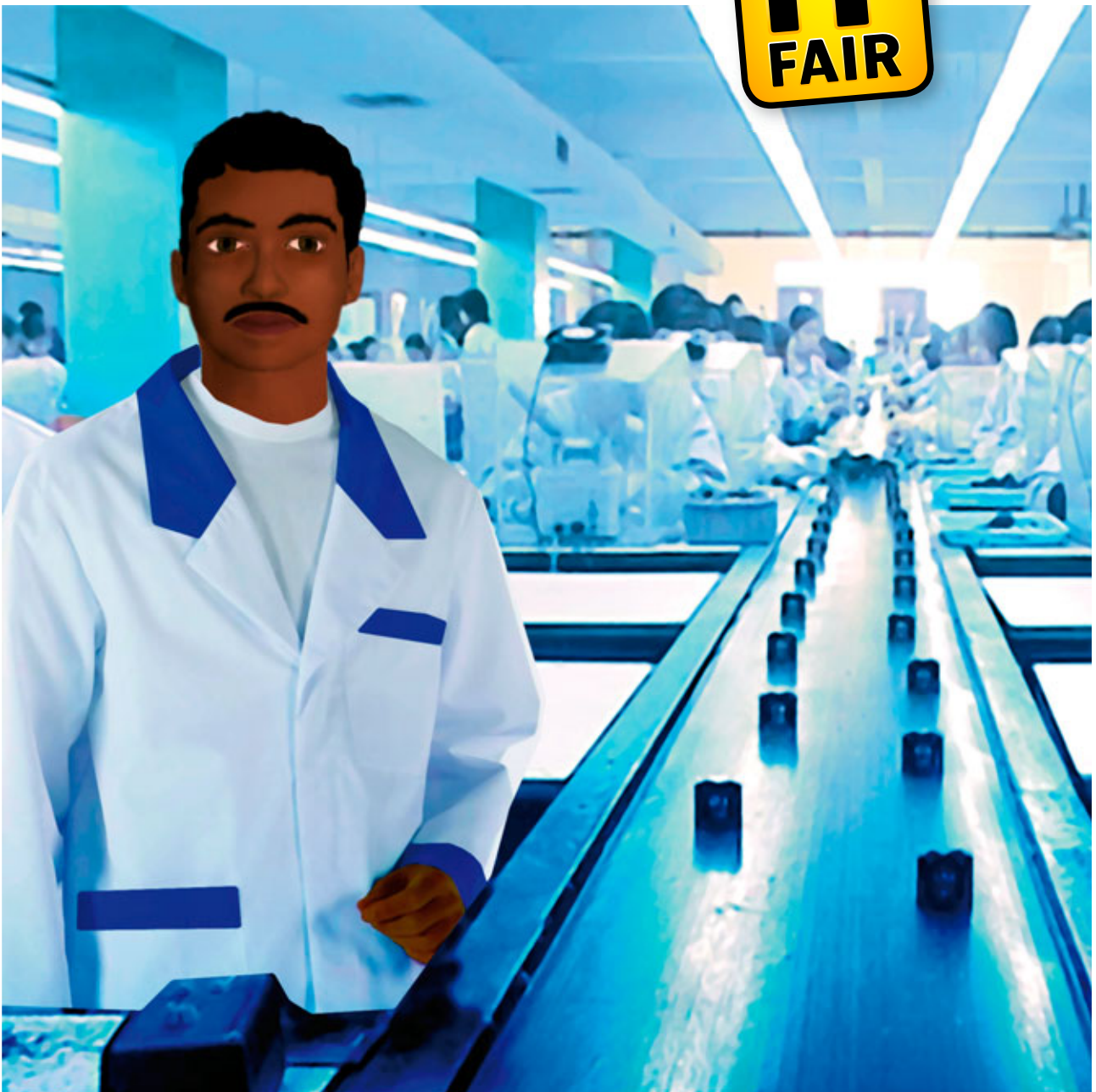


PHONY EQUALITY

Labour standards of mobile phone manufacturers in India

Finnwatch, Cividep & SOMO
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Phony Equality: Labour standards of mobile phone manufacturers in India

AUTHORS:

Anibel Ferus-Comelo and Päivi Pöyhönen

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This report is published as part of the makeITfair campaign, a Europe-wide project on consumer electronics. MakeITfair aims to inform young consumers about human rights, as well as social and environmental issues along the supply chain. It also addresses consumer electronics companies that are in a position to contribute to change.



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CONTACT DETAILS:

Finnwatch
Research partner of makeITfair
Tel: +358 (0)40 4109710
info@finnwatch.org
www.finnwatch.org



MakeITfair is a Europe-wide project on consumer electronics, aiming to inform young consumers about human rights violations, as well as social and environmental issues along the supply chain, and life-cycle of electronics. MakeITfair-project is co-ordinated by the Dutch organisation SOMO. Project partners are Swedwatch, Fair Trade Center and Church of Sweden from Sweden, Finnwatch and Pro Ethical Trade from Finland, DanWatch from Denmark, Germanwatch from Germany, Association for Conscious Consumers (ACC) from Hungary, Acidh from the DR Congo, Cividep from India, Workers Assistance Center from the Philippines and Civil Society Research and Support Collective from South Africa. Website: www.makeitfair.org.

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Finnwatch observes and researches Finnish companies operating in developing countries, focussing on human and labour rights, the environment and social development. The member organisations of Finnwatch are: Service Centre for Development Cooperation (Kepa), Trade Union Solidarity Centre of Finland (SASK), Friends of the Earth Finland, Finnish Association for Nature Conservation, FinnChurchAid, Attac Finland and Pro Ethical Trade. Website: www.finnwatch.org.



Cividep is an NGO based in Bangalore, which studies the effects of corporate activities on communities and the environment, helps workers unionise and campaigns with many other organisations and individuals for workers' rights and corporate accountability. Cividep's workers' rights initiatives have been in the garment manufacturing and electronics manufacturing sectors. Website: www.cividep.org.



The Centre for Research on Multinational Corporations (SOMO) is a non-profit Dutch research and advisory bureau. SOMO investigates the policies of multinational enterprises and the internationalisation of business worldwide. Focus is placed on research into labour conditions in the global South and cooperation with local organisations and trade unions. Website: www.somo.nl.

EXECUTIVE SUMMARY

This report focuses on labour rights in the mobile phone industry in India and addresses working conditions in export processing zones (known as Special Economic Zones in India). The aim of this research is to get an understanding of unionisation and precarious employment in four mobile phone factories, namely Nokia, Salcomp, Flextronics and Foxconn, based in Sriperumbudur around Chennai, Tamil Nadu. One of the recent developments in the industry has been the unionisation of Nokia in India.

The publication is based on research efforts of the local partner of the makeITfair project, Cividep, which interviewed more than 100 workers from these four companies during the period of February to May 2011. In addition to this, Finnwatch and Cividep researchers visited the factories in March 2011, to interview company representatives. The report contains detailed management responses. It also includes insights gained from visits behind the usually closed factory gates.

