and-clothing-industry-faces-tough>

3 Blazyte, Agne. Statista. "Retail sales of apparel and footwear in China by month 2018-2020." 26 November 2018. <https://www.statista.com/statistics/226670/trade-revenue-of-clothing-in-china-by-month/>

4 Article 3 of Interim provisions on labour dispatch. The employing unit can only use the dispatched workers in temporary, auxiliary, or alternative positions. The temporary jobs mentioned refer to the posts with a duration of no more than six months; the auxiliary jobs refer to the non main business posts that provide services for the main business posts; and the alternative jobs refer to the positions that can be replaced by other workers during a certain period of time when the employees of the employing unit are unable to work due to off-duty study, vacation, and other reasons.

When the employing unit decides to use the auxiliary post of the dispatched labourer, it is discussed among the staff and workers' Congress or all the employees, the plan and opinions are put forward, negotiations with the trade union or employee representatives are on an equal footing, and publicised in the employing unit. Article 4 The employing unit shall strictly control the number of labour dispatches, and the number of dispatched workers used shall not exceed 10% of the total amount of labour.

ment of factory standards in China, with audits carried out by audit teams, and through assisting brands with remediation of violations found in factories. As in previous years, audits show insufficient wage payment and excessive overtime. Most factories in China pay workers according to a piece rate system that does not take overtime hours into account. Factories also lack an effective wage comparison system that ensures workers can secure the legal minimum wage and overtime premiums through the gross piece wage.

This wage comparison system is one of the focus points when training management and workers during Workplace Education Programme (WEP) training. Generally, factories are still far from paying living wages and sometimes workers are even paid below minimum wage.

The WEP training serves to raise awareness for workers and managers on labour rights and mechanisms that offer access to remediation. Understanding how to set up functional grievance mechanisms for workers and factory managers is key, as well as the possibility of using the complaints hotline. However, it remained difficult to convince factory management to enrol a sufficient number of workers in the training, because this meant interruption of work. Workers showed interest in the subjects of the training, although talking about freedom of association or inspiring participants to seek better working conditions through dialogue remains sensitive.

In 2019, Fair Wear organised a seminar in cooperation with the joint Ethical Trades Initiatives in Amsterdam for brands on how to engage in worker representation in China. Together with the brands, practical recommendations were given on how to start by enabling the environment, operational tips, and do's and don'ts.

In 2019, a supplier seminar was organised with the aim of changing buying practices in the industry, so that the labour costs which factories incur can be satisfactorily covered in cost price negotiations with buyers. During the seminar practical solutions were worked on related to how this could be achieved in practice using the newly developed Fair Wear Labour Minute and Product Costing calculator (LMPC).

In addition, there are mostly no effective internal grievance mechanisms in place and no worker representatives are freely elected by the workers. In 2019, Fair Wear received 15 admissible complaints. They involved insufficient payment or delays of salary, unclear piece-price or salary payment, not being paid the final months' salary when resigning, excessive overtime hours, forced resignation without payment of salary, and bad quality of food.

There is still not sufficient social protection for Chinese workers. Though a growing number of workers have joined the social security system, some workers are still reluctant to register and factories do not pay all social security or insurance fees. A new law came into force where 100% of social insurance should be paid, but this law has only been partially implemented.

1. How to read this country study

This country study should provide a clear and concise picture of the industry, labour laws, labour conditions, and industrial relations within the textile and garment industry in China. It has been prepared through gathering information regarding national laws and local stakeholders' views on labour issues in the Chinese garment industry.

- › **Chapter 2: General country information**, describes the economic, social, political, and governance situation, as well as the general human rights situation, using international indicators and comparing the country to other major garment-producing countries.
- › **Chapter 3: Stakeholders**, briefly presents the main stakeholders that are active in the textile and garment industry. The focus is on stakeholders who have an actual impact on labour conditions or play an active role in monitoring the situation for workers in the industry. This chapter serves as a reference point for stakeholders and brands that want to consult local stakeholders to gain information or support concerning their activities in China.
- › **Chapter 4: Garment industry**, presents an overview of the Chinese garment industry's current status in the areas of manufacturing, products, and future prospects.
- › **Chapter 5: Industrial relations**, describes the trade union situation in the country, both in general and specifically for the garment industry. This chapter provides important information for understanding how well challenges regarding working conditions are currently being handled and what could be done through the country's social dialogue mechanisms.
- › **Chapter 6: Implementation of the Code of Labour Practices**, assesses the implementation of every standard of the Fair Wear Code of Labour Practices through official statistics on compliance (where available), laws and regulations, as well as various stakeholder views on implementation. It also contains the main audit findings per standard over the last four years (2016 -2019) and examples of complaints received. Auditors and brands can use this section as a reference resource for their monitoring activities.

2. General country information

The People's Republic of China is the most populous country in the world with a population of 1,392 million in 2018. Considered an upper-middle income country, it ranks 28th of 144 countries in competitiveness, defined as the set of institutions, policies, and factors that determine its level of productivity⁵, with a GDP of 13,608.15 billion USD and per capita income of 9,460 USD in 2018⁶. The textile industry is the second largest in China, only after electronics. Its textile exports were worth 106 billion USD (37.2% of global trade) and it exported apparel worth 161 billion USD (36.4% of world exports) in 2016⁷. The United States, Hong Kong, Japan, Germany, and South Korea are the country's main export destinations. In 2018, China produced over two thirds of the world's chemical fibre and exported around 37.6% of the world's textiles, while exporting around 31.3% of the world's apparel.⁸

The Economist Intelligence Unit expects China's real GDP to expand by 7.3% in 2021, from an estimated 1.8% in 2020, underpinned by fiscal support for infrastructure, healthcare, and consumption. After loosening in 2020, monetary policy will shift to a neutral stance in 2021, amid concerns of deepening structural imbalances. Weak global demand and strained foreign relations will intensify calls for economic self-sufficiency via a new 'dual circulation' model, which will also emphasise the importance of the domestic market.⁹

Regional expansion and development plans

Higher labour costs and rising global protectionism have eroded China's competitiveness in the manufacturing industry, which has led to the restructuring of the Chinese textile and apparel industry. China is increasingly exporting textiles to other apparel-exporting countries in Asia. For example, Bangladesh's textile imports from China, measured by value, rose from 39% in 2005 to 47% in 2015, and similar trends have been observed in neighbouring countries.¹⁰ The global textile and apparel industry is forecast to grow at an average of 5% per year, reaching 2,855 billion Euro by 2025, with countries like China and India as key drivers of growth.

The Chinese government's 'Made in China 2025' Plan, along with the 13th Five-Year Plan for the Textile Industry (2016-2020) encourages focus on raw material production and overseas processing and automation in the textile industry, which in turn supports investments in upstream textile plants. The Five-Year Plan is also expected to leverage the ongoing 'One Belt, One Road' initiative (OBOR)¹¹, which is a development

⁵ Schwab, Klaus. World Economic Forum. The Global Competitiveness Report 2019. http://www3.weforum.org/docs/WEF_TheGlobalCompetitiveness-Report2019.pdf page 15

⁶ World Development Indicators Database. "World Bank Country Profile - China." https://databank.worldbank.org/views/reports/reportwidget.aspx?Report_Name=CountryProfile&Id=b450fd57&tbar=y&dd=y&inf=n&zm=n&country=CHN%20 (accessed 3 December 2020) and United Nations Development Programme. "Human Development Report - China." <http://hdr.undp.org/en/countries/profiles/CHN> (accessed 3 December 2020)

⁷ Barrie, Leonie. Just-style, Apparel Sourcing Strategy. "Machinery trends confirm China's textile leadership." 8 June 2018. https://www.just-style.com/analysis/machinery-trends-confirm-chinas-textile-leadership_id133704.aspx

⁸ Knitting Industry. "China now world's biggest textiles market." 3 December 2019. <https://www.knittingindustry.com/china-now-worlds-biggest-textiles-market/>

⁹ The Economist Intelligence Unit. "China." <http://country.eiu.com/china> (accessed 3 December 2020)

¹⁰ For example; Cambodia = 63% from 30% in 2005 and Vietnam = 50% up from 23% in 2005.

See Leng. South China Morning Post "China's once-booming textile and clothing industry faces tough times." 30 April 2018. <https://www.scmp.com/news/china/economy/article/2143938/chinas-once-booming-textile-and-clothing-industry-faces-tough>

¹¹ See here for a useful explainer: Kuo, Lily and Kommenda, Niko. The Guardian. "What is China's Belt and Road Initiative?" 30 July 2018. <https://www>

strategy focused on building infrastructure and investments in neighbouring central Asian states and beyond. Reports state that the project has around 900 billion USD of planned investments, making it the largest investment drive by a single country.¹² These initiatives are designed to take advantage of expanding raw material production in China and tap into lower labour and energy costs, along with improved communication and transport links for exports to neighbouring countries.

2.1. ECONOMIC INDICATORS

China ranked 85 out of 187 countries on the 2019 Human Development Index (HDI) of the United Nations Development Programme, up from 91 in 2013. In 2019, China had a gross national income (GNI) per capita of 16,127 PPP\$¹³. The following table shows how it compares to other major garment-producing countries.¹⁴

Country	HDI rank out of 187 (2019 Report)	GNI per capita (2011 PPP\$) (2019 Report)
Turkey	59	24,905
China	85	16,127
Vietnam	118	6,220
India	129	6,829
Bangladesh	135	4,057

2.2. SOCIAL, POLITICAL & GOVERNANCE INDICATORS

The Economist Intelligence Unit's 2019 Democracy Index categorises China as an authoritarian state. China ranks globally at 153 of 167 countries, with an overall score of 2.26 out of 10¹⁵, with a dramatic decline of 23 places since 2017.

2019 Democracy Index overview of major garment-producing countries

Country	Overall Score	Rank	Electoral process and pluralism	Functioning of government	Political participation	Political culture	Civil liberties
China	2.26	153	0.00	4.29	3.33	2.50	1.18
Vietnam	3.08	136	0.00	3.21	3.89	5.63	2.65
Turkey	4.09	110	3.08	5.00	5.00	5.00	2.35
Bangladesh	5.88	80	7.83	6.07	6.11	4.38	5.00
India	6.90	51	8.67	6.79	6.67	5.63	6.76

theguardian.com/cities/ng-interactive/2018/jul/30/what-china-belt-road-initiative-silk-road-explainer

¹² Campbell, Charlie. Time. "China Says It's Building the New Silk Road. Here Are Five Things to Know Ahead of a Key Summit". 12 May 2017. <https://time.com/4776845/china-xi-jinping-belt-road-initiative-obor/>

¹³ PPP\$ definition: Aggregate income of an economy generated by its production and its ownership of factors of production, less the incomes paid for the use of factors of production owned by the rest of the world, converted to international dollars using 2011 Purchasing Power Parity rates, divided by midyear population.

¹⁴ UNDP. "Human Development Report - China."

¹⁵ The Economist Intelligence Unit. "Democracy Index 2019." http://www.eiu.com/public/thankyou_download.aspx?activity=download&campaignid=democracyindex2019 page 10-14

According to World Bank data on governance¹⁶, China is ranked the lowest of all major garment-producing countries for ‘voice and accountability’ with a score of 6.40 in 2019.

2019 World Bank governance data for major garment-producing countries

Country	Voice and accountability	Political stability & absence of violence	Government & effectiveness	Regulatory quality	Rule of law	Efforts to control corruption
China	6.40	38.10	71.63	42.79	45.19	43.27
Bangladesh	27.09	15.24	23.56	15.38	27.88	16.35
India	57.64	21.43	59.62	48.56	52.40	47.60
Turkey	24.63	10.00	54.33	54.81	44.71	44.71
Vietnam	11.82	53.81	53.85	41.83	34.13	34.13

The above chart shows the percentile rank of the country on each government indicator. Percentile rank indicates the percentage of countries worldwide that rate below the selected country. Higher values indicate better governance ratings.

2.3. INCOME AND POVERTY

Rising incomes

A steady growth in urban and rural household incomes has supported a reduction in poverty, while economic growth has simultaneously led to shared prosperity. In the first three quarters of 2019, average real household disposable income per capita grew by 6.1%, down from 6.6% during the same period last year. The gap between urban and rural is narrowing. Growth was faster in rural areas (6.4%) than urban areas (5.4%), indicating a narrowing of the urban-rural gap.

At the same time, job creation remained steady, with 11 million new jobs created in the first three quarters of 2019, unchanged from the same period in the previous year. Nevertheless, the pace of layoffs in the industrial sector has accelerated, and the official unemployment rate continues to worsen.

World Bank estimates suggest that the proportion of the population consuming less than \$1.9 per day in 2011 purchasing power parity (PPP) fell from 0.6% in 2016 to 0.3% in 2019. Data from 2016 showed those living on less than \$5.5/day PPP still constituted 24.7% of the population at the time and that rate was expected to decline to 16% in 2019, though updated data is not available.¹⁷

In the World Bank 2019 Poverty and Equity brief, it was estimated that 30.5 million people (3.1% of the Chinese population) live under the national poverty line in China, with 10 million people (0.7% of the Chinese population) living under the international poverty line.¹⁸ These figures are continuously decreasing, though a large group of people remain vulnerable.

¹⁶ World Bank. “Worldwide Governance Indicators.” 2019. <https://info.worldbank.org/governance/wgi/Home/Reports>

¹⁷ World Bank. “China Economic Update, December 2019: Cyclical risks and structural imperatives” Worldbank.org <http://documents.worldbank.org/curated/en/215531576769442917/China-Economic-Update-December-2019-Cyclical-Risks-and-Structural-Imperatives> page 20

¹⁸ World Bank. “Poverty & Equity Brief, East Asia & Pacific, China.” April 2020. https://databank.worldbank.org/data/download/poverty/33EFO3BB-9722-4AE2-ABC7-AA2972D68AFE/Global_POVEQ_CHN.pdf

The recent outbreak of COVID-19 is affecting the economy. Temporary labour dislocation, slower growth in household incomes, and higher health expenditures suggest that the pace of poverty reduction is expected to slow significantly in 2020. Workers in less secure, informal work, and the self-employed, particularly migrant workers, will be especially vulnerable, as well as the elderly population who face heightened health risks, higher health expenditures, and potentially lower family transfers which are not compensated by public transfers.¹⁹

Rising inequality

A rise in income inequality continues, despite clear progress in the reduction of poverty.²⁰ How income is distributed amongst a country's residents is measured by the Gini index, where 0 represents perfect equality and 100 signifies perfect inequality. Using the Gini coefficient as a measure of total income, it is apparent that in China overall income inequality declined in 2015 to 46.2, yet has since increased to 46.7 in 2017, thus ranking as one of the highest in the world.²¹

Gini Index			
China	Vietnam	Bangladesh	Turkey
46.7 (2017)	35.7 (2018)	32.4 (2016)	41.4 (2017)

China's rising inequality in the last decades is tied to structural factors such as urbanisation, ageing, and sectoral rebalancing, with policies not providing enough of an offset. Urbanisation has played a key role in contributing to rising inequality in 1985-2010. The share of the population in urban areas rose from 23% in 1985 to 51% in 2010, which meant an increase of 20.5 Gini points over the same time period.²²

Without policy change, the International Monetary Fund (IMF) suggests that this inequality will only continue to rise with the continuation of 'urbanization, demographic changes, social security contribution mechanisms and a regressive tax schedule which exacerbates inequality.'²³ The lowest earners are taxed the highest rates due to average effective tax.

¹⁹ Ibid

²⁰ Jain-Chandra, Sonali, Khor, Niny, Mano Rui, Schauer Johanna, Wingender Philippe and Zhuang Juzhong. International Monetary Fund. IMF Working Paper. "Inequality in China – Trends, Drivers and Policy Remedies", 5 June 2018. <https://www.imf.org/en/Publications/WP/Issues/2018/06/05/Inequality-in-China-Trends-Drivers-and-Policy-Remedies-45878>

²¹ Statista. "Gini index: inequality of income distribution in China from 2009 to 2019." <https://www.statista.com/statistics/250400/inequality-of-income-distribution-in-china-based-on-the-gini-index/#:~:text=As%20parts%20of%20the%20society%20have%20become%20more,warning%20line%20for%20increasing%20risk%20of%20social%20unrest>.

²² Ibid. Jain-Chandra, Sonali et al. "Inequality...Remedies" 5 June 2018. Page 14

²³ Ibid. Jain-Chandra, Sonali et al. "Inequality...Remedies" 5 June 2018. Page 18-20

2.4. GENERAL HUMAN RIGHTS SITUATION

While it is difficult to provide perfect rankings for human rights protection, the 2020 Freedom House ratings for China give a low aggregate score of 10 out of a possible 100 (0 = least free, 100 = most free).²⁴

The work of non-governmental organisations (NGOs) has been more restricted, especially after 2017 when a new law on the management of foreign NGOs came into force. The law prohibits foreign NGOs from undertaking activities that the government deems to ‘endanger China’s national unity, security, or ethnic unity’ or ‘harm China’s national interests and the public interest’. Foreign NGOs operating in China must register with the Ministry of Public Security instead of the Ministry of Civil Affairs and must have a ‘professional supervisory unit’ as sponsor. In June 2017, a new National Intelligence Law entered into force, which contains similarly broad concepts of national security and gives more powers to national intelligence institutions.²⁵

The use of and access to the internet, Facebook, Google, etc., remain restricted and many articles and topics are censored. In January 2017, the Ministry of Industry and Information Technology issued regulations making it unlawful to provide circumvention tools like VPN to access the uncensored global internet without the Ministry’s pre-approval.

An increased number of human rights defenders—including foreigners— were detained in 2017, with numerous reports of torture and denial of access to lawyers.²⁶

The ITUC Global Rights Index rates countries on a scale of 1 to 5 in terms of the degree of respect for workers’ rights, 5 being the worst. Under the section ‘no guarantee of rights’ China was rated 5.²⁷

There are also increased media reports regarding the risk of forced labour in China, which are discussed more in depth in Chapter 6.1.

²⁴ Freedom House. “Freedom in the World 2020, China.” <https://freedomhouse.org/country/china/freedom-world/2020>

²⁵ This includes the Anti-espionage Law, Criminal Law Amendment (9), National Security Law, Anti-terrorism Law, and Cyber Security Law.

²⁶ Human Rights Watch. World Report 2018. “China. Events of 2017.” <https://www.hrw.org/world-report/2018/country-chapters/china-and-tibet>

²⁷ International Trade Union Confederation. “Survey of violations of Trade Union Rights” <https://survey.ituc-csi.org/> (accessed 3 December 2020)

3. Stakeholders

3.1 GOVERNMENTAL INSTITUTIONS

Ministry of Human Resources and Social Security (MOHRSS)

The MOHRSS of the People's Republic of China is responsible for managing the employment market in China and providing assistance to labour-intensive industries and enterprises by creating more employment opportunities. Created in 2008, its main responsibilities are to set national labour standards and regulations; as well as manage the labour force, labour relations, and the social security system.²⁸

Labour Supervision Bureau

The Labour Supervision Bureau is a department of MOHRSS. Its main responsibilities include formulating a supervision system, implementing labour inspection, investigating and handling major cases such as investigating and handling employers' violations against the Labour Law and Labour Contract Law, guiding the local labour inspection work, and mediating labour disputes between employers and employees.²⁹

Mediation and Arbitration Division

Under MOHRSS, the Mediation and Arbitration Division coordinates and drafts regulation on the implementation of labour dispute mediation and an arbitration system, where a third party solves disputes between two parties. It additionally provides guidance on the prevention of labour and personnel disputes and handles major dispute cases according to law.³⁰

Ministry of Commerce (MOFCOM)

MOFCOM is the department in charge of business and trade under the State Council of the People's Republic of China. Amongst its responsibilities are: formulating the strategies, guidelines and economic policies for international trade; drafting the laws and regulations governing domestic and foreign trade; advancing the structural readjustment of distribution industries and guiding the reform of distribution enterprises; compiling catalogues for import and export commodities as well as drafting regulations for managing these commodities; and coordinating safeguard measures and other issues related to fair trade work such as anti-dumping and countervailing.³¹

3.2 EMPLOYERS ORGANISATIONS

China National Textile and Apparel Council (CNTAC)

CNTAC is a national federation of all textile-related industries, seeking to encourage the growth and modernisation of the Chinese textile and apparel industry. Its main responsibilities include: drafting guidelines to supervise the performance of the textile industry and amending industrial standards; researching trends in the domestic and foreign textile industry; creating a bridge between textile enterprises and the government; sharing information and providing consulting services for enterprises; coordinating the economic and tech-

²⁸ <http://www.mohrss.gov.cn/>

²⁹ <http://www.mohrss.gov.cn/ldcj/ltxgbjzz/>

³⁰ <http://www.mohrss.gov.cn/tjzcgl/ltxgbjzz/>

³¹ <http://www.mofcom.gov.cn/mofcom/zhizi.shtml>

nical relations between various sectors of the textile industry, thereby advancing industrial integration; and organising trade meetings, international conferences, seminars, and exhibitions to expand the textile and apparel industry.³²

China Chamber of Commerce Department for Import & Export of Textiles (CCCT)

CCCT is a department of the Chinese Ministry of Commerce, and the largest textile and apparel trade agency in China and the world. Established in 1988, CCCT has more than 12,000 member companies in 34 provinces and municipalities across the country. The trade volume of CCCT member companies accounts for 70% of the total import and export volume of the Chinese textile and apparel industry. The main functions include: advising policy makers about protecting the legitimate rights and interests of member companies; consultation on trade policies, market and industrial trends, trade statistics, research and publications; organising members to participate in trade fairs and exhibitions both in China and abroad; establishing a dialogue with textile and apparel associations abroad; and assisting member companies in the settlement of trade disputes while protecting the intellectual property rights of CCCT members.³³

3.3 TRADE UNIONS

All-China Federation of Trade Unions (ACFTU)

Founded in 1925 to represent Chinese workers, the ACFTU is the only officially recognised and legally sanctioned trade union in China. According to Article 2 of the Trade Union Law: 'The All-China Federation of Trade Unions and all the trade union organisations under it represent the interests of the workers and staff members and safeguard the legitimate rights and interests of the workers and staff members according to law'. According to ACFTU, it has 31 trade union federations of provinces, autonomous regions, and municipalities and they fall directly under the central government's purview. Moreover, it has 10 national industrial unions, including the National Committee of the Chinese Financial, Commercial, Light Industry, Textile and Tobacco Workers' Union.³⁴

International Trade Union Confederation (ITUC)

ITUC's mission is to promote and defend workers' rights, via cooperation between international trade unions, and global campaigning and advocacy within global institutions. The main areas of ITUC activity are trade union and human rights; economy, society, and workplace; equality and non-discrimination; and international solidarity. The organisation has also worked closely with Global Union Federations, the Trade Union Advisory Committee and the International Labour Organization. ITUC has three regional organisations – Asia-Pacific (ITUC-AP), Africa (ITUC-AF), and the American Regional Organization (TUCA). ACFTU is not a member of ITUC. Before 2008, ITUC refused contact with ACFTU because it did not consider it an independent trade union. In recent years, dialogue between the two organisations has improved.³⁵

³² <http://english.ctei.gov.cn>

³³ <http://www.ccct.org.cn>

³⁴ www.acftu.org

³⁵ <https://www.ituc-csi.org/>

3.4 LABOUR NGOS

After the NGO law on the management of foreign NGOs came into force in 2017, the amount of foreign NGOs decreased and a limited amount of national NGOs remained active.

It is important to note that there is a marked difference among NGOs operating within the People's Republic of China. NGOs in China can be broadly categorised in two groups, official and grassroots NGOs. Official NGOs or mass organisations are supported, financed, and sometimes managed by the government and have stable funding and social resources. Examples include the All China Federations of Trade Unions (ACFTU) or the All China Women's Federation and Youth League. Grassroots NGOs are independent organisations unrelated to the government. The government may monitor or close grassroots NGOs, especially after the NGO law of 2017, expressing concern that some may be funded by foreign organisations that can instigate social unrest. Most labour NGOs have offices in southern China, Hong Kong, and Beijing. Many such NGOs are formed as educational or business enterprises because of limitations regarding permits to form charities. Below are the main grassroots labour NGOs, although most of them are based in Hong Kong.

Inno Community Development Organisation (Inno)

Founded and headquartered in Guangzhou, the Inno Community Development Organisation (Inno) is a non-profit that aims to have a positive sustainable impact in workplaces and their extended communities. Inno work includes the design and implementation of innovative solutions to end or alleviate workplace inequality and injustice. With more than 150 global partners and four branches in Asia, Inno is helping build a centre of excellence that offers stakeholders ideas for sustainable solutions, which can be used in advocacy work to positively impact public opinion and government policy. Inno has provided hotline services to 13 international brands and 600,000 workers in their Chinese supply chains, including solving labour disputes and complaints. Since 2007, it offers psychological counselling and legal advice. Inno also has branches in Beijing and Shanghai. ³⁶

Economic Rights Institute (ERI)

ERI is a non-profit organisation registered in Hong Kong with the mission of supporting stakeholders who strive to promote economic development and respecting the rights of all. ERI bridges communication between front-line production workers and facility management, NGOs and business communities, buyers and suppliers. ERI aims to promote enterprise improvements and advancement for a wider society.

The Chinese Working Women's Network (CWWN)

Founded in 1996, it is CWWN's mission to improve the lives of Chinese working women, enhance their feminist awareness, and empower them as female workers to fight for sustainable development in China. Since 2000, CWWN has provided participatory factory training on labour rights, gender awareness, occupational health and safety, collective consultation, and communication skills for production workers. The workers' community service centre in Shenzhen offers legal advice and counselling services to female migrant workers. ³⁷

³⁶ www.theinno.org

³⁷ www.cwwn.org

Labour Action China (LAC)

LAC is a labour rights NGO based in Hong Kong. LAC believes Chinese workers should be their own agents toward gaining representation in labour interests within a legal and trade union framework. The legal defence of Chinese workers' rights aims to strengthen their collective voices and actions to advocate for economic and social justice in China. LAC researches working conditions, labour relations, and capital mobility of Chinese workers. It also supports the protection of labour rights via campaigns and training.³⁸

Students and Scholars Against Corporate Misbehaviour (SACOM)

Founded in 2005, SACOM is an advocacy non-profit organisation located in Hong Kong. With origins in a student-led movement devoted to improving labour conditions, SACOM's aim is to advocate for workers' rights and unite students, scholars, labour activists, and consumers to monitor corporate social responsibility.³⁹

Labour Education and Service Network (LESN)

An independent NGO established in Hong Kong in 2001, LESN is composed of experienced union organisers, organisers of female workers, and labour researchers. Their work involves three areas: cooperation with government and schools to provide legal training in migrant workers' hometowns, in-factory training and enrichment activities for workers, and disseminating information to migrant workers and other organisations to improve working conditions.⁴⁰

3.5 INTERNATIONAL ORGANISATIONS FOCUSED ON LABOUR RIGHTS

International Labour Organization (ILO)

The ILO office in Beijing was established in 1985, overseeing ILO's activities in China (including the Hong Kong and Macau Special Administrative Regions) and Mongolia. Since the beginning of the country's transition to a market economy, the ILO has been providing technical assistance to the Chinese government and social partners, in areas such as labour legislation, employment promotion, and social security reform.

ILO Sustaining Competitive and Responsible Enterprises (SCORE)

SCORE is a programme that improves productivity and working conditions in small and medium enterprises (SMEs). The primary goal of the global programme is the effective implementation of SCORE Training - which combines practical classroom training with in-factory consulting. The SCORE Training is a modular programme that focuses on developing cooperative relations at the workplace. The five modules cover: workplace cooperation, quality management, clean production, human resource management, and occupational health and safety.⁴¹

The Centre for Child Rights and Business (The Centre).

The Centre is a leading centre on child rights and business. They support businesses to deliver improvements within their supply chains that not only benefit workers, families, and children, but also deliver positive business outcomes. They offer global expertise, services, and support covering a broad range of child rights and well-being issues.

³⁸ <http://www.lac.org.hk/newsite/en>

³⁹ www.sacom.hk

⁴⁰ www.lesnhk.org

⁴¹ https://www.ilo.org/global/docs/WCMS_613726/lang-en/index.htm

Their services cover responsible recruitment practices with a focus on child labour prevention and remediation, child rights risks assessments, support packages for young workers and other vulnerable groups, and a comprehensive set of services to create family-friendly workplaces in supply chains.⁴²

⁴² <https://childrights-business.org/>

4. Garment industry

China is the global leader of the garment export industry. Nevertheless, the apparel manufacturing industry revenue decreased at an annualised rate of 0.4% over the last five years through 2020, to total 320.2 billion USD in 2020. From 2020, growth is forecast to increase at a slower rate than it has over the past five years as the industry is maturing. The rising prices of raw materials, in addition to higher labour costs, have reduced profitability. The Apparel Manufacturing industry currently has 19,047 enterprises, employing 4.4 million workers with an estimated payroll of 45.6 billion USD.⁴³ According to a report by the chairman of the China Textile Industry Federation in 2019, the total amount of workers engaging in the textile and garment industry at the end of 2018 was 11,032,000 (11 million).⁴⁴

4.1 ORGANISATION OF THE GARMENT INDUSTRY

The Chinese textile and apparel industry is now at a crossroads. Companies in this sector face several key challenges including the increasing cost of raw materials, labour, energy, and power, and a shrinking workforce. Companies in the industry have the choice of either adding value to production or relocating production to cheaper areas. Many Chinese enterprises are aiming to climb up the value chain by improving quality, importing new equipment and technology, and increasing the production of innovative yarns and textiles, as well as outsourcing low-value production to neighbouring countries. In addition, increased regulations on environmental protection have led to increased energy efficiency and environmentally aware production processes.

Trends

Rates of growth have slowed as higher labour costs and recent protectionist measures take hold. Garment exports are declining as a share of China's total merchandise exports.⁴⁵ Current calls for increased tariffs on Chinese goods from the US could also significantly impact this downward trend. During 2019, a series of new tariffs imposed by both the US and China on some of each other's products raised fears of a trade war. From 1 September 2019, the US imposed a new tariff of 10% on certain goods, including clothing. Following trade talks in the autumn of 2019, however, the US exempted more products from the new tariffs and some were postponed. Amongst those exempted in September were textiles. A new Economic and Trade Agreement was signed by China and the US in January 2020, which outlined future cooperation and reduced tariff tensions.⁴⁶ Still, there was a significant drop in US imports of Chinese textiles during the second and third quarter of 2019 in response to both the threats and real tariffs imposed. Research suggested that around 866 million USD was lost in lowered exports to the US in the first half of 2019.⁴⁷

⁴³ Ibis World. "Apparel Manufacturing Industry in China." 30 July 2020. <https://www.ibisworld.com/industry-trends/international/china-market-research-reports/manufacturing/apparel-footwear-hat/apparel-manufacturing.html>

⁴⁴ China Textile Industry Federation. "Report by the chairman of the China Textile Industry Federation." 23 December 2019. <http://www.168tex.com/2019-12-23/1043132.html> [in Mandarin]

⁴⁵ Huynh, P. Employment, Wages and Working Conditions in Asia's Garment Sector: Finding New Drivers of Competitiveness. Bangkok: ILO. As referenced in International Labour Organization report "Industrial Relations Scoping Study: Decent work in the garment sector supply chains in Asia." 2015. https://www.ilo.org/wcmsp5/groups/public/-/asia/-/ro-bangkok/documents/meetingdocument/wcms_579467.pdf

⁴⁶ Office of the United States Trade Representative. "Economic and trade agreement between the Government of the United States of America and the Government of the People's Republic of China." https://ustr.gov/sites/default/files/files/agreements/phase%20one%20agreement/Economic_And_Trade_Agreement_Between_The_United_States_And_China_Text.pdf (accessed 08 December 2020)

⁴⁷ Zarocostas, John. "China exports plunge after US tariffs." 5 November 2019. <https://wwd.com/business-news/government-trade/china-exports-plunge-after-u-s-tariffs-1203363447/>

Technology

China is currently working to move away from labour-intensive garment manufacturing, in part because of a changing population, an aging workforce, and rising labour costs, and in part as a natural progression for developing economies. The Chinese government is actively promoting a shift towards higher-end production through various policies, including the ‘Made in China 2025’ initiative. This ten-year initiative seeks to improve competitiveness in diverse high-tech manufacturing by fostering advancement and innovation and move away from the labour-intensive/low labour cost model of production.⁴⁸ The Chinese textile industry has committed to improving research and development and technical innovations. As a result, the Chinese technical textile industry is growing at a much faster rate compared to the whole textile industry. With significant support from the central government, many Chinese producers in the industry are now seeking to produce high end, high value-added products.⁴⁹ This has also meant Chinese garment companies are moving production to neighbouring countries in Southeast Asia as well as African countries, where operations are cheaper.⁵⁰

4.2 MAIN EXPORTS FROM THE GARMENT INDUSTRY

According to 2019 customs data, China's textile and garment exports amounted to 271.836 billion USD, a year-on-year decrease of 1.89%. Of this, the cumulative export of textiles was 120.269 billion USD, with a year-on-year increase of 0.91%, and that of clothing was 151.367 billion USD, a year-on-year decrease of 4.00%. Europe, the United States, and Japan are China's main textile and clothing export countries and regions.⁵¹

Despite these challenges, it is likely that China will remain the top apparel-sourcing destination for most EU and US fashion apparel companies for a long time to come. Exports are a strong contributor to industry growth; in 2018, exports were expected to represent 18.9% of industry revenue. Exports peaked as a share of revenue in 1998 at 86.8%.⁵² Textile exports from Mainland China to Japan, Hong Kong, Republic of Korea, and the Association of Southeast Asian Nations (ASEAN), which have no quota restrictions, have increased.⁵³ China's textile exports to the EU have declined over the last five years, especially in the garment sector. In 2018, the EU imported 26,838 million Euro worth of clothing from China, compared to 29,973 million in 2015, but remaining the highest compared to Bangladesh in second place at 16,353 million Euro.⁵⁴ Moreover, China accounted for around 70% of the world's production of chemical fibres in 2019, with India being a distant second at 8%.⁵⁵

48 Knack, Oliver. “Side-by-side: Top 4 Asian countries for manufacturing garments.” 15 August 2017. <https://www.intouch-quality.com/blog/side-by-side-top-4-asian-countries-for-manufacturing-garments>

49 EU SME Centre. “Business Opportunities and Challenges in The Textile and Apparel Market in China, July 2017.” http://ccilec.pt/wp-content/uploads/2017/07/eu_sme_centre_report_tamarket_in_china_2017.pdf page 4

50 Fibre2Fashion. “Expansion & Shifting of Chinese & Indian Textile Manufacturing to Emerging Economies”. June 2019. <https://www.fibre2fashion.com/industry-article/8354/expansion-shifting-of-chinese-indian-textile-manufacturing-to-emerging-economies>

51 China Science and Technology Daily. “What textile industry depends on: 3.7 million fewer employees and 404.7 billion more total assets in five years”. 2019. https://www.sohu.com/a/391729257_350221 [in Mandarin]

52 IbisWorld. “Apparel Manufacturing Industry in China.” <https://www.ibisworld.com/industry-trends/international/china-market-research-reports/manufacturing/apparel-footwear-hat/apparel-manufacturing.html> (Accessed 28 October 2018)

53 EU SME Centre. “Business Opportunities ... in China.” 2017. page 5

54 Statista. “Leading Suppliers of Clothing Imported Into the European Union (EU-28) From 2015 to 2018” <https://www.statista.com/statistics/422241/eu-european-union-clothing-import-partners/> (accessed 7 December 2020)

55 Statista. “Distribution of Chemical Fiber Production Worldwide 2019, by Region.” <https://www.statista.com/statistics/271653/distribution-of-global-chemical-fiber-production-by-region/> (accessed 7 December 2020)

China also leads the world in viscose fibre production – accounting for about 65% of global viscose fibre production in 2018.⁵⁶

In 2019, according to data from the National Bureau of Statistics, the yarn output of Fujian Province, Jiangsu Province, Shandong Province, Henan Province, and Hubei Province reached 67.08% of the total national output. Xinjiang is the main cotton-producing area in China, and in 2019 cotton production there accounted for more than 80% of the country's total cotton output.⁵⁷

Chinese market

China is not a significant market for EU exports despite its growth, especially for garment and textiles. According to European Commission figures from 2018, EU-28 exports of clothing and textiles were 0.7 and 0.8 of the total value of EU goods exported to China respectively. However, those figures do represent a growth of almost 6% and 23% over the year 2017.⁵⁸

Number of enterprises

Chinese data shows that while there has been a small but steady increase in the number of textile factories in China, the trend for growth has slowed. In 2015, there were 21,560 textile factories, 17,280 factories producing fur for apparel, and 7,264 leather, leather products, and footwear factories in the private sector.⁵⁹ Similar statistics show that in 2017 there were 13,222 textile factories, 8,534 apparel and accessory factories, and 5,004 leather and fur-related factories, showing a decrease in the number of units.⁶⁰ This could indicate a trend towards consolidation or a movement of Chinese industries to other regions.