The Special Economic Zones Act came into effect in India in February 2006, providing for drastic simplification of administrative procedures and a range of fiscal incentives and tax exemptions. The act undermines many legal provisions for labour protection such as the right to strike. A majority of Tamil Nadu's 17 SEZs are dedicated to information technology (IT) and related industries, including the Nokia Telecom SEZ, where three of the four studied factories are located. Flextronics has a separate facility, also designated as a Special Economic Zone, a few kilometres away.

Nokia's mobile phone factory in Sriperumbudur is its largest in the world employing over 11,300 workers. Salcomp with 4,000 workers makes chargers for, among others, Nokia in India. Flextronics' factory has about 1,700 employees and produces mainly chargers. Foxconn has two locations in Sriperumbudur with the main one in the Nokia Telecom SEZ, both employing nearly 6,000 people in total. Foxconn produces the casing for Nokia mobile phones. The four factories operate on a three shift basis with eight hours per shift, six days per week. The findings are:

- **MOBILE PHONE MANUFACTURING DEPENDS UPON A YOUNG AND SINGLE WORKFORCE.** One of the most remarkable features of the mobile phone manufacturing workforce in India and many other countries is its youth. The average age of the workers in the factories is 22 years. Workers shared their anxiety about the diminishing chances of being employed elsewhere in the industry as they get older. Workers recruited by mobile manufacturers have no prior experience of employment or standards of comparison with regard to expectations of wages, and importantly, knowledge of their rights and entitlements. It becomes very difficult for workers, especially women, to continue working for the companies after marriage and parenthood.
- **THE SUPPLY OF LABOUR EXCEEDS ITS DEMAND.** Basic requirements for entry-level jobs as trainees at Nokia, Salcomp and Foxconn are ten years of high school plus two years of higher secondary education. Similarly, Flextronics required completion of 10 years of school and Industrial Training Institutes (ITI) diplomas. Completion of 10 years schooling qualifies workers as Nokia's contract labour. Many workers reported working in jobs below their qualifications, but were unable to obtain better jobs given the limited job prospects in the area.

- **MOST OF THE WORKERS ARE MIGRANTS FROM OTHER PARTS OF TAMIL NADU AND HAVE LONG COMMUTES.** Most of the workers lived in rented rooms and had a daily commute of over one hour each way. Although the buses in which workers commuted to work were provided by the companies for free, the commute lengthened an already long work-day. Around Chennai, a room with a kitchen costs about Rs. 3,000 (48 euros) per month. Such a room is typically shared by five to seven workers to cut costs. Many workers may visit their families three to four times per year.
- **CONTRACT LABOUR REMAINS ON CONTRACT FOR YEARS FACING A DEAD-END TRACK.** Mobile phone manufacturing is characterised by a two-tier system of employment with permanent employees and contract workers. Nokia did not have a policy on the time limit that workers remain on contract and did not know for how long on average contract workers worked at its factory. The proportion of contract workers varied between 10 per cent at Salcomp and 60 per cent at Flextronics. Both companies confirmed contract workers. Contract workers do not have the same security, wage rises and possibilities for career advancement than permanent employees.
- **WORKERS WORK AS TRAINEES AND PROBATIONERS FOR EVEN TWO YEARS - WITHOUT TRAINING.** Most of the workers who were on the direct payroll of Nokia, Salcomp and Foxconn started as 'trainees' and were kept in this status for 15 months or more, even though their training lasted for a month. The only company that did not use trainees was Flextronics. Salcomp's and Foxconn's trainees are subsequently put on probation and finally, are 'confirmed' as full-fledged employees. Workers in Salcomp worked as trainees for the first 18 months followed by a probationary period of six months. After completing the 'training' workers have no claim to being hired permanently.
- **NOKIA AND FOXCONN PAY HIGHER WAGES THAN SALCOMP AND FLEXTRONICS DUE TO WAGE SETTLEMENTS.** Nokia has become a wage leader in the industry by agreeing to union settlements. According to Nokia, the monthly salary of permanent assembly workers varied between Rs. 6,000 (95 euros) and Rs. 11,666 (186 euros). Foxconn's wage settlement with the union raised permanent workers' wages by 75–80 per cent, to Rs. 9,100 (145 euros) per month for those with three or four years of work experience. Salcomp paid permanent workers between Rs. 4,600 (73 euros) and Rs. 6,000 (95 euros) per month, and Flextronics paid up to Rs. 6,000 per month.
- **WAGES ARE FAR FROM SUFFICIENT AND NOT A LIVING WAGE.** Contract workers and trainees are paid in general less than permanent workers and are exempted from wage rises. Salcomp and Flextronics claimed that the wages for contract and regular workers are the same. Nokia paid for contract workers 25 per cent above the legal minimum wage, i.e. around Rs. 4,400 (70 euros) per month. Flextronics paid them Rs. 4,130–5,500 (66–88 euros), Salcomp Rs. 4,200 (67 euros) and Foxconn Rs. 5,000 (80 euros) per month. According to the Asia Floor Wage campaign, the minimum living wage for India would be Rs. 7,967 (127 euros). In the workers' opinion, a living wage would be between Rs. 9,000 and Rs. 15,000 (145–240 euros) per month. With that money, they could marry, rent their own room and start a family.
- **NOKIA AND FOXCONN HAVE RECOGNISED UNIONS, WHILE SALCOMP AND FLEXTRONICS HAVE WORKERS' COMMITTEES.** Both Nokia and Foxconn have recognised and negotiated wage settlements with the LPF union, the labour arm of the erstwhile ruling DMK party in Tamil Nadu, which have made a difference to workers' wage and benefits packages. In both cases, there is however a question about the extent to which the union represents the workforce. In 2011, Nokia replaced the LPF by recognizing an "independent" union open to contract workers. At

Salcomp and Flextronics, workers can raise issues through a number of workers' committees. In the companies' own words, they do not work against unions. However, these are untested words.

- **FOXCONN, LIKE NOKIA, HAD A DIFFICULT 2010 IN TERMS OF WORKER RELATIONS.** Nokia's workforce in South India formed a union as a result of a successful strike in August 2009, followed by two more strikes in January and July 2010. Major strikes resulting in police intervention took place in October 2010 at Foxconn. While LPF remains the recognised union, many Foxconn workers expressed their support for CITU during their strike, which was illegal from Foxconn's and the local government's point of view. Foxconn wanted to keep out the CITU union, known in Tamil Nadu for its pro-worker nature. Three hundred Foxconn workers were arrested and imprisoned during the strike. A few workers remain suspended. At the time of writing, Foxconn held 'hearings' with suspended workers individually on the company's premises. Workers were not allowed to bring a lawyer, a co-worker or any other representative in support.
- **WORKERS ARE FRUSTRATED AND DISILLUSIONED WITH EMPLOYMENT BUILT UPON THE CONTRACT LABOUR AND TRAINEE SYSTEMS.** In their own words, workers are not fully informed about the lengthy process toward regular, permanent employment. The contract labour and trainee systems trap workers in an unfair and exploitative position. In the survey, many workers shared that they arrived at multinationals with the expectation of good salaries and employment benefits, but were bitterly disappointed not only with the salary but also the insecurity of their jobs. It is not clear what the future holds for those who do not manage to secure permanent jobs as full-fledged employees within the industry.