Production types

The ratio of apparel, home textiles, and industrial textiles produced in China has been shifting. It moved from 51:29:20 in 2010, to 46.8: 28.6: 24.6 in 2014, and is forecast to become 40:27:33 by the end of the current 13th Five Year Plan (2016-2020). This is in line with moves to value-added and technology-intensive textile products. Non-apparel products make up the largest segment of the textile market in China, accounting for 35% of the market's total value; the apparel segment accounts for a further 30%.⁶¹ Profit margins in both apparel and non-apparel sectors are low due to intense competition, lack of brand differentiation, and low value products.⁶²

4.3 MAIN AREAS FOR GARMENT PRODUCTION

Chinese textile and garment manufacturing is often characterised by industrial clusters specialising in the production of one or more products, with a complete chain of spinning, packaging, embossing, weaving,

⁵⁶ Townsend, Terry. Cotton Analytics. "Age of Cheap Polyester Ending As Environmental Concerns Mount." 5 June 2018. <http://cottonanalytics.com/2018/06/>

⁵⁷ Ibid. China Science and Technology Daily. "What...assets in five years". 2019. [in Mandarin]

⁵⁸ European Commission. "European Union, Trade in Goods with China." https://webgate.ec.europa.eu/isdb_results/factsheets/country/details_china_en.pdf (accessed 12 March 2020) page 4

⁵⁹ United Nations Industrial Development Organisation. 2018. <http://stat.unido.org/database/INDSTAT%202%202018,%20ISIC%20Revision%203>

⁶⁰ National Bureau of Statistics of China. "China Statistical Yearbook 2018". Chapter 13.6: "Main Indicators of Private Enterprises by Industrial Sector (2017)" <http://www.stats.gov.cn/tjsj/ndsj/2018/indexeh.htm>

⁶¹ EU SME Centre. "Business Opportunities ... in China." 2017. page 11

⁶² EU SME Centre. "Business Opportunities ... in China." 2017. pages 15-16, 6

dyeing, finishing, stitching ready-made garments and washing nearby. Most of these clusters are in the south and east of China. Since the 2009 State Council's Textile Restructuring and Revitalisation Plan to promote industrial transfer and regional distribution, new clusters arose in western and central China, and less developed towns in east China.

'Made in China 2025'

The 'Made in China 2025' (MIT) initiative marked the launch of a three-phase strategy to build manufacturing up until 2019 (the centenary of China's establishment as the People's Republic of China). It focuses on encouraging industries to move away from low value-added activities to medium- and high-end manufacturing, rather than pursuing production capacity. The MIT outlines six major tasks for the industry, including: industrial innovation, variation of production, quality and nurturing brands, intelligent manufacturing, green development, regional coordination and company strength. Five key sectors include chemical fibre innovation; expanding application of industrial textiles, improving natural fibre utilisation, and high-end textile machinery.⁶³

The strategy aims to eliminate inefficient and out-dated production, and is supported by a series of measures including tax changes and enforcement mechanisms (e.g. intellectual property rights protection and new industrial standards). By the end of 2020, research and development (R&D) expenditure of large- and medium-sized textile companies will account for 1% of their core business revenues, according to the plan.⁶⁴

Shift in centres of production

To reduce operating costs, textile and apparel manufacturers are increasingly moving away from the traditional centres of production in the south and eastern regions towards inland and western regions. The 'Go West' policy of the last decades has also contributed to this move. The relocation of Chinese manufacturing is forecast to open major employment opportunities for low-cost regions and countries.⁶⁵ Another factor driving the move inland is that it makes the organising of workers by Hong Kong-based labour groups more difficult.⁶⁶ However, as of now, the Pearl River Delta and Yangtze River Delta still have the most manufacturing clusters. The Wage Indicator Foundation suggests that as of 2016, 70% of garment output has come from the coastal provinces.⁶⁷

Free trade zones and special economic zones

Most free trade zones (FEZs) and special economic zones (SEZs) are in the south and east of China. However, in 2017, seven new FEZs were announced in less developed areas, chosen for their strategic location in line with the 'One Belt, One Road' (OBOR) plan.⁶⁸

⁶³ Xinhua Finance Agency. "China Unveils 13th Five-Year Plan on Textile Industry." 29 September 2016. http://en.xfinance.com/html/Industries/Consumer_Products_and_Services/2016/264304.shtml

⁶⁴ Ibid

⁶⁵ Hou, Jun; Gelb, Stephen; and Calabrese, Linda. SET. "The Shift in Manufacturing Employment in China." August 2017. https://set.odi.org/wp-content/uploads/2017/08/SET-China_Shift-of-Manufacturing-Employment-1.pdf

⁶⁶ War on Want & SACOM. "This Way to Dystopia, Exposing UNIQLO's Abuse of Chinese Garment Workers." 2016. https://waronwant.org/sites/default/files/WoW_uniqlo%20report%202016.pdf page 7

⁶⁷ WageIndicator Foundation. "Wages in Context in the Garment Industry in Asia THE CASE OF CHINA - May 05, 2016." <https://wageindicator.org/WageIndicatorfoundation/WageIndicatoregazine/2016/wages-in-context-in-the-garment-industry-in-asia-the-case-of-china-may-05-2016> (accessed 8 December 2020)

⁶⁸ Internships China. "SEZs for China's Economic Growth." 8 May 2020. <http://internshipschina.com/development-chinas-special-economic-zones/>

Impact of factory closures

One impact of these moves has been an increase in factory closures – mainly of smaller and less advanced units. For example, one indicative study revealed that 110 Japanese companies in China went bankrupt in 2016, citing increasing production costs and political tensions. The bankrupt companies left reported debts of 71.84 billion yen and caused the loss of 1,638 jobs. Of these, 63 were wholesale and 33 were manufacturing companies. The hardest-hit industry was apparel, which reported 54 bankruptcies, nearly half of the 110-annual total.⁶⁹ In turn, this has meant an increase in industrial action related to unpaid wages due to closures. According to figures from the China Labour Bulletin (CLB), in 2017, 102 out of 1,201 strikes that year were related to factory closures.⁷⁰

The plan to improve environmental standards has also led to increased risks for smaller and less efficient garment manufacturers. It is estimated that in 2016-2017, some 80,000 factories, many being garment or textile-producing—roughly 40% of the factories in China—were fined, charged, or closed because of emissions, monitored through improved inspections.⁷¹

4.4. EMPLOYMENT IN THE GARMENT INDUSTRY

According to the National Bureau of Statistic of China, the total amount of people employed in China in 2018 amounted to around 775.9 million.⁷²

The table below shows the ILO figures on garment employment for key producing countries in Asia. Figures from 2013 showed 4.5 million employed in the garment sector, of which 65% were women.⁷³ This percentage is consistent with the Wage Indicator Foundation estimates from 2015 that stated 4.9 million were employed in the Chinese garment industry, of which around 3.2 million were women.⁷⁴ This figure would exclude informal workers and home workers who are not registered.

Country	Total Population, Millions (Year)	Employment, Millions (Year)			% Women in Garment Industry
		Employees (2016) *	Garment Sector	% Employees in Garment Sector	
Bangladesh	164.67	17.28	3.14 (2016)	18%	45%
Cambodia	16.01	3.14 (2016)	0.61 (2016)	15%	>85%
China	1,409.52	509.79	4.50 (2013)	1%	65%

⁶⁹ Liu, Coco. South China Morning Post. “Why 110 Japanese Firms Went Bankrupts in China Last Year.” 13 February 2017. <http://www.scmp.com/week-asia/business/article/2069562/why-110-japanese-firms-went-bankrupt-china-last-year>

⁷⁰ China Labour Bulletin. “Strike Map.” <http://maps.clb.org.hk/strikes/en> (accessed 7 December 2020)

⁷¹ Donaldson, Tara. Sourcing Journal. “China Shuttters 80,000 Factories in Pollution Crackdown.” 27 October 2017. <https://sourcingjournal.com/topics/compliance/china-pollution-crackdown-80000-factories-closed-73961/>

⁷² Statista. “Number of Employed People in China From 2009 to 2019.” <https://www.statista.com/statistics/251380/number-of-employed-persons-in-china/> (accessed 7 December 2020)

⁷³ International Labour Organization. “Industrial Relations Scoping Study: Decent Work in the Garment Sector Supply Chains in Asia.” 2 October 2017. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/meetingdocument/wcms_579467.pdf page 4

⁷⁴ WageIndicator Foundation. “Wages in Context ... THE CASE OF CHINA - May 05, 2016.”

India**	1,339.18	102.73	51.00 (2016)	50%	40%
Indonesia	263.99	49.41	3.80 (2015)	8%	>50%
Myanmar	53.37	10.73	0.35 (2016)	3%	90%
Sri Lanka	20.88	4.47	0.27 (2012)	6%	>70%
Vietnam	95.54	23.04	2.50 (2015)	11%	>80%

*Employee figures are taken from ILO modelled estimates.

** The garment sector employment figure for India includes garment and textile workers

Data from 2018 showed that overall manufacturing growth rates in the already developed regions in eastern China slowed to around 4-6% per year, but according to one report, growth in manufacturing output in inland regions such as Sichuan, Henan, Shaanxi, Guizhou, and Jiangxi continue to rise at around 8-10% each year.⁷⁵

4.5 SOCIAL COMPOSITION OF THE GARMENT WORKFORCE

It is hard to gain up to date and accurate official data regarding the social composition of the garment industry workforce. After decades of the garment industry being made up primarily of young, mainly female, internal migrants, there are signs that this is changing. The working-age population in China peaked in 2013 and the migration of labour from rural to urban areas has slowed. As a response to the global financial crisis, many migrants left cities and returned to their home provinces. This trend has slowed but remains a factor in rising labour shortages and rising wages in the big manufacturing cities.⁷⁶

One survey revealed an increase in male workers in the garment-manufacturing sector from the mid-2000s onwards, with up to 60% of workers being male in the surveyed factories, though this is not common. The same study also found a rise in workers over 25 years old, with the previous pool of young, unmarried female workers having shrunk.⁷⁷ Some estimate the average age of garment workers to be as high as 40.

Migrant workers are making a significant contribution to the job market. Of the total estimated 774.71 million people employed in China⁷⁸, the population of (mainly internal) migrant workers has been increasing, with 290 million active at the end of 2019.⁷⁹ Of these, 117 million were local migrant workers (within the same provinces), a 0.7% increase compared to 2018, and 174 million migrant workers had moved to other provinces, a 0.9% increase compared to 2018.⁸⁰

⁷⁵ Zhou, Yvonne; Wong, John; Walters, Jeff; Rose, Justin; and Maecker, Lars. Boston Consulting Group. "China's Next Leap in Manufacturing." 13 December 2018. <https://www.bcg.com/en-gb/publications/2018/china-next-leap-in-manufacturing.aspx>

⁷⁶ National Bureau of Statistics of China. "China Statistical Yearbook 2017." <http://www.stats.gov.cn/tjsj/ndsj/2017/indexeh.html>

⁷⁷ Chan, A. ed. Walmart in China. Cornell University Press. 2011. page 78

⁷⁸ Statista. "Number of Employed People in China From 2009 to 2019." 20 November 2020. <https://www.statista.com/statistics/251380/number-of-employed-persons-in-china/>

⁷⁹ People's Republic of China State Council. "Job Recruitment Rose in Q3, Vice-Minister Says." 29 October 2020. http://english.www.gov.cn/archive/statistics/202010/29/content_WS5f9a1745c6d0f7257693e977.html

⁸⁰ Ministry of Human Resource and Social Security. "Statistical bulletin of human resources and social security development in 2019." 11 September 2019. <http://www.mohrss.gov.cn/SYrlzyhshbzb/zwgk/szrs/tjgb/202006/W020200608534647988832.pdf> [in Mandarin]

5. Industrial relations

China has not ratified ILO Conventions 98 and 87 on freedom of association and the right to collective bargaining. In 2018, the ITUC's 2018 Global Rights Index once again gave China a rating of 5 under 'no guarantee of rights' and ranking China as one of 'the worst countries in the world to work in.'⁸¹

The only legal trade union organisation in China is the government-controlled All-China Federation of Trade Unions, which has long been criticised for failing to properly defend workers' rights. While workers in China are afforded important protections under existing laws, violations of labour and employment regulations are widespread. There is no genuine freedom of association in China. In many cases, laws are not properly implemented or are ignored with relatively high levels of impunity. Since 2015, authorities have increasingly cracked down on labour activists and related NGOs.

5.1 THE ALL-CHINA FEDERATION OF TRADE UNIONS (ACFTU)

The All-China Federation of Trade Unions (ACFTU) was established in 1925 and is the only national centre of trade unions in China. It represents Chinese workers in ILO meetings and various activities. The salary of union officials does not come from ACFTU funds but from the State Treasury. Throughout China, there are approximately one million full-time ACFTU staff members with some 600 based in the Beijing headquarters.⁸²

The Trade Union Law is the key legislation on trade union organisation. It states that 25 or more employees must be allowed to form an enterprise trade union (ETU) or if under 25, they can form a 'basic-level' trade union committee. Once an ETU has been formed, their employer must pay 2% of its workforce's wages to the ACFTU, ostensibly to support its employees and the local ETU's activities. These activities are loosely defined in the Trade Union Law. They include staff education, protecting the property of the enterprise and State, making 'rational' proposals and technical renovations, and vocational training outside of work hours. The ACFTU has come under considerable pressure to reform. In the last two decades, it has begun to experiment with collective consultation and unionisation of the private sector. One well-known case is the unionisation of Chinese Walmart workers, which was initiated by workers but aided by the ACFTU. However, support of workers' movements by the ACFTU is rare and in most disputes the ACFTU works in tandem with company management. In general, the company and not the workers predominantly choose ETU management. Workers are often unaware that their enterprise has a union and if they are aware, they consider it part of the company management (see also chapter 6.4).

One of the ACFTU's key priorities is to support the upgrading of the labour force's skills. The State Council issued a national Occupational Skills Upgrade Action Plan (2019-2021) in May 2019 targeting workers in manufacturing. Under this three-year plan, the government is to subsidise various occupational skill trainings to around 50 million workers. As of May 2020, 698 high-skilled labour force training centres and 862 national level master skills workshops had been set up for this purpose. In addition, training plans have been developed on industrial robots, big data, and 3D print skills.

⁸¹ ITUC. "2018 ITUC Global Rights Index." <https://www.ituc-csi.org/IMG/pdf/ituc-global-rights-index-2018-en-final-2.pdf> page 10

⁸² Griffiths, Robert. Morning Star. "Chinese Unions Grow in Number and Strength." <https://morningstaronline.co.uk/article/chinese-unions-grow-numbers-and-strength> (accessed 7 December 2020)

By the end of 2021, the three-year plan aims to have 25% of the total labour force be skilled, and over 30% of the labour force be highly skilled.⁸³

5.2 UNION DENSITY IN CHINA

Overall union density increased between 1994 and 2008 from around 19% to 31%, after a decrease from 1994 till 1999 due to the restructuring of state-owned enterprises. It has proven hard to obtain more current data, though the growth rate generally appears to have increased with the ACFTU pushing for greater unionisation.⁸⁴

As of 2018, An Jianhua, head of the international department of the ACFTU, state that the ACFTU represented 44% of the labour force and an upsurge in membership to 308 million — more than the International Federation of Trade Unions and the World Federation of Trade Unions put together.⁸⁵ Other figures, taken from official sources state that in September 2016 there were 2.82 million grassroots unions with a total membership of 302 million.⁸⁶ China has a stated aim of unionising 90% of its workforce, with the overall goal of the labour force and production running smoothly. However, this high membership is not meaningful when we look at the reality of trade union activities inside enterprises. Moreover, the number of strikes has increased each year.⁸⁷

5.3 COLLECTIVE BARGAINING AGREEMENT COVERAGE IN CHINA

The Chinese Trade Union Law uses the term ‘collective consultation/negotiation’ (‘xie shang’) instead of the more antagonistic sounding ‘bargaining’ (‘tan pan’) to define the official process of employment relations.

In the late 2000s, the ACFTU made collective negotiations a high priority, investing time and resources into expanding the coverage of collective contracts. Nevertheless, the State and the ACFTU have been very cautious about controlling workers’ aspirations, and have insisted on the fundamental harmony of interests between labour and capital. Actual bargaining rarely occurs, and enforcement is largely non-existent. The few shining examples where employers have made real compromises during collective bargaining have followed autonomously organised wildcat strikes (unofficial industrial action).⁸⁸

Although workers have never enjoyed the right to strike in practice, the right was formally included in the Chinese Constitutions of 1975 and 1978. Deng Xiaoping removed it from the Constitution just as private capital began pouring into China in the early 1980s.⁸⁹

⁸³ ACFTU. “ACFTU press conference during the NPC and CPPCC”. 14 May 2020. http://www.acftu.org/template/10041/news_file.jsp?cid=1046&aid=100405 [in Mandarin]

⁸⁴ Budd, John; Chi, Wei; Wang, Yijiang; and Xie, Qianyun. Journal of Labor Research. “What Do Unions in China Do? Provincial-Level Evidence on Wages, Employment, Productivity, and Economic Output.” January 2014. <http://jbudd.csom.umn.edu/RESEARCH/Chinese-Union-Provincial-Efforts-final.pdf> page 16

⁸⁵ Griffiths. “Chinese Unions Grow in Number and Strength.”

⁸⁶ China Labour Bulletin. “Trade union reform: Comparing the achievements claimed by the ACFTU with results on the ground”. 18 October 2018. <https://clb.org.hk/content/trade-union-reform-comparing-achievements-claimed-acftu-results-ground>

⁸⁷ USCBC. China Business Review. “Trade Union Law and Collective Bargaining in China.” 21 April 2017. <https://www.chinabusinessreview.com/trade-union-law-and-collective-bargaining-in-china/>

⁸⁸ Friedman, Eli. Chinoiresie. “Collective Bargaining in China is Dead: The Situation is Excellent.” 20 April 2017. <https://www.chinoiresie.info/collective-bargaining-in-china-is-dead-the-situation-is-excellent/>

⁸⁹ Ibid.

5.4 COLLECTIVE BARGAINING AGREEMENT COVERAGE IN THE GARMENT INDUSTRY

Cases of collective bargaining agreements and negotiation around piece rates (pay per unit produced by employee) at the industry level have been recorded in the textile and garment industries, but there is no specific data for collective bargaining agreement coverage in the garment sector. In these instances, collective negotiation was welcomed by small-to-medium enterprises as a way to coordinate around wages and reduce turnover.⁹⁰

5.5 LOCAL GRIEVANCE MECHANISMS FOR WORKERS

The settlement of labour disputes in China is largely governed by the Labour Dispute Mediation and Arbitration Law, the subordinate Rules for Handling Arbitration Cases Involving Labour and Personnel Disputes, and the Civil Procedure Law. The system generally consists of four stages: consultation, mediation, arbitration, and courts. A consultation hotline operated by the local social security bureau – 12333 – is available for workers.

Labour disputes are classified into individual and collective disputes. The Labour Dispute Arbitration Committees (LDACs) decide whether a case is acceptable depending on criteria such as an established employment relationship. According to the Labour Dispute Mediation and Arbitration Law, employees must apply for arbitration within one year of the dispute arising. If the dispute cannot be resolved in the first stage, the parties can move on to mediation or, 15 days after having requested mediation, the more formal arbitration. If the dispute is still not resolved, LDACs conduct open hearings and can issue rulings that are legally enforceable. In most cases, the ruling of the committee is final. If the employees are not satisfied with the ruling, they can appeal in civil courts within 15 days. If the employers want to appeal the ruling, they can move to invalidate the decision of LDACs on technical and procedural grounds. Employment-related claims are typically settled via settlement agreements and arbitration awards. Civil courts will also issue binding awards in limited cases where they have jurisdiction.⁹¹

New Rules by the Chinese Ministry of Human Resources and Social Security came into force in July 2017 and aim to improve efficiency, consistency, and practicability. They offer a wider fast-track summary procedure, broadening the scope of cases subject to non-open hearings. They also provide detailed guidelines on arbitration jurisdiction priority—priority ‘should’ be given to disputes involving over ten employees who make a common request or those arising from the performance of collective labour contracts. Previously, cases where: (i) the material facts were clear, (ii) the rights-obligation relationship was evident, (iii) the dispute was not serious, and (iv) both parties agreed to go through the summary procedure to obtain a solution, could take advantage of the summary procedure in arbitration. The New Rules add one more category: cases where the subject amount does not exceed the local city annual average employee wage for the previous year, thus, expanding the scope of cases that can be resolved expediently through this procedure. Importantly, the New Rules also clarify compensatory payments, including double pay as a result of a failure to sign a labour contract; probation illegally agreed upon; and illegal termination or rescission of the labour contract.⁹²

⁹⁰ Kuruvilla, Sarosh and Zhang, Hao. “Labor Unrest and Incipient Collective Bargaining in China.” 2016. http://eprints.lse.ac.uk/65208/1/Kuruvilla_Labor%20Unrest%20and%20Incipient.pdf

⁹¹ Ying, Wang; Walsh, Pattie; de Silva, Susan; and Peacock Smith, Kristy. Bird & Bird. “China Employment Law Update – July 2017.” <https://www.twobirds.com/en/news/articles/2017/china/frontline-china-employment-law-update-jul-2017>

⁹² Ibid.

The number of local arbitration and mediation committees formed to handle labour disputes increased from 165,000 in 2001 to 660,000 in 2011.⁹³ From 1 Jan 2018 to 23 Apr 2019 there were 190,832 cases.⁹⁴ Figures show that the number of labour dispute cases resolved through arbitration and mediation committees continues to grow, with a higher number of cases resolved through mediation than through arbitration.⁹⁵

Overall, the system and the authorities prefer a mediated approach to case resolution rather than the formal arbitration and legal processes. The LDACs and civil courts often urge the parties to agree to a mediated settlement rather than issuing a formal ruling, which can result in workers settling for less than their legal entitlements.⁹⁶ It is thought that workers would get a preferential result if they took cases through the final court stage, however, if the case does go to court, the process can be very lengthy, in part due to a lack of personnel.⁹⁷ With the changing nature of the Chinese garment industry, it is highly likely that there will be an increase in collective disputes as companies fail or relocate.⁹⁸ Furthermore, the LDACs and courts encourage cases to be brought by individuals rather than collectively, therefore collective disputes are rarely resolved in the official dispute resolution system.⁹⁹

Grievance mechanisms at the manufacturing level are limited and lack effectiveness. Those internal mechanisms rarely ensure the anonymity of the complainants or protect the workers from retaliation by the factories. A lack of grievance structures to resolve complaints or labour disputes at the factory level is common.

5.6 STATE ROLE IN INDUSTRIAL RELATIONS

The local labour bureau handles complaints and labour disputes. If the disputes cannot be solved, they will be moved onto arbitration or litigation. The Labour Dispute Arbitration Committees are the conciliation machinery for both individual and collective labour disputes. Under the Trade Union Law (articles 34/35), there is a National Tripartite Conference for Coordination of Labour Relations (under the Ministry of Labour and Social Security), which acts as an advisory and consultative body. In theory, the Conference is tripartite with representation from the government, the employers, and the workers. Given that workers are not really represented by the ACFTU, the Conference does not generally follow workers' interests. Similar tripartite consultation bodies exist at provincial, municipal, and district levels.¹⁰⁰

⁹³ Budd et al. "What Do Unions in China Do?" 2014. page 22

⁹⁴ Gridsum. "Gridsum Big data analysis report on labor dispute cases in 2019." 1 May 2019. <https://mp.weixin.qq.com/s/Hwmb7Nriy4LWwmZPKK2YBA> [in Mandarin]

⁹⁵ Chi W., Ji Y., Huang W. "Mediation and Conciliation in Collective Labor Conflicts in China." 2019. Taken from: Euwema M., Medina F., García A., Pender E. (eds). Mediation in Collective Labor Conflicts. Springer. https://link.springer.com/chapter/10.1007/978-3-319-92531-8_17#Fig4 Figure 17.4

⁹⁶ ILO. "Industrial Relations Scoping Study: Decent work in the garment sector supply chains in Asia. Based on research carried out by Professor Michele Ford and Dr Michael Gillan." 2 October 2017. <https://research-repository.uwa.edu.au/en/publications/industrial-relations-scoping-study-decent-work-in-the-garment-sec>. page 17

⁹⁷ China Briefing. "Labor Disputes in China: Prepare for Aggressive Negotiating, Uncomfortable Concessions – Part Two." 5 July 2017. <http://www.china-briefing.com/news/labor-disputes-china-prepare-aggressive-negotiating-uncomfortable-concessions-part-two/>

⁹⁸ Ibid.

⁹⁹ Ibid. ILO. "Industrial Relations Scoping Study..." 2 October 2017. Page 17-18 (China Labour Bulletin, 2014)

¹⁰⁰ Wage Indicator. Decent Work Check China. <https://wageindicator.org/documents/decentworkcheck/asia/china-english>

5.7 MECHANISMS FOR SOCIAL DIALOGUE (NATIONAL/SECTORAL)

Since China has not ratified Convention 87 and 89 on freedom of association and collective bargaining, and there are no independent trade unions, social dialogue is institutionalised in China via the ratification of ILO Conventions and concerns ILO-related matters only. China's tripartite consultation system is comprised of three parties: government representatives from the Ministry of Labour and Social Security, employee representatives from the ACFTU, and employer representatives from the China Enterprise Confederation (CEC/CEDA). As a response to the global economic crisis, these three parties issued 'Guiding Opinions on Stabilising Labour Relations in the Current Economic Situation', with recommendations to help enterprises survive, help workers keep their jobs, and maintain social stability by using tripartism. However, as mentioned above, with only representatives from the ACFTU allowed, workers are not independently represented in the tripartite system.

6. Implementation of the Fair Wear Code of Labour Practices

In this chapter, the implementation of the Fair Wear Code of Labour Practices is examined by looking at official statistics on compliance (where available), laws and regulations, as well as various stakeholders' opinions and analysis on implementation. Each section starts by quoting one of the code's eight labour practices. Text in italics is quoted from relevant laws.

China has ratified four of the eight fundamental core Conventions and has ratified 26 of the total 189 ILO Conventions.¹⁰¹ This is fewer than ratification by Turkey of 59, India at 47 and Bangladesh at 35. However, both Vietnam (25) and Cambodia (13) fall below China in number of ILO Convention ratifications.¹⁰²

Working conditions in the Chinese garment industry remain poor, with unpaid and forced overtime, and underpayment of wages being the most prevalent problems. The lack of freedom of association means that workers have no access to independent trade unions, which can lead to strikes and informal work stoppages, as workers have few internal legal mechanisms for quickly resolving disputes.

The government does not see discrimination in the workplace as a high priority, though women are greatly affected by lower wages and their lack of protection in the workplace remains a concern. Migrant workers who lack legal residency in cities where they work also face multiple levels of discrimination. Issues around the abuse of agency and contract workers are increasing in line with changes in employment patterns in the industry.

Overall, enforcement of labour laws is improving. However, this is very much led by the government's interests, which depend heavily on current political priorities and policies. One example is the current push for the improved payment of social security provisions. Other efforts at reform have not been wholly successful.

In the following chapter, complaints received and audits conducted regarding China have been analysed for the four-year period of 2016 to 2019.

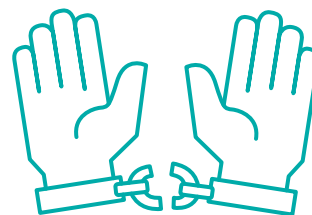
¹⁰¹ International Labour Organization. "China Country Information." https://www.ilo.org/gateway/faces/home/ctryHome?locale=EN&countryCode=CHN&_adf.ctrl-state=t7930gjd0_9 (accessed 08 December 2020)

¹⁰² International Labour Organization. "Regions and Countries." <https://www.ilo.org/global/regions/lang-en/index.htm> (accessed 08 December 2020)

6.1 EMPLOYMENT IS FREELY CHOSEN



There shall be no use of forced, including bonded or prison, labour. (ILO Conventions 29 and 105)



Official statistics on compliance

In China, forced labour is a sensitive topic and the government does not provide official figures on cases of forced labour. However, the Global Slavery Index estimated that in 2016 there were over 3.8 million people living in conditions of modern slavery in China.¹⁰³

The Chinese Ministry of Public Security reported the investigation of 1,004 cases of human trafficking in 2016, of which 45 were cases of forced labour, resulting in the arrest of 75 suspects.¹⁰⁴ It was not specified in which industry these particular cases were found. However, in the same year, cases of forced child labour were reported in a garment factory in Changshu, Jiangsu province. Children were forced to work overtime hours, facing violent disciplinary action such as beating if they did not comply, and had their mobile phones and passports/ID cards confiscated if they attempted to run away.¹⁰⁵

Laws and regulations

Chinese national legislation protects free employment, despite not having ratified ILO Conventions 29 (forced labour) and 105 (abolition of forced labour). In legal terms, the PRC's law (Labour Law and Labour Contract Law) currently complies with the Fair Wear Code of Labour Practices in relation to the prohibition of forced or bonded labour.

Article 96 of the Labour Law of the People's Republic of China, hereafter referred to as the PRC Labour Law, prohibits forced labour, while Article 3 of the PRC Labour Law stipulates that employees have the right to be employed on an equal basis, choose their occupation, take rest, and have holidays and leave. Article 9 of the PRC Labour Contract Law forbids the employer from retaining any worker's official documents or collecting personal property when hiring. Article 31 regulates that employers may not oblige employees to work overtime, while Article 37 guarantees employees have the freedom to terminate the employment relationship with 30 days' notice.

In accordance with Article 88 of the PRC's Labour Contract Law, if an employer:

1. Compels an employee to work by use of force, threat, or by means of illegally restricting personal freedom;
2. Forces dangerous operations, which are in violation of the relevant procedures and are harmful to life;
3. Insults, corporally punishes, beats, illegally searches, or detains an employee; or
4. Provides odious working conditions or a severely polluted environment, resulting in serious harm to the physical or mental health of employees;

¹⁰³ Global Slavery Index. "China Country Study, 2018." <https://www.globalslaveryindex.org/2018/findings/country-studies/china/>

¹⁰⁴ Ibid.

¹⁰⁵ Xiaoli, C. Shanghai Daily. "Undercover Video Reveals Child Labor in Changshu." 24 November 2016. <https://www.shine.cn/archive/viral/omg/Undercover-Video-Reveals-Child-Labor-in-Changshu/shdaily.shtml>. (accessed 08 December 2020) [video in Mandarin]

The employer shall be subject to administrative punishment; where a crime is committed, (the responsible persons) shall be affixed with criminal liabilities; where the above cases have caused harm to the employee, the employer shall be responsible for compensation.

Victims of forced labour can reach out to the Labour Dispute Arbitration Committees, or the local People's Congress Committee to lodge their complaints or pursue legal arbitration.

'In early 2017, the Chinese government made a positive step towards reducing forced labour in both foreign- and locally-owned enterprises with the announcement of two new measures to punish and prevent labour violations. Under a new grading system which measures employers' compliance with labour regulations ('Measures for Publicising Material Violations of Labour Security'), employer misconduct will be publicised on the MOHRSS website and in local media; offending employers will also be subject to more frequent labour inspections. A second set of measures ('Measures for the Credit Rating Evaluation of Enterprises in Labour Security Compliance'), state that the credit ratings of these offending employers may also be downgraded.'¹⁰⁶

Stakeholders' opinion and analysis on implementation

While most reports of forced labour occur in the construction, brick making, and agricultural industries, there have been reports of forced prison labour in the garment industry in the past¹⁰⁷ and more recently there is a lot of media attention around forced labour of Uyghur workers in Xinjiang and North Koreans in China. In addition, certain practices that are relatively common in the garment industry can amount to workers being employed in conditions similar to forced labour. This includes the non-payment or withholding of wages and forced overtime.

Withholding wages

A key problem that occurs on the manufacturing side of the garment industry is the withholding of wages in order to prevent workers from leaving an employer. It remains common practice for employers to offer workers who want to leave a choice between 'voluntary departure' (zi-li) and 'resignation' (ci-gong). Voluntary departure without management approval, in most cases, results in the worker forfeiting all unpaid wages. 'Written resignation' provides full back pay but requires the worker to be fully informed of the procedure and management approval, which is often not forthcoming. This situation may continue to increase as it is one way that employers can attempt to retain a shrinking workforce.

Forced overtime

Forced overtime is a common occurrence, especially in peak season, with workers often not receiving overtime premiums. However, since most workers are paid a piece rate, they are often willing to accept the overtime in order to increase their salaries.