The makeITfair project has given the companies studied an opportunity to comment on the factory findings in this report. All of them sent detailed comments, some of which proved very useful. Overall, the companies found the report good and true to reality. Some of them invited the makeITfair organisations to consider a more statistically reliable and methodical survey process by partnering with them to interview their employees. This would, however, hinder workers' ability to speak freely and anonymously with the researchers.

1. INTRODUCTION

Over the past decade, the market for mobile phones has increased rapidly. In 2010 alone, 1.6 billion handsets were sold worldwide, up 32 per cent from 2009. While the Finnish mobile phone giant Nokia still led with sales of 461 million handsets, its market share dropped quite substantially (from 31 per cent to 25 per cent between early 2010 and 2011).¹ However, Nokia is still a leading player in the mobile phone industry in India. The Sriperumbudur plant has become the company's largest factory surpassing even the volume of Nokia's plants in China - making industrial relations at Nokia in India of critical significance.

Between 2008 and 2011, the makeITfair organisations have released several reports about the working conditions in more than ten mobile phone (or their parts) factories in India, China and the Philippines. The reports revealed severe violations of labour laws and rights, although important improvements have recently taken place in China. Other makeITfair reports have addressed the working conditions in the manufacturing of other gadgets; the early stages of the supply chain, namely the appalling working conditions at the mines that extract valuable metals for mobile phones and other electronic equipment; and the negative effects of dumping e-waste in developing countries.

In this report, the makeITfair project focuses on labour rights in the mobile phone industry in India and addresses the conditions in export processing zones. Electronics companies officially state that union rights must be respected in their supply chains, but most of the production is located in export processing zones (known as Special Economic Zones in India) where those rights are systematically violated or hindered. The right to organise is a fundamental right, enabling workers to voice their grievances and negotiate improvements of their labour conditions.

There have been a few substantial changes in the mobile phone manufacturing industry in India during the past years. One of the developments in the industry has been the unionisation of Nokia. Nokia's workforce in South India formed a union as a result of a successful strike in August 2009, followed by two more strikes in January and July 2010. Cividep's research in 2010 explored the conditions, particularly the wage levels and insecurity of employment which led to the industrial strife in Nokia.² An attempt to improve employment conditions in the leading company in the mobile phone sector has implications for the Indian electronics and IT hardware industry, which employs around one million people at present, and this figure is expected to rise to over 4 million by 2022.³

This study is timely due to the continued workers' unrest and union struggles in the export processing zones around Chennai housing Nokia's and other mobile phone manufacturers' plants, especially at Foxconn. The research can also be seen as an attempt to deepen our understanding of workers' situation from a long-term perspective – what happens to workers with experience in an industry that has set roots? The electronics companies have a track record now with workers reaching

1 Digital Home, "Worldwide mobile phone sales up 32% in 2010", 14 February 2011 (<http://www.digitalhome.ca/2011/02/worldwide-mobile-phone-sales-up-32-in-2010/>); Helsingin Sanomat, "Gartner: Nokian markkinaosuus putosi alimmilleen 14 vuoteen", 19 May 2011 (<http://www.hs.fi/talous/artikkeli/Gartner+Nokian+markkinaosuus+putosi+alimmilleen+14+vuoteen/1135266257914>)

2 Cividep (2010), *Changing Industrial Relations in India's Mobile Phone Manufacturing Industry*, Amsterdam: SOMO

3 The Economic Times, "Electronics, IT sector to need 3.2 million workforce by 2022: NSDC", 25 March 2011 (http://articles.economictimes.indiatimes.com/2011-03-25/news/29188550_1_hardware-industry-electronics-telecom-equipment)

the five year mark. This report also examines whether or not they are retained for longer, or whether companies will use any excuse to dismiss them to prevent seniority in the workforce.

The key questions now are:

- How has the recent development of unionisation improved working conditions in India's mobile phone industry and affected the factories that do not have trade unions?
- How do terms, conditions and unionisation differ between permanent workers and contract labour or other forms of precarious employment in the Special Economic Zones?

These questions frame the primary sections of this report. The aim of this research is to get an understanding of the recent changes, improvements and the current situation of freedom of association, unionisation and contract labour issues in four mobile phone factories, namely Nokia, Salcomp, Flextronics and Foxconn, based in Sriperumbudur, outside Chennai, Tamil Nadu, in export processing zones. Nokia is a so called original equipment manufacturer (OEM), the other three companies are its suppliers, electronics manufacturing services (EMS) providers.

2. METHODOLOGY

The publication is based on research efforts of the local partner to the makeITfair project, Cividep, as well as independent consultant Patrik Oskarsson, and on a multi-stakeholder research methodology involving management, workers and civil society interviews. Additionally, a number of trade unionists, labour lawyers and activists in Chennai were interviewed to add to the comparative perspective to that of the management responses.

All the four companies (Nokia, Salcomp, Flextronics and Foxconn) selected for this study are based in Sriperumbudur, which is located along the Chennai-Bangalore highway about 40 kms from Chennai in Southeastern Indian state of Tamil Nadu. Heavy investment by automobile companies starting with Hyundai in 1999 has turned Sriperumbudur into an industrial hub often referred to as the Detroit of India. Since 2006, the area has seen a steep rise in investment by electronics manufacturers and has become the heart of mobile phone manufacturing in India.

Cividep interviewed more than 100 workers from these four companies⁴ during the period of February to May 2011, in addition to conducting 30 in-depth interviews and five focus group sessions with workers.⁵ Cividep has established contact with the staff of mobile phone manufacturing companies through previous studies since 2006, allowing for easier access to workers' perspectives. Workers were selected to reflect a gender balance and represent the views of permanent as well as contract workers and trainees. Worker interviews were conducted outside the factories such as tea-stalls, workers' homes and union offices. All communication with workers was in Tamil, their mother tongue. The in-depth interviews covered themes such as personal backgrounds, working conditions, union involvement and their perspectives on change needed.

In addition to this, Finnwatch and Cividep researchers visited the factories in March 2011, to meet with company representatives. During this visit, workers and local experts were also interviewed. Interviews with corporate managers were arranged through Finnwatch's contacts within the companies' headquarters. Previous attempts by Cividep did not get the same response rate from local corporate representatives. At Nokia, the researchers met with the human resources manager and representatives of the employee relations department. In addition to the HR departments, the respective general managers participated in the interviews at Salcomp, Flextronics and Foxconn. The interviews at Nokia and Flextronics also included their global CSR representative. Three of the meetings included a guided shopfloor visit. The interview with Foxconn was conducted on Nokia's premises, by request from Foxconn.

Interviews were also conducted with the state general secretaries of the two labour unions which have a presence in the Nokia Telecom SEZ, namely the LPF and CITU. These interviews shed light on the challenges and prospects of organising workers in SEZs, and the unions' role in representing members at the multinational companies. Prominent labour lawyers who advocate on behalf of workers' rights were also interviewed in order to understand the legal situation of workers and the extent to which labour rights are enforced by state mechanisms and upheld in court. Attempts were

⁴ Of the 101 workers surveyed, 19 were from Nokia, 21 from Salcomp, 18 from Flextronics and 43 were from Foxconn's two sites.

⁵ An additional 47 workers from Nokia, Foxconn, Flextronics and Salcomp participated in the focus group sessions.

made in person and in writing to interview government officials of the State Industries Promotion Corporation of Tamil Nadu (SIPCOT). However, these attempts failed to yield appointments.

Something that became evident in this process, however, was that high-level officers of the Labour Department were prohibited from speaking to the public and that all communication needs to come directly from the head of the department, even when it is their subordinates who specialise and have the field experience that is most relevant to the party seeking their views. In the case of the afore-mentioned offices, the researchers were directed to seek permission from the heads of the departments, who were not available in their offices. Future research would need to prioritise interviews with the heads of the departments for a better understanding of state policy and practice with regard to workers.

All the four companies have been given the opportunity to comment on the factory findings and notify Finnwatch of any factual inaccuracies. Their responses were incorporated in this report. The makeITfair project would like to stress that this research does not present a full evaluation of any company mentioned in this document. Problems described should be further investigated by the factories and their customers.

3. SEZs: PROMISES AND REALITIES

This chapter explores the development of Special Economic Zones (SEZs) in India in light of their proclaimed objectives, their regulatory framework and their effects on workers and communities. It raises serious questions about the effectiveness of SEZs to deliver what they promise. In addition, this chapter includes factory and SEZ profiles of the four studied companies in India.

3.1 NATURE AND GROWTH

India was one of the first countries in Asia to shift its national economic policy from import-substitution to export-oriented industrialisation with the launch of the first Export Processing Zone (EPZ) in 1965. The primary objective of EPZs was to increase foreign exchange earnings while boosting exports of goods manufactured in India. EPZs were subjected to very high requirements of minimum export performance and net foreign exchange earnings as a percentage of exports (NFEP).⁶ Sales in EPZs were also linked to the achievement of NFEP.

With a view to dismantle further the regime of controls and clearances for setting up industrial units and to attract larger foreign investment, the government announced the Special Economic Zones (SEZs) policy in April 2000. The Special Economic Zones Act was passed by parliament in May 2005, received presidential approval in June 2005 and came into effect in February 2006, providing for drastic simplification of procedures and for single window clearance on matters relating to central as well as state governments.

For six years thereafter, SEZs functioned under the foreign trade policy with the benefit of a range of fiscal incentives made available under relevant statutes.⁷ With the decision to convert EPZs to SEZs, the government shifted its focus from expanding India's production capacity to simply encouraging capital investment in low-risk, high-profit economic activities such as construction of residential units and shopping malls. SEZs were not required to comply with minimum exports or NFEP through sales. In fact, 75 per cent of the area in SEZs could be used for non-export purposes. What is more, SEZs offered much bigger tax exemptions than EPZs. The following list summarises the incentives and facilities offered to units in SEZs:⁸

- Duty free import and domestic procurement of goods;
- 100 per cent tax exemption on export income for first 5 years, 50 per cent for the next 5 years and 50 per cent of the ploughed back export profit for the next 5 years;
- Income tax exemption from the development of the SEZ in a block of 10 years within 15 years;
- Exemption from minimum alternate tax;
- Up to US \$500 million a year in external commercial borrowing without any maturity restriction through recognised banking channels;

6 Source: <http://www.indianinvest.com/exportorient.htm> (accessed 10 February, 2011).

7 Source: <http://sezindia.nic.in/index.asp> (accessed 8 February, 2011)

8 Source: <http://sezindia.nic.in/about-fi.asp> (accessed 11 February, 2011)

- Exemption from central sales tax and service tax;
- Single window clearance for central and state level approvals;
- Exemption from state sales tax and other levies;
- Exemption from customs and excise duties for BOA-approved authorised operations.

Of the 130 SEZs currently in operation in India, the 17 in Tamil Nadu were notified under the SEZ Act 2005, with a majority (13) of these dedicated to information technology (IT) and related industries. Besides these, the Madras Export Processing Zone (MEPZ) Special Economic Zone was established in Tamil Nadu by the central government and four additional SEZs, including the Nokia Telecom SEZ in Sriperumbudur, were set up by the state government prior to the SEZ Act.⁹

3.2 EMPTY PROMISES?

The development of SEZs has been wrought with controversies and has raised the concern of different sectors of the public, most immediately from those directly affected by the governmental take-over of land. Vast expanses of land, about 2000 acres on average, have been acquired by the state for industrialisation as SEZs under the 'public purpose' clause of the Land Acquisition Act. Land for SEZs is usually fertile agricultural land sold or leased to developers who use only a fraction of the land to set up industrial plants. Most is converted into residential units and other lucrative purposes such as convention centres and malls, casting doubt on the public benefit stemming from privatised land conversion that has been seen as 'land grab'.¹⁰

Massive land conversion around India has negatively affected not just the landowners but also tenant farmers or sharecroppers, agricultural labourers and many others who earn a living on the land. Thousands have lost their only source of livelihood and been displaced from their homes. Most still await the compensation packets promised by the government at far less than market price.

A movement of people in traditional livelihoods such as farmers and fishing communities has grown in different parts of India against SEZs, and through public protest, gained the support of other social movements on common grounds.¹¹

First, it has become apparent that the subsidies that SEZ developers have received in the form of low cost or free land infrastructure and tax holidays are a tremendous burden on public coffers. Several studies call into question state support for powerful, highly profitable multinational corporations under the fig-leaf of 'economic development'.¹² Second, by all official accounts, SEZs were created in order to promote employment. With a majority of the approved SEZs in the IT and ITES sector, there has been negligible rise in the job opportunities for the unskilled, particularly those who have been displaced to create the SEZs.

9 Source: <http://sezindia.nic.in/writereaddata/pdf/ListofoperationalSEZs.pdf> (accessed 11 February, 2011)

10 Ramakrishnan, V. (2011) "The great land grab," *Frontline* cover story, vol. 28(12), June 04–17; Shiva, V. (2011) "The great land grab: India's war on farmers," *Aljazeera*, <http://english.aljazeera.net/indepth/opinion/2011/06/20116711756667987.html> (accessed 9 June, 2011)

11 Dharur, S. (2008) "AP Farmers protest against SEZ; Patkar lends support," *Tribune News Service*, see: <http://www.tribuneindia.com/2008/20081228/nation.htm#16> (accessed 6 June, 2011).

12 For example, the Citizens' Research Collective's *The Public Price of Success: The costs of the Nokia Telecom SEZ in Chennai for the government and workers*; Oskarsson, P. (2005) *Indian Attraction: Profitable Multinationals as Subsidy Junkies*, FinnWatch.