Forced prison labour

'In 2013, the Chinese government officially announced that it would abolish the Re-education Through Labour (RTL) system, in which inmates were held and routinely subjected to forced labour for up to four

¹⁰⁶ Global Slavery Index. "China Country Study, 2018."

¹⁰⁷ Preuss, Simone. Fashion United. "China, the garment king: a portrait." 23 October 2013. <http://www.fashionunited.co.uk/fashion-news/fashion/china-the-garment-king-a-portrait-2013102318813> (accessed 8 December 2020)

years.¹⁰⁸ However, regular reports of alleged use of forced prison labour in the garment industry continue.

¹⁰⁹ It has proved almost impossible to verify the facts behind these reports.

Xinjiang Uyghur Autonomous Region

In the western Xinjiang Uyghur Autonomous Region, a predominantly Muslim minority Uyghur region, Human Rights Watch reported that authorities stepped up mass surveillance, and restricted Uyghurs cultural and religious rights.¹¹⁰ Reports have emerged of up to one million Uyghurs being detained in political 're-education camps' for supposed education and assimilation.¹¹¹

A recent policy brief 'Uyghurs for Sale' by the Australian Strategic Policy Institute indicated that international companies in China run a risk of having or having had forced labour by the Uyghur people in their supply chains.¹¹² In January 2020, the Fair Labor Association (FLA) also published a briefing, identifying an increased risk for forced labour in Xinjiang. It indicated the risk stems from forced labour by the aforementioned one million detained Uyghurs and by prisoners incarcerated in China's regular judicial system.¹¹³ Moreover, China is the largest cotton producer in the world, accounting for approximately 20% of the world's production, with reportedly over 80% of its cotton coming from the Xinjiang region. Cotton and yarn produced in Xinjiang are used extensively in other key garment-producing countries.

In line with the UN guiding principles for Business on Human Rights, companies can be held liable for perpetrating forced labour by benefitting from it and have a duty to respect workers' fundamental human rights.

Fair Wear requires their members to establish clear policies and processes to prevent and remediate forced labour. In addition, while outside the scope of brand membership, Fair Wear recommends members to include cotton originating from the Xinjiang Uyghur Autonomous Region in their due diligence efforts and risk assessments that go further than tier one.

Liaoning province and North-Korea

In April 2019, the Leiden Asia Centre published a report stating international companies working with Chinese companies near Dandong City in Liaoning Province run 'a very high and very real risk of having (had) North-Korean forced labour/contemporary slavery in their supply chains.'¹¹⁴

¹⁰⁸ Ibid.

¹⁰⁹ See here for an example: Brain, Marc. Quartz. "Chinese Prisoners Allegedly Made Products for H&M and C&A." 20 February 2018. <https://qz.com/1209468/hm-and-ca-are-accused-of-benefitting-from-chinese-prison-labor/> and;

NL Times. "Retailers C&A, H&M Accused of Using Chinese Prisoners to Make Clothes." 20 February 2018. <https://nltimes.nl/2018/02/20/retailers-ca-hm-accused-using-chinese-prisoners-make-clothes>

¹¹⁰ Human Rights Watch. "China. Events of 2017."

¹¹¹ Hoshur, Shohret, and Lipes, Joshua (English). Radio Free Asia. "Around 120,000 Uyghurs Detained For Political Re-Education in Xinjiang's Kashgar Prefecture." 22 January 2018. <https://www.rfa.org/english/news/uyghur/detentions-01222018171657.html>

¹¹² Xiuzhong Xu, Vicky; Cave, Danielle; Leibold, James; Munro, Kelsey; and Ruser, Nathan. Australian Strategic Policy Institute. "Uyghurs for Sale." 1 March 2020. <https://www.aspi.org.au/report/uyghurs-sale#:~:text=%20Uyghurs%20for%20sale%20%201%20Executive%20summary,involvement%20of%20knee-jerk%20rejection%20of%20Uyghur...%20More%20>

¹¹³ Fair Labor Association. "Forced Labor Risk in Xinjiang, China." 9 January 2020. <https://www.fairlabor.org/report/forced-labor-risk-xinjiang-china-0>

¹¹⁴ Breuker, Remco and van Gardingen, Imke. Leiden Asia Centre. "Tightening Belts: Two Regional Case Studies on Corporate Social Responsibility." 2 April 2019. https://www.universiteitleiden.nl/binaries/content/assets/geesteswetenschappen/lia/onderzoek-breuker-ea---tightening-belts---two-regional-case-studies-on-corporate-social-responsibility.pdf?mc_cid=7a7b1f866a&mc_eid=adbaf4ba31

There have also been reports of Chinese enterprises sub-contracting into North-Korean factories from the border city of Dandong. Orders are passed through agents in the city to nearby factories where wages are much lower and working conditions poor. Given the widespread restrictions of freedom of expression and association in North Korea, these workers fall under the definition of forced labour.¹¹⁵

In both cases wages for these workers either exclusively go to their government representatives or are paid in part to these officials.

Illegal workers and trafficking

The smuggling of illegal workers from Vietnam, Laos, and Myanmar is reportedly growing. Labour brokers estimate that tens of thousands work at factories in the Pearl River Delta. Reports state that these workers are supplied with fake ID cards and sometimes confined to factory compounds. Human smuggling syndicates, along with local gangs, take a portion of the wages paid to the workers and charge factories a fee for supplying these workers. Workers are reliant on the smuggling gangs to retain employment and are paid much less than local workers.¹¹⁶

Main audit findings over the last four years

There were no audit findings on forced labour. However, extensive overtime can sometimes be classified as forced labour and in recent years child and/or forced labour have often been disguised as student labour for juveniles through work-study programmes and apprenticeships, including extensive overtime with little pay. For more information, see chapter 6.3 on child labour.

Worker complaints related to 'Employment is freely chosen'

Fair Wear' complaints procedure serves as a safety net. When a complaint is filed, the affiliate(s) sourcing from the factory in question is informed and investigates the complaint. All the complaints are published on the website.

During the four-year period from 2016 to 2019, five complaints regarding freely chosen employment were received. Most complaints related to an unclear (piece rate) salary, forced overtime, the non-approval of resignation mainly due to labour shortages, and a failure to pay due wages after resignation.

¹¹⁵ Wong, Sue-Lin and Wen, Philip. Reuters. "North Korea Factories Humming with 'Made in China' Clothes, Traders Say." 12 August 2017. <https://www.reuters.com/article/us-northkorea-labour-china-insight/north-korea-factories-humming-with-made-in-china-clothes-traders-say-idUSKBN1ATooQ>

¹¹⁶ Pomfret, James. Reuters. "Special Report: How Smuggled Workers Power 'Made in China'." 5 August 2015. <https://www.reuters.com/article/us-china-labour-illegal-special-report/special-report-how-smuggled-workers-power-made-in-china-idUSKCN0QB0oH20150806>

6.2 THERE IS NO DISCRIMINATION IN EMPLOYMENT

In recruitment, wage policy, admittance to training programmes, employee promotion policy, policies of employment termination, retirement, and any other aspect of the employment relationship shall be based on the principle of equal opportunities, regardless of race, colour, sex, religion, political affiliation, union membership, nationality, social origin, deficiencies, or handicaps. (ILO Conventions 100 and 111)



Official statistics on compliance

The ILO estimated that the female labour force participation rate in China decreased from 79% in 1990 to 69% in 2017. However, this remains higher than average and far higher than for example Bangladesh at 34.8%.¹¹⁷

The UN Gender Development Index (GDI) measures gender gaps in human development achievements by accounting for disparities between women and men in three areas—health, knowledge, and living standards—using the same component indicators as the Human Development Index (HDI). In 2018, China had a GDI score of 0.961, which ranks China in group 2 (out of 5), with a medium-high equality in HDI achievements between women and men.

UN Gender Development Index score 2018 ¹¹⁸				
China	Bangladesh	Turkey	Cambodia	India
0.961	0.895	0.924	0.919	0.829

UN Human Development Index score 2018 ¹¹⁹				
China female/male	Bangladesh female/male	Turkey female/male	Cambodia female/male	India female/male
0.741/0.771	0.575/0.642	0.771/0.834	0.557/0.606	0.574/0.692

The UN Gender Inequality Index (GII) is a composite measure reflecting inequality in achievement between women and men on three dimensions including the labour market. The higher the GII value, the more disparities between females and males. China scored 0.168 on the GII, which was significantly lower than other garment producing countries.

¹¹⁷ International Labour Organization. ILOSTAT Database. "Labour Force Participation Rate, Female (% of Female Population Ages 15-64) (Modeled ILO Estimate) – China." <https://data.worldbank.org/indicator/SL.TLF.ACTLFE.ZS?locations=CN> (accessed 4 October 2018)

¹¹⁸ United Nations Development Programme. "Human Development Report 2018." <http://hdr.undp.org/en/content/table-4-gender-development-index>
Table 4: Gender Development Index.

¹¹⁹ Ibid.

UN Gender Inequality Index score 2019 ¹²⁰				
China	Bangladesh	Turkey	Cambodia	India
0.168	0.537	0.306	0.474	0.488

Laws and regulations

China has ratified 2 of the fundamental ILO Conventions on discrimination, Convention 100 (equal remuneration) and Convention 111 (discrimination in employment and occupation).¹²¹ National legislation prohibiting workplace discrimination is found in Article 12 of the Labour Law: ‘Labourers shall not be discriminated against in employment, regardless of their ethnic community, race, sex, or religious belief’. Article 13 and 14 guarantee equality for women, the disabled, minorities, and demobilised army men. An additional stipulation states that gender should not be used as a pretext to exclude women from employment, ‘except for the types of work or posts that are not suitable for females as stipulated by the State’.

In-country migrants

Article 31 of the Employment Promotion Law stipulates that rural workers working in the city should have equivalent employment rights to those of urban labourers, and should not be discriminated against. However, in practice the ‘hukou’ or ‘hu ji’ system, a form of household registration required by law, classifies rural and urban residents and causes discrimination against internal migrant workers. The hukou system designates a resident’s status as being either rural or urban based on their registered birthplace. In practice, this means a rural migrant worker may not be able to get public services in the city in which they work, or their social security contributions may be different, resulting in lower benefits. The government has been reforming the system in the past few years and has announced that it will expand urban residency permits to 100 million migrant workers by 2020. However, some believe that this may not be financially possible.¹²²

Equal pay

Article 46 of the Employment Law states that: ‘Wages shall be paid according to the principles of “to each according to his work” and “equal pay for equal work”’. The Regulation on the Protection of the Rights of Women protects the equal employment, payment, promotion, and other rights of female workers. Article 19 of the Regulations of Employment Service and Administration prohibits discrimination against workers with hepatitis B.

Stakeholders’ opinion and analysis on implementation

Due to labour shortages in the recent years, age and gender discrimination have become less predominant in the Chinese garment sector. Although not many noncompliance issues are found regarding discrimination in social compliance audits, discrimination in the Chinese garment industry does exist. Although the principle of equal pay for equal work exists in Chinese law, in general, as is common in other garment-producing countries, women workers tend to be found in the lowest paid positions, and assisting jobs, while male workers are more often found in the higher paying positions. Women face extensive discrimination in terms of opportunities for advancement and the payment of all gender-based benefits, such as maternity leave. According to the Global Gender Gap Report in 2018, China was ranked 103th out of 149 countries, where the estimated earned income in China was 12,789 USD for female workers and 20,586 USD for male workers per year.¹²³

¹²⁰ UNDP. “Gender Inequality Index (GII)” 2019. <http://hdr.undp.org/en/indicators/68606>

¹²¹ ILO. Ratifications for China. https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103404

¹²² Sheehan, Spencer. The Diplomat. “China’s Hukou Reforms and the Urbanization Challenge.” 22 February 2017. <https://thediplomat.com/2017/02/chinas-hukou-reforms-and-the-urbanization-challenge/>

¹²³ World Economic Forum. “Global Gender Gap Report 2018 – China.” <http://reports.weforum.org/global-gender-gap-report-2018/data-explorer/#economy=CHN> (accessed 7 December 2020)

Female factory workers are generally less well educated than their male counterparts and are generally given the less well-paid positions, with less training and opportunities for advancement. One 2010 study of 3,000 workers revealed workplace gender discrimination in recruitment, compensation, promotion, protection, and retirement.¹²⁴

Since 2012, Chinese women have been entitled to at least 98 days paid maternity leave. However, since the introduction of the two-child policy at the start of 2015, many provinces and regions keen to lift the birth rate now require that employers provide more leave. In the garment sector, though, many employers prefer to have their pregnant workers quit.¹²⁵ Maternity leave is rare and there are worker reports of factories forcing pregnant women out.¹²⁶ Migrant workers end up having to go back to their hometowns. While it is illegal to terminate an employee during her pregnancy (and up until the baby is one year old), and fixed-term contracts must be automatically renewed, reports of women being terminated or demoted while on leave are common.

The pregnancy rate of 2019 in China was estimated to be around 10‰ (10.48 per 1000 people).¹²⁷ Since the majority of production workers are female (77%) and they are mostly at their fertility age (around 20-40 years old), we would expect the average pregnancy rate in the audited factories to be close to (or higher) than the average rate among the general population. However, the audit data shows that the pregnancy rate is significantly lower at the factories. We found that the average pregnancy rate was only 0.9‰, 10 times less than the rate in the general population. This data shows that very few women, only 0.12‰, take maternity leave while employed by garment factories, which suggests that women who are pregnant often lose their income.

Women workers also suffer serious gender discrimination due to Chinese labour laws. For example, the blue-collar retirement age for women is 50 years (60 for men). Early retirement can affect advancement opportunities and lead to reduced pensions and fewer social security benefits for female retirees.¹²⁸ This also means that women workers who continue to work beyond 50—which is very common—do not continue to receive employer contributions to their pensions. Similarly, employers are at liberty to keep women on temporary contracts with little stability and low wages. Once laid off, it is very difficult to be re-employed in the formal sector and therefore women are often in insecure and informal positions as they age.

Moreover, unemployment among adults with disabilities, in part due to discrimination, is a serious problem. The State offers tax incentives to enterprises that hire persons with disabilities and has implemented a quota system.¹²⁹

¹²⁴ Zhang Shuai. Women Laws Research and Service Center, Peking University. "China Workplace Gender Discrimination Research." 2010. As referenced in: "Between the Lines: Listening to Female Factory Workers in China." March 2013.

¹²⁵ Bolger, Rosemary. China Daily. "Why Maternity Leave is Such a Hot Issue." 19 July 2017. http://www.chinadaily.com.cn/china/2017-07/19/content_30164656.htm

¹²⁶ China Labour Bulletin. "Pregnant women workers struggle to defend their rights in China's factories." 1 December 2015. <https://clb.org.hk/content/pregnant-women-workers-struggle-defend-their-rights-china's-factories#:~:text=Pregnant%20women%20workers%20struggle%20to%20defend%20their%20rights,employer%20to%20pay%20her%2062%2C237%20yuan%20in%20compensation.>

¹²⁷ China National Bureau of Statistics. <https://data.stats.gov.cn/search.htm?s=E4%BA%BA%E5%8F%A3> [in Mandarin]

¹²⁸ Dasgupta, Sukti; Matsumoto, Makiko; and Xia, Cuntao. International Labour Organization. "Women in the Labour Market in China." May 2015. http://www.ilo.org/asia/publications/WCMS_371375/lang-en/index.htm p. 26

¹²⁹ Wrest, Samuel. China Briefing. 26 April 2016. "Hiring Disabled Workers in China: Incentives and Challenges." <https://www.china-briefing.com/news/hiring-disabled-workers-china-incentives-challenges/>

In-country migrants

Despite recent reforms, migrants often face extensive discrimination and insecurity of employment due to the hukou system. The fear of losing their temporary rights to work in cities can also lead migrants to accept lower wages or poor working conditions. Migrants also face challenges when attempting to access benefits such as social security, sickness benefits, and pensions. In part this is due to lower contributions, but also due to obstacles in transferring payments made in the city to their home provinces. Internal migrants in urban areas are more likely to be employed in informal sectors, where there are no written contracts. One survey conducted on urban employees in six cities found that informal employment made up 33% of the workforce. A 2014 survey by the National Bureau of Statistics found that 62% of China's then 274 million migrant workers lacked contracts.¹³⁰ The National Bureau of Statistics survey of migrant workers in 2016 showed that only 35.1 % of migrant workers had signed a contract with their employer.¹³¹

Other minorities

Hepatitis B sufferers also face discrimination, although this has reportedly improved after a series of high-profile cases in the Chinese media. While religious minorities face discrimination and persecution for their beliefs, religious discrimination within the workplace does not seem common, although there is very little research to state this with certainty.

Main audit findings over the last four years

Only a few factories had no written policies regarding discrimination. Only one factory was found doing screening on health issues in 2019 (in this case Hepatitis B) before hiring personnel.

Audit Findings	2016 (percentage of violations found out of 55 audits conducted)	2017 (percentage of violations found out of 70 audits conducted)	2018 (percentage of violations found out of 65 audits conducted)	2019 (percentage of violations found out of 61 audits conducted)
Factory does not have a written policy regarding discrimination	4%	0	0	7%

Worker complaints related to 'No discrimination in employment'

The complaints procedure serves as a safety net. When a complaint is filed, the affiliate(s) sourcing from the factory in question are informed and investigate the complaint. All the complaints are published on the website. During the four-year period between 2016 and 2019, there were two complaints in this area. In one, the complainant felt he was paid less as he had no overtime, and one worker complained about a different salary for the same work.