As this study analyses the quality of jobs in the Nokia Telecom SEZ, a brief assessment of the quantity of jobs in the Tamil Nadu SEZs serves as a useful point of reference. The table below summarises the quantity of direct and indirect jobs proposed in each SEZ and the actual number according to the latest count available in the office of the development commissioner:

Table 1: Employment Statistics in Tamil Nadu SEZs¹³

| Name | Units Approved | Indirect Employment | | Direct Employment | | | |
|-------------------------------|----------------|---------------------|---------------|-------------------|--------------|--------------|---------------|
| | | Proposed | Current | Proposed | Current | | |
| | | | | | Men | Women | Total |
| MEPZ | 116 | NA | NA | NA | 20,335 | 16,137 | 36,472 |
| Mahindra World City – IT | 12 | NA | 14,282 | NA | 5,236 | 8,364 | 13,600 |
| Mahindra World City – Auto | 7 | NA | 412 | NA | 614 | 1,144 | 1,758 |
| Mahindra World City – Apparel | 6 | NA | 1,817 | NA | 842 | 57 | 900 |
| Nokia | 7 | NA | 18,100 | NA | 5,500 | 9,400 | 14,900 |
| Flextronics | 2 | NA | 193 | NA | 966 | 613 | 1,579 |
| SIPCOT Hi-Tech Sriperumbudur | 11 | 1,900 | 930 | 3,600 | 1,458 | 447 | 1,905 |
| SIPCOT Hi-Tech Oragadam | 16 | 2,965 | 2,723 | 5,075 | 2,285 | 822 | 3,107 |
| Synefra | 4 | 0 | 635 | 2,115 | 982 | 48 | 1,020 |
| Cheygar | 1 | 0 | 1,190 | 0 | 3,158 | 3,071 | 6,229 |
| Sicpot | 2 | 800 | 200 | 1,200 | 730 | 0 | 730 |
| AMRL Int | 4 | 700 | 50 | 540 | 48 | 3 | 51 |
| ELCOT | 1 | 10,000 | 460 | 10,000 | 9 | 1 | 10 |
| Pearl City | 1 | 40,000 | 155 | 10,000 | 7 | 0 | 7 |
| Frontier | 1 | 700 | 260 | 200 | 7 | 8 | 15 |
| L&T Ship | 2 | 7,500 | 1,768 | 2,500 | 120 | 4 | 124 |
| New Chennai | 4 | NA | 150 | 0 | 18 | 4 | 22 |
| New Chennai | 2 | NA | 1,450 | 0 | 22 | 8 | 30 |
| TOTAL | 51 | 64,565 | 10,164 | 35,230 | 9,810 | 5,029 | 14,829 |

A comparison of the figures above shows that the current numbers of both indirect and direct jobs are significantly lower than the numbers proposed by all the SEZ promoters. For example, in the case of the Sipcot Hi-Tech SEZ in Sriperumbudur, of the 1,900 proposed indirect jobs only 930 have materialised, and of the 3,600 proposed direct jobs only 1,905 exist. It appears that, in both categories, the promoters promised nearly double the number of jobs than what they delivered. Moreover, the total number of direct jobs generated in all the SEZs is just 42 per cent of what was proposed, even with employment projection figures missing or unavailable in half of the SEZs listed here. The total number of indirect jobs generated in all the SEZs is only 16 per cent of what was proposed, even with ‘nil’ jobs projected in 10 of the 18 SEZs listed here. Nokia’s direct employment figure (14,900) appears to be higher than the figure provided by the managers (11,300) at the time

13 Statistics as on 31 December, 2010



Gate of the Sipcot Hi-Tech Special Economic Zone, where a unit of Foxconn is located.
Photo: Finnwatch

WORKERS' RIGHTS IN THE 2005 SEZ ACT AND 2006 SEZ RULES

The Tamil Nadu SEZ Policy (2003) states that labour laws and rules along with reporting systems will be “simplified” with the number of forms and labour registers, and frequency of filing returns to be “revamped” and inspections to be “kept at minimum level”. It proposes the introduction of ‘new concepts’ such as self-certification, flexi-time, and night-shifts for women.¹⁴ It also states that all SEZ units will be declared as ‘public utility services’ under the provisions of the Industrial Disputes Act (IDA) of 1947, which restricts the rights of workers in SEZs. Under section 22 of the IDA, workers in public utility services cannot go on strike during conciliation proceedings, which start once a strike notice has been given, and are required to give six weeks advance notice before launching a strike.

In line with central policy, Tamil Nadu’s SEZ Rules delegate the powers of the Labour Commissioner to the Development Commissioner of SEZs. This is significant because the highest authority in the state to ensure implementation of labour law is rendered redundant by the office which promotes and facilitates capital investment by ‘simplifying’ processes and procedures, some of which are designed to safeguard workers’ and communities’ interests. This means that the same office which acts on behalf of employers is also supposed to intervene as a neutral party in labour disputes. This presents a major conflict of interest and undermines the implementation and enforcement of labour legislation.

According to legal experts, the “most serious problem” in a SEZ is the self-certification of compliance with labour legislation.¹⁵ SEZ companies are responsible for filing a self-certified Consolidated Annual Report with the Development Commissioner (not the Labour Commissioner) on the implementation of the most fundamental labour laws such as the Factories Act of 1948, Minimum Wages Act of 1948, Payment of Wages Act of 1936, Workman Compensation Act of 1923, Maternity Benefits Act of 1961, Payment of Bonus Act of 1965 and Contract Labour (Regulation and Abolition) Act of 1970.

Enforcement of labour legislation which is normally done through inspections and through the court, has been reduced to a paper-based, self-reporting exercise required of SEZ companies. Violation of the Minimum Wages Act is considered a criminal offense and violates Article 23 of the Indian Constitution against exploitation. However, self-certification in this case, which serves as conclusive proof of compliance, grants immunity to the SEZ employer.

Similarly, the Contract Labour Act is warped to benefit employers and allows the use of contract workers even for regular and perennial work.¹⁶ This means that the entire workforce could comprise contract workers and SEZ employers would be complying with the Act by simply providing the required details in the Consolidated Annual Report.

14 Tamil Nadu Special Economic Zones (SEZ) Policy, 2003 <http://www.tea-india.org/Contents/PolicyDocuments/Tamil%20Nadu-%20Special%20Economic%20Zones%20Policy.pdf> (accessed 25 February, 2011)

15 Iyer, S.H. (2008) “Analysis of the Structure and Practice of the Legal Machinery (with reference to Labour) of SEZs,” *Labour File*, special issue on Special Economic Zones, vol. 6(4–5): 14–18, October.

16 Suchitra, M. (2007) “SEZs: Economic or Exploitation Zones,” *Infochange News and Features*, February, http://infochangeindia.org/index2.php?option=com_content&do_pdf=1&id=5690 (accessed 11 February, 2011)

of the study (March 2011) even though there has been no downsizing by the company. This could be the result of an error or possibly miscommunication between Nokia and the government.

A gap can also be identified between the Tamil Nadu labour department's expressed "concern for the well-being of the work force", without any mention of the state of labour law enforcement within SEZs,¹⁷ and the SEZ Act of 2005 which undermines many legal provisions for labour protection.

3.3 FOUR MOBILE PHONE MANUFACTURERS IN TAMIL NADU SEZS

Nokia has had a long presence in India but it was only in 2005 that the company decided to set up a mobile phone factory at Sriperumbudur on the outskirts of Chennai, Tamil Nadu, in Southern India. A number of reports have critiqued the Nokia Telecom SEZ over the years, especially from tax policy and worker rights perspectives.¹⁸ The present report is the first to contain detailed management responses. It also includes insights gained from visits behind the usually closed factory gates.

The four examined companies are all except Flextronics part of the Nokia Telecom SEZ, a walled compound located on the Chennai-Bangalore national highway close to Sriperumbudur village outside of Chennai. In this 200 acre plot exists Nokia, Foxconn and Salcomp of this study together with Wintek, Perlos and Aspocomp. Jabil used to be part of this SEZ but has closed its factory. Flextronics has a separate facility, also a Special Economic Zone (Chennai Industrial Park) in Sunguvarchatram, a few kilometres away on a 250 acre plot which is currently very underutilised.

Nokia

The factory in Sriperumbudur is now Nokia's largest in the world followed by one in Southern China (which used to be the biggest). Since the start in 2006 the factory has been expanded twice to now have 11,300 workers producing about 300,000 phones per day. In the last year the company recruited 4,000 people as part of its latest expansion program. Nokia does not provide separate accounting for its Chennai factory, or indeed for its India manufacturing activities (which would include the Nokia-Siemens network equipment factory based at the Oragadam SEZ close to Sriperumbudur). It should nevertheless be expected that the Sriperumbudur plant has been a major success. The factory serves not only the Indian market but export phones to many countries around the world. It appears to be the case that the newer 'smartphones' are not made in India however, limiting the profitability in the very price sensitive lower end of the mobile phone market.

In the factory Nokia makes 40 different mobile phone models where each comes in five to six different varieties. Within the factory, there is ENO (Engine Operations) and SOP (Supply Operations) departments or "supermarkets". The engine is the internal electronics plus display parts which form the core of the phone. Supply operations are mainly about packaging but also loading customer specific software and adding regional language keypads to the phones. Supply operations

17 ML (2010) "Policy Note on Labour, Factories, Employment and Training, 2010–2011" Ministry for Labour, Government of Tamil Nadu, p. 1 available at: <http://www.tn.gov.in/policynotes/pdf/labour.pdf> (accessed 26 February, 2011)

18 (Cividep 2010; Finnwatch 2005; Oskarsson et al. 2009; Dutta & Radhakrishnan 2011)

are different from shipping and warehousing (both of which seem to be manned by contract staff). There are 23 lines operating simultaneously in the ENO where each line is capable of producing a new phone every two to four seconds throughout the day. This could mean a production of 162,000,000 phones per year in the factory assuming a phone every four seconds with 25 days per month operations. The factory operates on a four-shift basis where one shift is always off. There are 2,500 people working in each shift. One shift lasts eight hours including a half hours' lunch break.



**Nokia's factory behind a fence in Sriperumbudur.
Photo: Finnwatch**

Salcomp

Salcomp makes chargers for Nokia and other companies like Samsung and LG. The overwhelming majority of production seems to be for the neighbouring Nokia plant however. The company's capacity is some 100 million chargers per year. At the time of our visit, Salcomp India was producing some 270,000 chargers per day. The factory has about 4,000 workers. Salcomp's biggest facility is in China and there is a third factory in Brazil. With only three factories and a small headquarter in Finland, Salcomp is of a significantly smaller size than any of the other companies examined in this report.

The main problem for Salcomp is that chargers are always bundled with the mobile phones. Even as a spare part, potentially a more lucrative market, the chargers are sold via the brand companies which seem to imply that Salcomp's margins will be very tight. Salcomp India is in direct competition with charger manufacturers in China, as well as Flextronics who also has a charger manufacturing facility in Sriperumbudur. In a product like charger, competition is mostly based on price.

In India, Salcomp has gone from 100 per cent import of supplies when they started to 60 per cent of value coming from local suppliers. For example, they get plastic covers from a company in Bangalore. Originally the plant was only making chargers. Since late 2010, they have also been making transformers and cabling which is part of the chargers. For now there is not much more physical space to grow further within the present facility. Workers work in three shifts, eight hours per day (including breaks), six days per week. Night shift allowance is Rs. 8 per day totaling Rs. 48–57 per month.

Flextronics

Flextronics is an international major contract manufacturer based in Singapore but founded in the United States in 1969. It has expanded to more than 30 countries around the world and is a Fortune 500 company.¹⁹ Flextronics engagement with India is quite recent however and started when the company bought a unit from Motorola in Bangalore in 2001. In 2004, a repair centre was added to the unit but this was later moved to Chennai. Chennai's most attractive feature for Flextronics is its 80,000 technical graduates every year. Other benefits mentioned includes the SEZ status, technical talent, government incentives (presumably state incentives on top of the SEZ package), and a local supply base. Flextronics established an industrial park in Chennai in 2006, but has only been able to expand to having about 1,700 employees.²⁰

Nowadays the Chennai facility does not make any mobile phones. There is a hint that they used to make Sony-Ericsson phones but this is never confirmed. The factory manufactures mobile chargers, mechanical enclosures and other PCB assemblies for both domestic and overseas customers. For now it seems as if the Indian market is not very receptive for this form of flexible electronics manufacturing however. At the moment chargers form about 50 per cent of the business and the rest seems to mainly rely on the seemingly not very profitable metal case business. The factory operates on three-shift basis with eight hours per shift. Like the other factories Flextronics is open six days per week.

Foxconn

Foxconn is another major international EMS (Electronic Manufacturing Services) company, operating on a large scale across many locations similar to Flextronics and being a Fortune 500 company.²¹ The company is Taiwanese but with most of its production taking place in mainland China. In India, Foxconn's operations are significantly smaller than what is the case elsewhere. It has two locations in the Sriperumbudur area where the main one in the Nokia Telecom SEZ is employing about 5,000 people. The registered headquarter is close to the Flextronics facility, only a few kilometres from the Nokia Telecom SEZ, but only has 1,000 workers employed.²²

Foxconn produces the housing or covers for Nokia mobile phones within the Nokia Telecom SEZ. The company also has the ability to make other components for the phones but management interviews did not yield any results as to what exactly they make. It was also not possible to visit the actual factory floor during investigations. Foxconn, like Nokia, had a difficult 2010 in terms of worker relations. Major strikes resulting in police intervention and the suspension of 24 workers took place in September-October. In addition, there was an accident with a pesticide which resulted in the hospitalisation of 42 workers in July 2010 (See Ch. 7). In the end, the company recognised a union. (See Ch. 6)

19 (Flextronics 2010)

20 Interview with Flextronics management, Sriperumbudur, 4 March 2011

21 (Foxconn Technology Group 2010)

22 Interview with Foxconn management, Sriperumbudur, 7 March 2011

4. INDIA'S MOBILE GENERATION

It is important to bear in mind that the mobile phone manufacturing workforce is the first generation of industrial workers in this region with parents who have been agricultural labourers throughout their lives. Workers recruited by mobile manufacturers have no prior experience of employment. According to Salcomp, for instance, 90 per cent of their fresh recruits had no prior factory experience. Such workers have no standards of comparison with regard to treatment by managers, expectations of wages and benefits, and importantly, knowledge of their rights and entitlements. They are essentially moulded as industrial workers by their first employers and these experiences of employment shape their response to industrial relations.