¹³⁰ Global Slavery Index. "China Country Study, 2018."

¹³¹ China Labour Bulletin. 13 August 2020. <https://clb.org.hk/content/workers'-rights-and-labour-relations-china>

6.3 NO EXPLOITATION OF CHILD LABOUR

There shall be no use of child labour. The age for admission to employment shall not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years. (ILO Convention 138)

There shall be no forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour. [...] Children [under the age of 18] shall not perform work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals. (ILO Convention 182)



Official statistics on compliance

No official statistics have been found on this topic, but news reports in recent years have shed light on China's aging labour force, a result of the country's decades long one-child policy. There have been reports that the manufacturing sector is already feeling the impact, struggling to attract younger workers and battling with increasing labour costs. Some reports forecast more implications in the near future. Effective management of young workers aged 16-25—with the aim of retaining them and developing their skills—is recognised as a growing challenge to efficient supply chain operations.¹³²

Laws and regulations

China has ratified both ILO Convention 138 (minimum working age) and 182 (worst forms of child labour). Chinese law is more stringent than the ILO Convention regarding age limits for work. Both the Chinese Labour Law and the Regulation on the Prohibition of Child Labour forbid the employment of teenagers under 16 years old. Article 4 of the Regulation on Banning Child Labour mandates that employers verify ID and maintain an applicant's record during recruitment. Article 6 and 8 specify penalties for using child labour.

Regulation on Banning Child Labour (2002), Article 6

In the case of use of child labour by an employing unit, the labour and social security administrative department shall order the employing unit to send the children back to their original places of residence and hand them to their parents or other guardians within a prescribed period, and all the costs of transportation and accommodations so entailed shall be borne by the employing unit.

Regulation for Banning Child Labour (2002), Article 10

Where a child employed is sick or injured, the employing unit shall bring him to the medical institution for treatment and bear all the medical and living costs during the period of treatment.

For youth aged 16 to 18, special restrictions apply. For example, employing units hiring juvenile workers must register with the local labour authorities and young workers must undergo regular physical checks (Article 6 and 9 of Regulations for the Special Protection for Juvenile Employees). Juvenile workers are also

¹³² Center for Child Rights & Corporate Social Responsibility and the CRS Centre at the Embassy of Sweden in Beijing. "2018 Snapshot Study of Young Workers in China's Manufacturing Sector." https://www.ccrsr.com/sites/default/files/2018%20Snapshot%20Study%20of%20Young%20Workers%20in%20China%27s%20Manufacturing%20Sector_Full%20Report.pdf (accessed 7 December 2020)

prohibited from certain strenuous, poisonous, harmful, or dangerous operations.¹³³ Some provinces have additional restrictions on overtime for juvenile workers.

Stakeholders' opinion and analysis on implementation

Although child labour in the garment industry has been a serious problem in past decades, more recently, with increasing labour shortages and the aging of the working population, it is a less common occurrence. However, child labour under 16 is still encountered occasionally in garment factories, especially during the holiday season when young people are out of school and helping family members. Fair Wear's implementation partners in China have records of more than 100 child labour cases in the last three years, of which 18.8% were in garment factories (other high-risk factories were packaging and printing).

In 2016 a Chinese media source reported that a large portion of the more than 1,000 apparel manufacturers in Changshu, Jiangsu province, had been using cheap labour from Yunnan province with the help of local agents, and some of the workers were under 16. The workers were earning around half the wages of regular workers. One 15-year-old worker interviewed said he worked an average of 15 hours a day, 28 days a month, and that he and his co-workers only get paid at the year's end and are not paid at all if they leave early.¹³⁴

More recently, student labour through work-study programmes and apprenticeships is often a disguise for child and/or forced labour. Some schools require a one-year (or less) internship with a company to obtain a diploma. These students often work excessive overtime and are paid less than the minimum wage, but are not always given legally binding contracts or labour law protection. In the garment and textile industry, interns are the most common source of temporary labour and their low wages are further reduced by tuition payments. A reported nine million students graduate from vocational schools each year. Figures on how many are forced into manufacturing internships are unclear, but according to media reports it seems an increasing problem.¹³⁵ Physical and mental health and safety issues are a concern for these students, with excessive overtime and chemical safety being the most common risks. If suppliers want to retain this workforce, it is important they pay attention to job satisfaction and what they can do to support and protect juvenile workers, and under no circumstances hire children under 16 years old.

Main audit findings over the last four years

In the period from 2016 until 2020, one child labour case was reported during an audit on which remediation was immediately undertaken. Several juveniles were found in factories, some working under apprenticeship programmes, making extensive overtime hours and sometimes without having registered at the local labour bureau or not having completed the appropriate health checks.

¹³³ Article 38 of Law of the People's Republic of China on the Protection of Minors.

¹³⁴ South China Morning Post. "Under 16 and Working 16 Hours a Day." 22 November 2016. <https://www.scmp.com/news/china/society/article/2048231/clothing-factories-eastern-china-import-child-labour-migrant>.

¹³⁵ Brown, E.V. and DeCant, K.A. Asian Pacific Law and Policy Journal Vol 15. "Exploiting Chinese Interns as Unprotected Industrial Labor." 2014. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2351270 p.149

Audit Findings	2016 (percentage of violations found out of 55 audits conducted)	2017 (percentage of violations found out of 70 audits conducted)	2018 (percentage of violations found out of 65 audits conducted)	2019 (percentage of violations found out of 61 audits conducted)
The factory has no effective age verification system in place	0	0	2%	2%
Factory employed juvenile workers without following local regulations to protect the workers	4%	3%	2%	10%

Worker complaints related to 'No exploitation of child labour

The complaints procedure serves as a safety net. When a complaint is filed, the affiliate(s) sourcing from the factory in question is informed and investigates the complaint. All the complaints are published on the website.

During the four-year period between 2016 and 2019 there were no complaints in this area. However, a 14-year old child filed a complaint in 2020 for not receiving her/his salary. It appeared she/he had been working at the factory since she/he was thirteen. This case is currently being handled and resolved in the best interest for the child in question.

6.4 FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

The right of all workers to form and join trade unions and bargain collectively shall be recognised. (ILO Conventions 87 and 98)

Workers' representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to carry out their representation functions. (ILO Convention 135 and Recommendation 143)



Official statistics on compliance

No specific official statistics have been found related to this standard.

Laws and regulations

China has not ratified ILO Conventions 87 and 98 on freedom of association and the right to collective bargaining. In theory, Chinese laws afford extensive trade union rights. However, given that the ACFTU is the sole trade union body recognised in China and it is part of the government hierarchy, all such laws are undermined by the reality that all trade unions are subject to ACFTU. Yet, this cannot be interpreted as meaning no independent trade unions are allowed or that workers cannot freely elect their representatives.

Trade Union Law of the People's Republic of China, Article 9

Trade union organisations at all levels shall be established in accordance with the principle of democratic centralism.

Trade union committees at all levels shall be elected by their general assemblies or representative assemblies. The close relatives of the major principals of an enterprise may not be elected as the members of the basic-level trade union committee of that enterprise.

Article 7 of the PRC Labour Law stipulates that labourers shall have the right to participate in and organise trade unions in accordance with the law. Article 3 of the Trade Union Law repeats this, stating that all workers have the right to organise or join trade unions according to law, and organisations should not obstruct or restrict them. Article 11 of the Trade Union Law regulates the establishment of trade unions, ensuring they need approval from the trade union organisation at the next higher level. This is the ACFTU, the unified national organisation.

Article 20 of the Trade Union Law stipulates that trade unions should represent employees equally. The trade union at the next higher level should support and assist the trade union in signing a collective contract. However, there is no comprehensive national law on collective bargaining procedures but rather a plethora of regulations, paraphrased as 'collective contracts'.

Articles 41, 51, 52, and 53 of the Trade Union Law protect union members and leaders from unequal payment, humiliation, slander, injuries inflicted, interference in duties, or hindrance of their union activities.

The right to strike was removed from the Constitution in 1982. The revision of the Trade Union Law

removed the term ‘strike’ and replaced it with both ‘work stoppages’ and ‘go-slows’ instead. In practice, these must be authorised by the local police and such authorisation rarely takes place.

Stakeholders’ opinion and analysis on implementation

China has been the subject of numerous complaints by the ITUC and others to the ILO’s Committee on Freedom of Association (CFA). For example, in a case before the CFA, the Committee noted that on several occasions ‘many provisions of the Trade Union Law were contrary to the fundamental principles of freedom of association and had requested the Government to take the necessary steps to ensure that they were modified.’¹³⁶

Role of the ACFTU

As the only legally recognised union in China, ACFTU works more towards maintaining harmony and social stability, than as a representative of workers’ rights and interests. To ACFTU leaders, harmony and stability mainly means no strikes or protests. Most employers do not show an interest in collective bargaining, often avoiding negotiations with employees. It is also common for factory management to work with the enterprise union and elect factory managers as the trade union leader or worker representative.

Collective bargaining

Article 31 of Regulations of Guangdong Province on collective negotiation and collective contract of enterprises states that

“During the period of collective negotiations the employees must not engage in, block, obstruct, or seal off access to the enterprise, obstruct employees or materials from entering or exiting the enterprise, destroy the enterprise’s equipment and tools, or damage the enterprise’s regular production procedures and public order.”

Worker representatives can be fired if they are deemed to violate employer’s rules and regulations. Although the regulation protects some rights of representatives to negotiate (position, wage, and benefits), it also grants employers the right to punish them. Article 16 states, ‘During the period when negotiations representatives are performing their duties, the enterprise shall not terminate the labour contracts of the negotiations representatives, except in situations covered under Article 36 and Article 39 of the Labour Contract Law’.

Article 39 states that ‘...an employer may terminate an employment contract if the employee materially breaches the employer’s rules and regulations, or commits serious dereliction of duty or practices graft, causing substantial damage to the employer’.

Right to strike

While workers have never properly enjoyed the right to strike, it was included in the Constitutions of 1975 and 1978, but was officially removed in 1982.^{137, 138} Although there is no explicit law that prohibits strikes, neither the Labour Law nor the Trade Union Law acknowledges it as a right held by workers and trade unions. Thus, participants of a strike can be prosecuted under both criminal and civil laws. Despite the risk

¹³⁶ Ibid. ILO. “Industrial Relations Scoping Study...” 2 October 2017, page 13 (CFA, 380th Report, Case No. 3184 (China), para. 233)

¹³⁷ Ibid. ILO. “Industrial Relations Scoping Study...” 2 October 2017, page 17-18 (Lulu, F. PhD, The Hong Kong Polytechnic University. “Thread Solidarity and Power: A Study of Garment Workers’ Self-Organization of Production in the Yangtze River Delta Region of China.” 2015, p. 52.) Friedman. “Collective Bargaining in China is Dead.” 2017

¹³⁸ Friedman. “Collective Bargaining in China is Dead.” 2017

of legal retaliation and political repression, strikes occur frequently. However, small concessions alongside intimidation and leader-targeted retaliation have often been enough to undermine collective action.¹³⁹

In part because of the lack of effective and representative trade unions, there is extensive industrial action taken by workers who are limited in the forms of legal collective action they can take during workplace disputes. Industrial action in China has increasingly spread from manufacturing and construction sectors into retail and service sectors. In 2016, strike action doubled in the retail sector and grew by a fifth in the service sector.¹⁴⁰ In 2016, strikes in the retail, service, and transport sector outweighed those in the manufacturing sector for the first time.¹⁴¹ Strikes and other forms of industrial action are primarily organised by workers without the involvement of the ACFTU. There were some 6,694 cases recorded on the China Labour Bulletin's (CLB) Strike Map during 2015 -2017 (although the real figure may be substantially higher). Larger collective actions had elected worker representatives, workers acted collectively in escalating and deescalating the dispute in an orderly fashion, and workers themselves stressed the need for collective bargaining to resolve the dispute.¹⁴²

Detention of worker activists

In July 2017, Liu Shaoming was sentenced to four and a half years' imprisonment for publishing his reflections about joining the pro-democracy movement and becoming a member of China's first independent trade union in 1989.¹⁴³ Dozens of labour activists were arrested on spurious grounds in 2019. On 20 January 2019, the police in Shenzhen, Guangzhou, and Changsha arrested five prominent labour activists, Zhang Zhiru, Jian Hui, Song Jiahui, Wu Guijun, and He Yuancheng. They were refused permission to meet with their lawyers. On 5 March 2019, it was confirmed that all five were formally arrested on charges of 'gathering a crowd to disturb social order'. As of February 2020 they remain under arrest without having had a trial and are likely to face lengthy imprisonments.¹⁴⁴

Main audit findings over the last four years

Auditors found that each unionised factory was affiliated with the All-China Federation of Trade Unions (ACFTU). In most cases auditors found union registration a formality that does not lead to social dialogue structures. The union is responsible for, for example, organising factory outings and is not often involved in dialogue between workers and management. Additionally, the chairman of the union is frequently appointed by management or part of the management, in most cases workers do not know their representatives, since they were not democratically chosen. Only in a few cases, are worker representatives democratically chosen.

Among all 60 audited factories (one factory was audited twice) in 2019, 15 factories were members of the ACFTU, 11 were member of the ACFTU and had a Worker Committee and 14 factories had only worker committees. However, none of these unions or worker committees were functional, since there were no

¹³⁹ Brehm, Stefan. "Collective Bargaining: New Hope for China's Workers?" 31 March 2017. <http://isd.eu/publication/collective-bargaining-new-hope-china/>

¹⁴⁰ Wrest, Samuel. China Briefing. "Evaluating Trade Union Law and Collective Bargaining in China: Key Considerations for Foreign Firms." 8 March 2017. <http://www.china-briefing.com/news/chinas-trade-union-law/>

¹⁴¹ USCBC. "Trade Union Law and Collective Bargaining in China." 2017.

¹⁴² China Labour Bulletin. "Identifying the Trends in Workers' Collective Action 2015-17." 19 September 2018. <https://www.clb.org.hk/content/identifying-trends-workers%E2%80%99collective-action-2015-17>

¹⁴³ Amnesty International. "China 2019." <https://www.amnesty.org/en/countries/asia-and-the-pacific/china/report-china/>

¹⁴⁴ 2020 ITUC Global Rights Index. https://www.ituc-csi.org/IMG/pdf/ituc_globalrightsindex_2020_en.pdf

elected representatives, workers didn't know the representatives, or workers were not aware of the existence of the union. Of the 60 audited factories 20 had no union or worker committees.

Audit Findings	2016 (percentage of violations found out of 55 audits conducted)	2017 (percentage of violations found out of 70 audits conducted)	2018 (percentage of violations found out of 65 audits conducted)	2019 (percentage of violations found out of 61 audits conducted)
There is no independent union or workers committee which is run by workers without management involvement	91%	93%	95%	100%

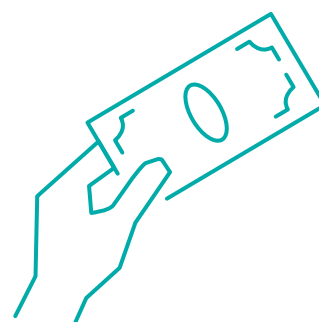
Worker complaints related to 'Freedom of association and the right to collective bargaining'

The complaints procedure serves as a safety net. When a complaint is filed, the affiliate(s) sourcing from the factory in question is informed and investigates the complaint. All the complaints are published on the website.

During the four-year period from 2016 to 2019 there were no complaints relating to freedom of association and collective bargaining.

6.5 PAYMENT OF A LIVING WAGE

Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income. (ILO Conventions 26 and 131, the Universal Declaration of Human Rights, art 23(3) and art 25(1)).



Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted. Deductions shall never constitute an amount that will lead the employee to receive less than the minimum wage. Employees shall be adequately and clearly informed about the specifications of their wages including wage rates and pay period.

Official statistics on compliance

No official statistics have been found on the topic of living wage. Government established minimum wages levels that differ per region and or province. Most workers get paid a piece rate (pay per unit produced by employee), without registering hours of work, holidays, etc., so the piece rate wage needs to be converted into hourly wages so to calculate minimum wage.

Laws and regulations

The Chinese government recognises the Universal Declaration of Human Rights, and ratified ILO Convention 26 on minimum wage fixing in 1930. However, it has not ratified ILO Convention 131 on minimum wage fixing.

The most important law regarding wages is the PRC Labour Law, which includes a minimum wage system. The minimum wage varies in different areas, determined by governments of provinces, autonomous regions, or municipalities directly under the central government.

The minimum wage does not include overtime wages, subsidies and premiums, or welfare benefits. Extra payments should be paid in situations such as extended working hours (150% evenings), work on rest days (200% weekends), or statutory holidays (300%) (Labour Law, Article 44). Salaries must be paid in full on time and every 30 days. If the payday is a non-working day, the salary must be paid the day in advance (Labour Law, Article 50). A pay stub should be provided for worker's acknowledgement (Article 6 of Provisional Regulations on Payment of Wage). The payment for resigned or terminated employees as well as the payment during downtime varies according to local regulations.¹⁴⁵

PRC Labour Law, Article 50

Wages shall be paid to labourers themselves in the form of currency on a monthly basis. The wages payable to labourers shall not be deducted or delayed without reason.

¹⁴⁵ People's Republic of China Ministry of Commerce. "Labour Regulations Governing the Special Economic Zones in Guangdong Province." August 12 1988. <http://english.mofcom.gov.cn/article/lawsdata/chineselaw/200211/20021100053791.shtml> (Accessed 7 December 2020)

PRC Labour Law, Article 51

The employer shall pay wages to labourers in accordance with the law when they have statutory holidays, take leave during the periods of marriage or funeral, or participate in social activities in accordance with the law.

Regulations on Paid Annual Leave for Employees, Article 3

Where an employee has served one full year but less than 10 years accumulatively, he is entitled to five days of annual leave. If he has served 10 full years but less than 20 years, annual leave is 10 days. If he has served for 20 full years, annual leave is 15 days. The annual leave shall be additional to national legal holidays and off days.

Minimum wage setting

In 2004, the Rules for Minimum Wages were established by the Ministry of Labour and Social Security. The Ministry, China's Enterprise Directors Association (CEDA), and the ACFTU are involved in minimum wage setting. Minimum wage levels are differentiated geographically by province and region—there are no sector-specific provisions. Minimum levels vary widely across and within provinces. Workers in established coastal hubs like Shenzhen can earn up to almost three times that of inland or northern workers.¹⁴⁶ As of 1 March 2020, the lowest minimum wage in parts of Guangxi province is 1430 RMB/month, while as of 1 April 2019 it is 2480 RMB/month in Shanghai. As of 2020, the Asia Floor Wage is raised to 5410 RMB per month.

Stakeholders' opinion and analysis on implementation

After a brief stall in 2009, minimum wage increases have been rising steadily. As a result, by 2015 the average ratio of minimum wage to average wage had increased to 31.2% in the state sector and 51.2% in the private sector.¹⁴⁷ From 2009 to 2014, the real average manufacturing wages increased by an annual average of 11.4%. For garment workers in China, this means that they are legally entitled to receive one of the highest minimum wages in the region, second only to Malaysia. Despite China having the second highest minimum wage in the region, this basic wage does not come close to covering living costs, forcing workers to make ends meet through long hours and overtime payments.¹⁴⁸ According to the Wage Indicator Foundation, wages on average, including skilled garment workers' wages were substantially above the upper minimum wage, but low-skilled garment workers' wages were between the lower and upper minimum wage levels.¹⁴⁹

Wage gaps have been growing between the east and inland, especially with significantly lower wage levels in the north/central area compared to the east. Western provinces have enjoyed the fastest growth, while the average salary level of manufacturing workers in central China remained the lowest. The 2004 minimum wage policy has been significant in raising wage levels (along with lower labour supply from the rural areas)¹⁵⁰.

¹⁴⁶ War on Want & SACOM. "This Way to Dystopia. Exposing UNIQLO's abuse of Chinese garment workers" October 2016. https://waronwant.org/sites/default/files/WoW_uniqlo%20report%202016.pdf page 5

¹⁴⁷ Jain-Chandra et al. International Monitoring Fund, IMF Working Papers. "Inequality in China – Trends, Drivers and Policy Remedies." 5 June 2018. <https://www.imf.org/en/Publications/WP/Issues/2018/06/05/Inequality-in-China-Trends-Drivers-and-Policy-Remedies-45878> page 10

¹⁴⁸ Ibid. War on Want & SACOM. "This way... workers". page 4-5

¹⁴⁹ Wageindicator Foundation. "Wages in Context in the Garment Industry in Asia, THE CASE OF CHINA." May 2016. <https://wageindicator.org/Wageindicatorfoundation/WageIndicatoregazette/2016/wages-in-context-in-the-garment-industry-in-asia-the-case-of-china-may-05-2016>

¹⁵⁰ Hou, Jun; Gelb, Stephen; and Calabrese, Linda. SET. "The Shift in Manufacturing Employment in China." August 2017. https://set.odi.org/wp-content/uploads/2017/08/SET-China_Shift-of-Manufacturing-Employment-1.pdf page 11

There is no uniform living wage estimate for China. Asia Floor Wage and Global Living Wage Coalition calculate living wage using necessary calorie intake, household size, and the proportion of income spent on food. However, complications arise as eating habits and consumer product prices vary between urban and rural areas, provinces, cities, towns, and villages in China.

It is common practice for garment factories to set the basic wage level for workers at local minimum wage levels. Although the minimum wage in most cities has increased, in many instances, the salary for a standard working week is not enough to compensate for inflation. As a result, most workers must work extended hours. In many instances, workers complain of overly complicated and opaque methods of calculating wages and overtime payments.

In addition, the role of buying practices and contractual arrangements is playing a role in exacerbating the shortfall between minimum wages and living wages, and competitive pressures that lead to lower wages and longer working hours. For example, wages and working time are affected by the terms of purchasing between the buyer and its suppliers, which often reflect the asymmetrical bargaining position of the two partners and the power of the buyers to switch suppliers. Negotiated prices between the buyer and suppliers may not always cover costs. In these conditions, wages become the adjustment variable at the end of the supply chain, with competitive pressures leading to lower wages and longer working hours.

There is also increasing evidence that shorter lead times owing to the use of just-in-time or lean production systems, seasonal demand, and volatile sourcing contracts are key factors that drive excessive overtime. ¹⁵¹

Main audit findings over the last four years

Living wage is a wage level that covers basic needs and is earned without overtime/within regular working hours, which is 40 hours per week in China. Overtime premium is not included when calculating living wage payment. The main audit findings show that, although minimum wages for a regular 40-hour week are mostly paid, hardly any workers earn any of the recommended living wage estimates. Moreover, most workers are not paid sufficiently for overtime and leave, resulting in having to make long overtime hours to cover their living expenses. In China most workers are paid by piece rate and the average hourly rate often falls below the minimum hourly rate. In addition, workers often do not know in advance how their piece rate salaries are calculated, nor do they receive a transparent payslip. Delay or withholding payment occurs in particular when workers try to resign.

¹⁵¹ Ibid. ILO, "Industrial Relations Scoping Study..."² October 2017, page 8 (ILO, 2016d; Vaughan Whitehead and Piñedo Caro, 2017).

Audit Findings	2016 (percentage of violations found out of 55 audits conducted)	2017 (percentage of violations found out of 70 audits conducted)	2018 (percentage of violations found out of 65 audits conducted)	2019 (percentage of violations found out of 61 audits conducted)
Payment of a living wage	98%	100%	98%	100%
Workers are paid below minimum wage for a regular working week	22%	40%	49%	15%
Overtime premium is not paid as legally required				98%
Entitled leave is not paid as legally required				74%
Workers do not understand how wages are calculated	4%	6%	5%	38%
The factory is not transparent regarding wage records	9%	19%	14%	46%
Factory delays paying wages	11%	9%	8%	13%

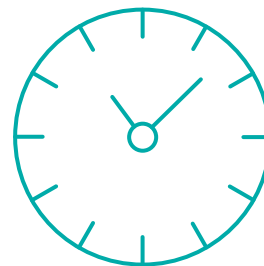
Worker complaints related to 'Payment of a living wage'

The complaints procedure serves as a safety net. When a complaint is filed, the affiliate(s) sourcing from the factory in question is informed and investigates the complaint. All the complaints are published on the website.

This section of the Labour Standards received the highest amount of complaints, with 30 complaints made in the four-year period from 2016 to 2019. These worker complaints generally related to delayed wage payment, illegal disciplinary fines for occurrences such as lateness, forced overpayment of social security, undertaking unpaid overtime, and not receiving their due salaries after resignation.

6.6 NO EXCESSIVE WORKING HOURS

Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7-day period. Overtime shall be voluntary, shall not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate. (ILO Convention 1)



Official statistics on compliance

No official numbers on overtime have been found on this standard.

Laws and regulations

Rules on working hours are set out in the Labour Law and the Regulations of the State Council on the Hours of Work of Employees (1995). The 1994 Labour Code states that the maximum working week is 44 hours, however Regulation 97896 subsequently lowered this to 40 hours per week. There is no regulation on weekly working hours in China.

PRC Labour Law, Article 38

The employing unit shall guarantee that its staff and workers have at least one day off in a week.

PRC Labour Law, Article 41

The employing unit may extend working hours due to the requirements of its production or business after consultation with the trade union and labourers, but the extended working hour for a day shall generally not exceed one hour; if such extension is called for due to special reasons, the extended hours shall not exceed three hours a day under the condition that the health of labourers is guaranteed. However, the total extension in a month shall not exceed thirty-six hours.

PRC Labour Law, Article 3

Labourers have the right to be employed on an equal basis, choose occupations, obtain remunerations for labour, take rests, have holidays and leave, receive labour safety and sanitation protection, get training in professional skills, enjoy social insurance and welfare treatment, and submit applications for settlement of labour disputes, and other labour rights stipulated by law.

Stakeholders' opinion and analysis on implementation

Excessive hours

Excessively long working hours is a key concern for garment workers in China. During peak seasons, average daily work hours for garment workers reach 12 to 15 hours per day and workers are often not given a day off. In a survey of Shanghai garment workers, similar overtime hours were reported, and only 16% of the surveyed workers were paid overtime rates.¹⁵² In 2016, CCTV reported that 'more than half a million Chinese

¹⁵² Ibid. ILO, "Industrial Relations Scoping Study..." 2 October 2017, page 6 (Lerche et al., 2017:19)

people died from overworking each year'.¹⁵³

Unpaid or forced overtime

Forced overtime is common in garment factories. Workers generally cannot refuse to work overtime when the production schedule is tight. Workers are often paid according to a quota system or piece rate, which means they can be forced to undertake overtime to complete their targets without (complete) payment and hardly ever with the overtime premiums.

Unpaid work

In addition, it is often hard to resign, especially during peak times like before Chinese New Year, even when workers give the required 30-day notice. In other instances, workers can be forced to resign or take leave and forfeit any unpaid wages owed to them by the factory.

Main audit findings over the last four years

The audits found excessive overtime by workers in almost all factories. Most factories pay their workers by piece rate, and workers do not receive their salary for overtime or overtime premiums, such as the 150% for working evenings, 200% for weekends, and 300% for statutory holidays. Overtime is normally not mentioned on their payslips.

Audit Findings	2016 (percentage of violations found out of 55 audits conducted)	2017 (percentage of violations found out of 70 audits conducted)	2018 (percentage of violations found out of 65 audits conducted)	2019 (percentage of violations found out of 61 audits conducted)
Excessive overtime was found (above 60 hours/week)	96%	96%	89%	92%
The factory does not pay overtime premium to workers according to legal requirements	71%	71%	71%	98%
The factory is not clear on or has inconsistent overtime records	24%	46%	45%	53%
Workers did not get 1 day off per 7 days of work				85%

¹⁵³ China Daily. "600,000 Chinese die from overworking each year." 11 December 2016. https://www.chinadaily.com.cn/china/2016-12/11/content_27635578.htm

Worker complaints related to 'No excessive working hours'

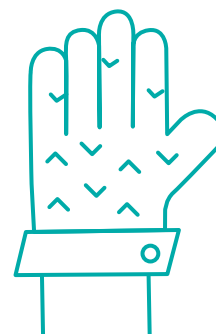
The complaints procedure serves as a safety net. When a complaint is filed, the affiliate(s) sourcing from the factory in question is informed and investigates the complaint. All the complaints are published on the website.

Excessive overtime is one of the most common findings in audits. During the four-year period from 2016 to 2019, there were 13 complaints related to excessive overtime. Several alleged a lack of rest days and excessive overtime particularly during busy periods such as the lead up to Chinese New Year, while others complained of unpaid work or underpaid overtime.

6.7 SAFE AND HEALTHY WORKING CONDITIONS

A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Appropriate attention shall be paid to occupational hazards specific to this branch of the industry and assure that a safe and hygienic work environment is provided for. Effective regulations shall be implemented to prevent accidents and minimize health risks as much as possible (following ILO Convention 155).

Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer are strictly prohibited.



Official statistics on compliance

The number of work-related accidents and deaths in China has steadily declined since the mid-2000s when more than 100,000 workers were killed every year. According to official statistics, there was a record low of 38,000 worker deaths in 2017, with a total of around 104 deaths per day.¹⁵⁴ Separate official figures for the garment and the textile industry are not available.

In 2019, a total of 29,519 people died in production safety accidents. Across all those active in industrial, mining, and commercial enterprises, this meant an average of 1.474 deaths out of every 100,000 employees, representing a decrease of 4.7% compared to the previous year.¹⁵⁵

Laws and regulations

China has not ratified ILO Convention 155 on occupational safety and health. The 2002 Work Safety Law provides the main legal framework for the rights and responsibilities of workers, employers, and government agencies. The law contains several key rights for workers.

Employees have the right to stop any work they deem to be unsafe. Employers may not cut the pay, benefits, or dismiss any worker who stops work for reasons of safety (Article 52). Workers cannot be fired or retaliated against for criticising or reporting their employer for work safety concerns, or for refusing orders to perform unsafe work (Article 51).

Employers must provide employees with proper safety equipment suitable to the nature of their work and keep that equipment up-to-date and in working order (Articles 32, 33). Employers must also provide safety training, and not allow any worker who has not had proper training to work on the job site (Article 25).

¹⁵⁴ CRI online, 29 January 2018, <http://news.cri.cn/20180129/b6052ed2-e1f8-d842-da0c-6768408ecc19.html> [in Mandarin]

¹⁵⁵ National statistics bureau. "Statistical bulletin of national economic and social development of the people's Republic of China in 2019." 28 February 2020. http://www.stats.gov.cn/tjsj/zxfb/202002/t20200228_1728913.html [in Mandarin]

Employers must purchase work-related injury insurance for all employees (Article 48).

The trade union may monitor workplace safety conditions, raise suggestions, and participate in the investigation of workplace accidents (Article 57).

Workers have the right to participate in the management of work safety through their trade union. When a company changes its work safety guidelines it should consider the suggestions of the trade union (Article 5).

Journalists and other media workers have the right to report on violations of workplace safety for the purposes of educating the public (Article 74).

In addition, there are extensive laws and regulations on building safety, fire safety, electric safety, chemical safety, machinery safety, food safety, and increasingly environmental protection in the workplace. There are also laws on harassment and abuse, and monitoring and supervision.

Building safety

The Fire Control Law and various regulations state that projects must be constructed with state standards on fire control and provide for monitoring and checks (e.g. Article 13). Article 61 of the Construction Law regulates construction projects. To pass examination, construction projects must meet the stipulated quality standards, have complete technical and economic data of the project and warranties issued by builders, and satisfy other requirements as set out by the State before being accepted and upon completion.

Fire safety

Various codes regulate fire safety, including codes on the availability and usage of fire extinguishers, hydrants, fire alarms, emergency lights, emergency exits, doors, staircases, evacuation doors, and fire drills. Fire drills are to be carried out every six months.

Electric safety

The General Guide for Safety of Electric Usage and Warning Signs in the Guidelines for Safety Signs and Usage (GB 2894-2008) require that no flammable, explosive, or corrosive materials are stored near electric installations, that electric circuits must be inspected regularly, and that electric shock warning signs are in place.

Chemical safety

New and extensive regulations on the Safe Management of Hazardous Chemicals (China Decree 591) entered into force in December 2011, which regulate hazardous chemicals through the entire supply chain, from manufacturing, importation, distribution, storage, to transportation and use.¹⁵⁶ According to the Regulations for Safety Administration of Hazardous Chemical, the Regulations for Chemical Usage Safety in the Workplace, and the General Rules for Preparation of Chemical Safety Data sheet (GB 16483-2000), hazardous chemicals should be properly contained in specified areas. Safety information, trainings, personal protective equipment, and occupational health checks should be provided to employees handling the chemicals.

Machinery safety

According to the Code of Design of Manufacturing Equipment Safety and Hygiene, the Production Safety Law, and the Safety Monitoring Regulations of Special Equipment and Health Standard for Design of Indus-

¹⁵⁶ ChemSafetyPro. 30 December 2015. https://www.chemsafetypro.com/Topics/China/China_Decree_591_Regulations_on_Safe_Management_of_Hazardous_Chemicals.html

trial Enterprises, workers should be protected from dangerous machinery. Special equipment should be registered with equipment safety monitoring authorities and should be operated by licensed operators. Regular inspections should be done for these machines.

Food safety

The Food Safety Law requires that a licensed catering service and the food producer or operator should receive an annual health examination and must obtain a health certificate before working.

Harassment and abuse

On May 28, 2020, the National People's Congress of the People's Republic of China issued the new Civil Code of the People's Republic of China ("PRC Civil Code") which is effective from January 1, 2021. This Civil Code, which is the first comprehensive code legislating civil matters in China, will replace nine existing laws and regulations.

Article 1010 includes:

- 】 "The concept of "sexual harassment" under PRC laws and regulations has been defined for the first time.
- 】 The scope of victims of sexual harassment has been expanded to include men for the first time; before this, victims of sexual harassment had been limited only to women, such as under the PRC Criminal Law and the Special Provisions on Labour Protection for Female Employees.
- 】 Employers in China now have general obligations to: (i) take reasonable measures to prevent sexual harassment; (ii) accept and handle complaints relating to sexual harassment; and (iii) investigate and impose disciplinary actions to prevent and stop any sexual harassment by taking advantage of official powers and subordinate relationships."¹⁵⁷

Monitoring and supervision

These laws are monitored through the State Administration of Work Safety (SAWS), which is under the supervision of the State Council. Its responsibilities include coordinating national work safety inspections; training and supervising the relevant agencies for safety appraisals; assessing workers; supervising the work safety of the industrial, mining, and commercial enterprises that are under the central government; and ensuring that these enterprises implement related work safety laws and regulations.¹⁵⁸ In March 2018, the government proposed abolishing the State Administration of Work Safety (SAWS) and merging its functions into a new national Emergency Management Department. The aim is to ensure an efficient and coordinated response to a broad range of disasters from forest fires to coal mine explosions, but it appears to eliminate the role of SAWS in ensuring a safe working environment. One report suggests that this highlights the priority given to emergencies and further downgrading of a proactive approach to the prevention of workplace accidents and illnesses.