This chapter describes the recruitment and placement practices of the companies studied and the corresponding instability that defines this industry's approach to regional development. It also discusses the profiles, accommodation and long commutes of workers.

4.1 GENDER, AGE AND MARITAL STATUS

One of the most remarkable features of the mobile phone manufacturing workforce is its youth. Salcomp employed 3,600 workers in India, 95 per cent of whom are women between the ages of 18 and 25 years. Foxconn had a total of 6,000 workers in two production units near Chennai. Of the total, 1,700 were women. At Flextronics, the ratio of men to women was 60–40 and at Nokia it was 40–60. The average age of the workers at both factories was 22 years. Some job advertisements specified the desired age category as being 18 to 24 years. Nokia denied having an upper age limit, while acknowledging that most of their workers were between the ages of 18 and 24 years. All the workers contacted in the course of the research were in their early 20s. During the focus group meetings, workers revealed that age was a major criterion of selection for employment and that it was important to be young.

In India, marriages are typically arranged for young people in their twenties and gender-specific expectations arise of employment. For young women, jobs are a means of augmenting family savings for wedding expenses and dowries, albeit illegal in India. Some workers reported that a woman is expected to have gold worth at least Rs. 150,000 (2,400 euros)²³ when she gets married. For men, jobs are a sign of their earning capacity and, due to the traditional role of men as 'breadwinners', raise their eligibility for marriage. Workers have come to doubt their ability to fulfil their own and their families' expectations due to the reality of employment in mobile manufacturing, as discussed in the next chapter.

Foxconn admitted having an upper limit of 27 years, not strictly applied to skilled workers, and indicated that 99 per cent of their workforce was unmarried. According to them, the advantage of workers' youth was that they were, in the words of one manager, "free birds," that is without any family obligations. Work in mobile manufacturing means being available for three shifts, including

23 European Central Bank average exchange rate for January-May 2011 (1 € = 62,85 INR)

a night shift. SEZ Rules have lifted the general prohibition of the 'third' shift for women. By implication, young workers without a spouse and children to support would be willing to work for the wages offered and be available to work for longer hours than older workers with family responsibilities. In its reply, Foxconn, however, denied taking any advantage of young and un-married employees and pointed out that female workers are required to do only two shifts. The company highlighted the fact that it pays workers higher salaries than required by law as well as strictly follows the legal working hour limit of 48 hours per week.

Considered in combination with the long commute to work-sites, it becomes virtually impossible for workers, especially women, to continue working for mobile companies after marriage and parenthood. Workers interviewed shared that only those women whose homes were within commuting distance from the factories could continue working after getting married. Workers estimated that approximately ten per cent of the women working for Nokia were married. The company provided child care in an adjacent crèche.

Finally, an important consideration related to age is the questionable prospect for long-term employment. Due to the industry's extensive use of contract work and multiple forms of employment, discussed fully in Chapter 4, many workers spend precious years bidding time in precarious jobs in the hope that they are confirmed in regular employment.²⁴ In focus group discussions, workers shared their anxiety about the diminishing chances of being employed elsewhere within the industry, or in other sectors of the local economy as they get older. Age therefore locks them into a narrow slot of the labour market with an insecure future.

Salcomp's response to the high attrition rate after workers have spent years in the company has been to facilitate vocational training skills for example in mobile phone repair and embroidery, trainings which are also open to the community. Senior employees are given priority in the enrolment for the training and they are offered micro-finance to start their own business. According to Salcomp, most women are assumed to work at the factory for a maximum of five years and quit when they get married. Providing vocational skills training may be seen as the company's way of ensuring that workers are able to continue earning a livelihood beyond formal employment in the industry.

4.2 RURAL TO SEZ MIGRATION

The vast majority of the workers in the Nokia Telecom SEZ were migrants from other parts of Tamil Nadu and, due to the distance of the workplaces from their native villages, had to live in temporary accommodation closer to the factories. Being away from their families, often for the first time in their lives, workers begin their jobs living in temporary shelters while looking for long-term rentals. One woman who worked at Foxconn recounted her experience of spending two nights with many other workers in a marriage hall which had no locks on doors or toilet facilities.

Besides affecting their sense of personal security, living away from home is an unavoidable expense. Since companies provide buses which are free up to certain distances, workers from further afield

24 Precarious employment refers to temporary, part-time and casual jobs which do not provide the same conditions and benefits as regular, permanent employment.

choose to live in rural Kanchipuram and Vellore district where accommodation is much cheaper even though this results in long commutes. Around Chennai, a room with a kitchen costs about Rs. 3,000 (48 euros) per month. Such a room is typically shared by five to seven workers to cut costs. Researchers were able to visit a room shared by twenty-five women working for Nokia and Foxconn who lived without any furniture sleeping on the floor in turns according to their work-shifts.

Our survey of workers of the four companies indicated that workers' monthly rent varied from Rs. 500 to Rs. 1,000 (8–16 euros) per person. Male workers in Foxconn have the possibility of staying in the company-provided dormitories built on the same state subsidized premises as their production units. Workers paid Rs. 750 (12 euros) per month as rent, deducted from their salaries, and about 600–700 workers were currently being accommodated in these dormitories.

Most of the workers had a daily commute of over one hour each way, and some even travelled two hours each way. Although the buses in which workers commuted to work were provided by the companies for free, the commute lengthened an already long work-day and resulted in chronic fatigue. In fact, investigations after the death of young woman due to a workplace accident in Nokia uncovered that she commuted three hours each way between her family home and the factory for an eight-hour work day.²⁵ Her tired state of being could be one possible explanation for her desperate, miscalculated attempt to un-jam a machine in order to keep up with production targets.

Long commutes meant that workers spent most of their waking hours for their jobs with little time for leisure or even activities like cooking, something that could have severe health implications. While the company managers emphasised the financial savings to workers from canteen meals, a few workers complained about the quality of the food and its effects on their health. During the factory visits, researchers found the food palatable with different options available. It is worth pointing out that by providing two meals per day (through a contract agency) within the company itself, managers are able to exercise greater control over workers' time.

With an average travel time of four hours to their parental homes, family visits for workers were limited, from once in three or four months for some to once a year for others. Yet visiting their families was the most popular form of leisure that workers mentioned in the survey, and the inability to be with their families at times of sickness, celebration, bereavement or on important occasions was a cause of sadness for workers. When they did go home, they could not stay long, due to the limited leave that they could take. According to Foxconn, the company provides leave in accordance with governmental regulations, including national holidays. According to Flextronics, most of their workers are hired in and around Chennai and Kanchipuram district and they can return home every day with the shuttle bus services.