Stakeholders' opinion and analysis on implementation

Overall, the health and safety in garment and textile workplaces has been steadily improving due to increased media and political attention, as well as the shift towards higher end manufacturing. Small workshops however remain largely unmonitored.¹⁵⁹

¹⁵⁷ <https://www.crowell.com/NewsEvents/AlertsNewsletters/all/Upcoming-Revisions-to-Sexual-Harassment-Requirements-in-China-How-Employers-Should-Prepare-for-Changes-to-Employer-Liability>

¹⁵⁸ The State Council of PRC. "State Administration of Work Safety." 4 September, 2014. http://english.gov.cn/state_council/2014/09/09/content_281474986284037.htm

¹⁵⁹ China Labour Bulletin. 13 March 2018. <https://www.clb.org.hk/content/china-proposes-abolition-work-safety-body>

Insufficient monitoring and employer impunity

Chinese laws place the responsibility on employers to protect employees and guarantee a safe working environment, and give workers and trade union officials the right to monitor and participate in the management of work safety. However, these laws are not well monitored, and companies often ignore their obligations. It is the responsibility of local government officials, under the overall purview of the State Administration of Work Safety (SAWS), to ensure that all workplaces comply with work safety regulations. However, most offices are understaffed and have little time or incentive to carry out routine workplace inspections

Accidents

Most accidents involve a small number of workers and are often related to the failure of the employer to provide basic safety equipment and training for employees.¹⁶⁰ In general, little remedial action is taken, unless it is a particularly major accident.

Exposure to chemicals, toxic substances, and dust

Risks include exposure to chemicals and glues. In addition, garment and textile factories can be poorly ventilated with high temperatures, increasing the dust/pollution in the air and discouraging workers from wearing protective masks (if provided). Especially in down filling rooms, protective clothing and ventilation is of utmost importance. Workers are sometimes asked to pay for protective equipment like masks.

Even though sandblasting in the production of denim is banned, many factories have introduced other methods of finishing denim involving chemicals that have health risks, and workers are rarely given the necessary training on how to use the new techniques safely.¹⁶¹

Occupational illness compensation

The Law on Prevention and Control of Occupational Diseases calls for companies to provide work injury insurance, which should cover treatment expenses as well as compensation for those diagnosed with occupational diseases. However, in reality it is difficult for workers to obtain this compensation. Workers must provide documents, including proof of employment, health check results, and workplace risk evaluations before they can apply for an occupational disease diagnosis. Many factories refuse to offer these documents. Even when diagnosed it can be hard to gain compensation, with many workers undertaking lengthy court procedures. In some instances, migrant workers return home when ill, without knowing they have an occupational illness. In these cases, it can be almost impossible for them to obtain an official diagnosis.

According to a 2009 Ministry of Health report, 200 million workers in China worked in hazardous workplaces, but 37.8% did not receive any compensation. One health expert with the Chinese Centre for Disease Control and Prevention stated in 2010 that only about 10% of employees receive regular occupational health services.¹⁶² In 2016, the General Office of the State Council issued the National Occupational Disease Prevention and Control Plan (2016-2020). The plan proposed that by 2020, the declaration rate of occupational hazard projects of employers in key industries should reach more than 85%, the regular detection rate of

¹⁶⁰ Ibid.

¹⁶¹ IHLO, SACOM, CCC, War on Want. "Breathless for Blue Jeans: Health hazards in China's denim factories." June 2013. <http://www.setem.org/media/pdfs/Breathless.pdf>

¹⁶² Market Watch. "China drafts law on occupational disease." 5 February 2012. <https://www.marketwatch.com/story/china-drafts-law-on-occupational-disease-2012-02-05>

occupational hazard factors in workplaces should reach more than 80%, and the occupational health examination rate of workers exposed to occupational hazards should reach more than 90%.¹⁶³ Unfortunately no recent reliable figures could be found.

Sexual harassment and abuse

Garment and textile workers are among the most vulnerable populations in China, exacerbated by gender-based discrimination and harassment with few institutional protections. A 2013 survey by China's Sunflower Women Workers Centre found that of 134 female factory workers in Guangzhou 70% of respondents reported experiencing 'annoying whistling, shouts and lewd jokes', 66% received 'offensive comments about the body or appearance', and 32% encountered 'annoying touching', causing 15% of respondents to leave their jobs.¹⁶⁴ In 2019, the Asia Foundation set-up a two-year program, Harassment-Free Workplaces in China's Textile and Apparel Industry, enlisted local partners at the China National Textile and Apparel Council and the Beijing Yuanzhong Gender Development Center. The project worked on three fronts: promoting industry-wide guidelines to stop workplace sexual harassment, developing stronger legal protections for survivors, and instituting employee education programs.¹⁶⁵

As the #MeToo movement engrossed China in 2018, a female Foxconn employee reported that the aforementioned behaviours are "prevalent" in her workplace and create a "sexual harassment culture."¹⁶⁶

Worker awareness

Many workers are unaware of the full extent of their rights, but training and awareness raising is increasing. Trade union officials often do not intervene to report or remedy safety violations, however, the relative lack of political sensitivity around health and safety has led to improved conditions and activity on the part of the ACFTU.

Main audit findings over the last four years

Although many health and safety problems can be easily remediated, like good working fire extinguishers, a clear evacuation path, fire drills, chemical and machine safety, and protective gear for the workers, they are still a regular occurrence. Some problems are more challenging to solve, e.g. if there are building construction issues or more extensive ventilation or fire safety measures need to be taken.

¹⁶³ The general office of the state Council. "National occupational disease prevention and control plan (2016-2020)." 26 December 2016. http://www.gov.cn/zhengce/content/2017-01/04/content_5156356.htm [in Mandarin]

¹⁶⁴ A survey by the Sunflower Women Workers Centre. 25 November 2013. "The sexual harassment of women factory workers in Guangzhou" https://clb.org.hk/sites/default/files/archive/en/Image/research_report/sexual%20harassment%20survey%20sunflower%20centre.pdf

¹⁶⁵ Wynn, Lesley. Asia Foundation. Curbing Sexual Harassment in China's Garment Industry. 13 March 2019. <https://asiafoundation.org/2019/03/13/curbing-sexual-harassment-in-chinas-garment-industry/>

¹⁶⁶ Halegua, Aaron. Hong Kong Free Press. "Report highlights extensive sexual harassment and violence at Walmart's stores and suppliers in China." June 2018. <https://www.hongkongfp.com/2018/06/24/report-highlights-extensive-sexual-harassment-violence-walmarts-stores-suppliers-china/>

Audit findings	2016 (percentage of violations found out of 55 audits conducted)	2017 (percentage of violations found out of 70 audits conducted)	2018 (percentage of violations found out of 65 audits conducted)	2019 (percentage of violations found out of 61 audits conducted)
Issues regarding fire safety	71%	67%	80%	69%
Building issues	5%	19%	26%	23%
Issues regarding chemical safety	18%	23%	29%	31%
Issues regarding machine safety	51%	49%	46%	48%
Issues regarding electrical safety	5%	10%	20%	28%
Issues regarding material safety	0	0	8%	8%
Issues regarding ergonomics	95%	97%	95%	80%
Noise, ventilation, temperature, and lighting do not comply with legal requirements	15%	11%	8%	40%

Worker complaints related to 'Safe and healthy working conditions'

The complaints procedure serves as a safety net. When a complaint is filed, the affiliate(s) sourcing from the factory in question is informed and investigates the complaint. All the complaints are published on the website.

During the four-year period from 2016 to 2019, there were four complaints concerning alleged potentially unsafe working conditions. These related to the subcontracting of work to un-audited factories, the operation of machines by pregnant women, and the inability to take sick leave.

6.8 LEGALLY-BINDING EMPLOYMENT RELATIONSHIP

Working relationships shall be legally binding, and all obligations to employees under labour or social security laws and regulations shall be respected.



Official statistics on compliance

No official numbers on overtime have been found on this topic.

Laws and regulations

In 2008, China enacted a Labour Contract Law to formalise all employment relations. The law made contracts compulsory for all workers and gave greater protection from illegal and informal contracts, including higher severance pay and guaranteed social benefit contributions.

The Labour Contract Law (LCL) stipulates that an employer's relationship with an employee is established on the employee's first day of employment. A written employment contract should be concluded within one month after the employment date. The employer and the employee should each hold one copy of the employment contract (LCL, Articles 7 and 10). When an employee is hired, he or she should be informed about the content of the work, the working conditions and place of work, occupational hazards, production safety conditions, and labour compensation. Other matters might be included, such as probation period, training, confidentiality, supplementary insurance, and benefits (LCL, Article 17). An employee can terminate the employment relationship by giving a 30-day written notice to the employer. During the probation period, the employee only needs to give three days' notice (LCL, article 37). If employers terminate the contract in circumstances specified in Article 46, they need to pay severance to employees (LCL, Article 47).

Regulation on the Implementation of the Labour Contract Law of the People's Republic of China, Article 6

The employing unit who fails to conclude a written employment contract with a labourer after more than one month but less than one year since the date the labour is employed, shall pay the labourer wages at double the amount for each month according to Article 82 of the PRC Labour Contract Law, and shall provide the laborer with a written employment contract. If the labourer refuses to conclude a written employment contract with the employing unit, the employing unit shall notify the labourer regarding termination of the employment relationship in writing, and pay the labourer economic compensation according to Article 47 of the PRC Labour Contract Law.

For previous Article that stipulated the employing unit is to pay labor wage in double amount, the start time is the next day after a full month since the labor is employed, and the end time is the date before supplemented a written employment contract.

The LCL was amended in 2013 to crack down on the abuse of agency workers and other flexible working contracts. These workers—sometimes referred to as dispatch workers—are vulnerable to exploitation, such as forced overtime and underpayment of wages. The amendment guarantees contract workers the same rights as their directly employed counterparts, such as social benefits (including pensions, health insurance,

and unemployment benefits) and payment of their full wage.¹⁶⁷ The revised law sought to clarify the three situations in which labour agency workers can legitimately be used. Under the revised law: ‘temporary’ positions cannot be extended beyond six months; ‘auxiliary’ positions must be unrelated to the core business of the company; and ‘substitute’ positions can only be filled when a directly contracted employee is away from work for a certain period due to training, leave, etc. The revised law also raises the minimum registered capital of employment agencies from 500,000 RMB to two million yuan and increases fines for violations of the law. The law also states (Article 14) that, ‘if an employer fails to conclude a written labour contract with an employee within one year from the date the employee commences work, they shall be deemed to have entered into an open-ended labour contract’.

Probationary periods

The maximum duration of probationary periods varies according to the duration of the employment contract, as follows: for a term ranging from three months to less than one year it is maximum one month; for a term ranging from more than one year to less than three years it is maximum two months; for a term of more than three years and open-ended contracts it is maximum 6 months. No probation period shall be specified in a contract for the completion of specific tasks or a contract of less than three months.

Social security

Employees are entitled to five types of social insurance: retirement, work injury, medical, unemployment, and maternity. Both employer and employee contribute to social insurance (Articles 72 and 73 of the Labour Law). The detailed regulations regarding the five insurances are mentioned in the Social Insurance Law. An individual participating in basic pension insurance can only collect basic pension monthly if the cumulative premium payment period is at least 15 years at the time the individual reaches the statutory retirement age.

A new law on social security came into force on 1 January 2019. The Tax Bureau would strictly implement corporate social security payments, helping to protect the legitimate rights and interests of employees. This focuses on two areas: 1) from the previous partial percentage of payment collection to collecting 100% of payments; and 2) from the previous base wage collection (calculations of payments based on the minimum wage) to the actual full wage amount (based on actual earned salary, including overtime). Since this law went into force it seems payment of social insurance has somewhat improved.

Stakeholders’ opinion and analysis on implementation

While there was an initial push after the implementation of the Labour Contract Law in 2008 to ensure that China’s most vulnerable workers, being rural migrants, signed formal employment contracts as prescribed by the law, this momentum has slowed. The National Bureau of Statistics survey of migrant workers in 2009 showed that 42.8% of migrant workers had signed a contract with their employer, but that proportion had dropped to just 35.1% in 2016. The Labour Contract Law was amended in 2013 in an attempt to fix the loopholes related to the hiring of agency labour, but employers lobby the government to relax certain provisions of the law that, they claim, restrict the hiring and firing of employees.¹⁶⁸ Unfortunately no updated transparent information can be found.

In manufacturing, companies are still employing workers for extended periods as agency employees despite

¹⁶⁷ Global Slavery Index. “China Country Study, 2018.” <https://www.globalslaveryindex.org/2018/findings/country-studies/china/>

¹⁶⁸ China Labour Bulletin. “Workers’ rights and labour relations in China.” 20 August 2020. <https://clb.org.hk/content/workers'-rights-and-labour-relations-china#>

the revisions to the law designed to stop this. Many workers are not aware that they are employed illegally. The law's Implementing Regulations also limited the number of agency workers at any one company, but again regulations are not being strictly enforced and many companies switched from using agency labour to so-called contracted labour. Despite increased legislation, there is growing job insecurity and informality in employment. Informal daily hire, non-standard forms of employment, and the use of intermediaries are common in the garment sector. It is estimated that while most workers in the garment sector are directly employed, there is also growing agency work. One study in Shanghai found most workers in the garment sector were employed on fixed-term contracts of only one- or two-years' duration, leading to job insecurity.¹⁶⁹ Overall workplace trade unions have not acted to combat this problem.

Social security

Several problems exist for workers in the garment and textile industry in this area. In order to avoid paying benefits, many employers do not enrol their workers in the social security system. The provision of pension, injury, unemployment, medical, and maternity insurance is also very low in the garment industry. An ILO report stated that over 60% of factory workers in Shanghai and Pinghu and garment workers in Hangzhou did not have social insurance.¹⁷⁰ Secondly, workers often find that their benefits are lower than expected when, for example, leaving the factory or retiring, due to the differences in calculating wages, overtime, and lower official wages being recorded.

Main audit findings over the last four years

The audit findings lead to the conclusion that most factories do not pay their employees when they are not working while on leave or holiday, nor are they paying overtime premiums as is stated in their contract. Sometimes contracts are written as hourly wage, but in practise workers are paid by piece rate. When workers do not receive a copy of their contract, they do not know their entitlements, including their rights regarding resignation. For most workers not all social insurance fees are paid.

Audit findings	2016 (percentage of violations found out of 55 audits conducted)	2017 (percentage of violations found out of 70 audits conducted)	2018 (percentage of violations found out of 65 audits conducted)	2019 (percentage of violations found out of 61 audits conducted)
The factory does not pay leave and benefits to workers according to legal requirements	64%	76%	71%	69%
Factory does not provide contract to all employees or they do not have a contract	11%	11%	11%	8%
Not all social security or insurance fees are paid	94%	80%	86%	86%

¹⁶⁹ ILO. "Industrial Relations Scoping Study: Decent work in the garment sector supply chains in Asia. Based on research carried out by Professor Michele Ford and Dr Michael Gillan." 2 October 2017. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/meetingdocument/wcms_579467.pdf page 5 (Lerche et al., 2017: 18 and 20).

¹⁷⁰ ILO. "Industrial Relations Scoping Study: Decent work in the garment sector supply chains in Asia. Based on research carried out by Professor Michele Ford and Dr Michael Gillan." 2 October 2017. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/meetingdocument/wcms_579467.pdf page 7 (Lulu, 2015:50).

Worker complaints related to ‘Legally binding employment relationship’

The complaints procedure serves as a safety net. When a complaint is filed, the affiliate(s) sourcing from the factory in question is informed and investigates the complaint. All the complaints are published on the website.

The complaints around this issue were primarily focused on complaints of workers not being allowed to resign, the related withholding of wages and social security payments, as well as insufficient compensation for retirement and compensation for severance.

7. Sources used in this country study

The study was prepared through the gathering of information about national laws and local stakeholders' views on labour issues in the garment industry in China. In addition to this, Fair Wear gathered information from internationally recognised sources on the economic, social, political, and human rights situation in the country. Selected stakeholders, international organisations, and NGOs were consulted in the writing of this country study.

8. List of abbreviations

ACFTU	All-China Federation of Trade Unions
CCCT	China Chamber of Commerce Department for Import & Export of Textiles
CEC/CEDA	China Enterprise Confederation
CFA	ILO's Committee on Freedom of Association
CLB	China Labour Bulletin
CNTAC	China National Textile and Apparel Council
CWWN	Chinese Working Women's Network
ERI	Economic Rights Institute
ETU	Enterprise Trade Union
FTZ	Free Economic Trade Zones
FLA	Fair Labor Association
ILO	International Labour Organization
IMF	International Monetary Fund
ITUC	International Trade Union Confederation
LAC	Labour Action China
LCL	Labour Contract Law
LDAC	Labour Dispute Arbitration Committee
LESN	Labour Education and Service Network
MIT	'Made in China 2025' initiative
MOFCOM	Ministry of Commerce
MOHRSS	Ministry of Human Resources and Social Security
NGO	Non-governmental organisations
OBOR	'One Belt, One Road' plan
PRC	People's Republic of China
SACOM	Students and Scholars Against Corporate Misbehaviour
SAWS	State Administration of Work Safety
SEZ	Special Economic trade Zones
SME	Small Medium Enterprises

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