Workers from Nokia, Flextronics, and Foxconn revealed in questionnaires and interviews that it was difficult to take unpaid leave. Nokia's operators got 20 days as earned leave, six days of paid casual leave and six days of paid sick leave in a year. Flextronics employees were entitled to 24 days of annual leave, eight days of casual leave and eight days of sick leave. Foxconn workers got 15 days of paid annual leave and ten days of paid casual leave of which a maximum of five days could be sick leave.

25 Ambika lived in a village called Pindithangal, near Arcot in Vellore District, at a distance of nearly 100 kms from the Nokia plant which took more than 2.5 hours to cover each way.

If workers took off more sick days, they forfeited their pay for those days. According to Flextronics, they do not restrict leave applications as long as they are kept within the above limits. Some workers shared that if they were absent for one day in a month, they lost their attendance bonus for that month and that managers expect to be informed in advance about absences due to sickness, which the workers naturally find impossible to do.



**A room and kitchen shared by twenty-five women working for Nokia and Foxconn.
Photo: Finnwatch**



**Foxconn's shuttle bus on the
Chennai-Bangalore national high
way taking workers to the factory.
Photo: Finnwatch**

4.3 WHEN LABOUR SUPPLY EXCEEDS DEMAND

At present, local labour market conditions allow the companies to recruit workers for all shop-floor processes without major delays. Salcomp relied on an internal award-based reference system wherein existing workers recruit new workers. This system of recruitment has functioned well since the company started operations with its first 100 workers. There has been no need for Salcomp to join any government job fairs. Recruits were required to have completed 10 years of schooling plus two years of higher secondary education, but the latter is sometimes waived. Similarly, Flextronics required completion of 10 years of school and Industrial Training Institutes (ITI) diplomas, but did not insist on the latter. Workers at Salcomp were permitted to take time off for further studies. So the company had a higher absentee rate during the months from October to December when workers take evening courses and are replaced by fresh recruits.

Basic requirements for entry-level jobs as trainees at Nokia were ten years of high school plus two years of higher secondary education. Completion of ten years schooling qualified workers as Nokia's contract labour or as the company calls it External Temporary Labour (ETL). Nokia has lowered the requirement for contract labour, which used to be the same as for permanent workers, since the company received many requests for work from this strata of candidates. Besides interviews, the recruitment process tends to be rigorous including tests that gauge candidates' general aptitude, technical skills, and state of health. Nokia no longer participated in government-run employment fairs and relied primarily on a diverse body of public and private agencies as well as non-governmental agencies to recruit new workers.

Foxconn recruited workers through job fairs, ITIs and referrals from its existing workforce. Workers were paid an incentive for fresh recruits. In order to work at Foxconn, workers have to be between 18 and 26 or 27 years of age and have ten plus two years of basic education or diplomas from the ITIs. Many workers reported working in jobs below their qualifications, but were unable to obtain better jobs given the limited job prospects in the area. Many interviewed Foxconn workers had higher qualifications, for example, as electricians and nurses, and were bored with their job on the assembly lines for lack of employment in their own fields. This was also the case with the other companies. According to Foxconn, workers do not always reveal their higher education to companies.

Despite the ease with which these multinational companies are able to seek and replace production workers, the ruling party of Tamil Nadu, the DMK, has introduced an employee recruitment programme called the *Vallthu Kattuvom Thittam* [We Live scheme]. Nokia and Foxconn are two beneficiaries of this programme. The problematic implications of this scheme whereby the same government (through the ruling political party) which plays the role of a recruitment agent for multinationals is called upon to settle labour disputes will be explored later in the discussion of workers' freedom of association and the enforcement of labour laws in Chapter 6.

In sum, mobile phone manufacturing in and around Chennai depends upon a young, single and migrant workforce. As long as the supply of labour exceeds its demand in the mobile phone industry, multinational employers, which benefit from state support in terms of financial subsidies and other policies, may consider themselves under no obligation to change. This makes pressure from a concerned international citizenry all the more significant in order to raise the insecure and tenuous nature of employment in SEZs described in the next chapter.

5. PRECARIOUS WORK UNDER DIFFERENT NAMES

Mobile phone manufacturing in Sriperumbudur is characterised by a two-tier system of employment with permanent employees (including ‘trainees’) who are directly on the companies’ payroll and contract workers who form the bulk of the workers. This chapter discusses the working conditions linked with precarious employment, showing that the provisions of the Contract Labour Act and other laws are routinely flouted within the SEZ leaving workers insecure and considerably weak to bargain collectively. In addition, this chapter compares the wages of ‘trainees’ and contract workers to that of confirmed workers as well as introduces the concept of a living wage. It also compares the different labour policies and practices of the four companies regarding insecure and precarious employment.

Permanent workers enter the companies’ human resource stream classified as ‘trainees.’ They are subsequently put on probation and, finally, are ‘confirmed’ as full-fledged employees. According to workers, the time from starting as trainees to confirmation as employees is usually two years. Over 50 per cent of the Nokia workers surveyed commented that it takes two years for trainees to get confirmed in permanent jobs. According to Nokia, in the 16th month, trainees are absorbed in permanent rolls. However, if the needed skill is not adequately learned, the trainee will not be confirmed.

Contract workers are deployed to the companies by third-party agencies, which supply workers to several principal employers. For example, Nokia and Foxconn had two agencies in common which supply workers to them.²⁶ Contract workers are considered ‘employees’ of the contractor-agency, rather than the companies where they work. This is confirmed by an appointment letter from Ma Foi Management Consultants Ltd., one of Nokia’s manpower suppliers, to a worker, which states: *“During the tenure of the deputation, you will continue to be an employee of Ma Foi.”*

Companies pay the agencies a fee for procuring the workers in addition to the lump sum payment of the workers’ wages to be disbursed by the agencies. The roles and responsibilities of both the ‘principal employer’, the entity for which the workers produce goods or services and the contractor are outlined in the Contract Labour (Regulation and Abolition) Act of 1970 (henceforth Contract Labour Act). This law is concerned with the regulation of the terms and conditions under which contract workers are employed, and makes provisions for their absorption in regular employment under certain conditions.

The table below summarises the employment status of the workforce at each of the four mobile manufacturing companies:

26 Interview with management of both companies, 7 March 2011.

Table 2: Employment Status of Workers in the Companies (in number of workers)²⁷

| Company | Contract (Agencies) | Trainees | Confirmed / Permanent | Total |
|-------------|---------------------|----------|-----------------------|--------|
| Nokia | 2,209 (3) | 2,973 | 6,182 | 11,364 |
| Flextronics | 1,020 (4) | 0 | 680 | 1,700 |
| Foxconn | 2,600 (5) | 600 | 2,600 | 5,800 |
| Salcomp | 400 (2) | 2,800 | 800 | 4,000 |

According to the figures above provided by the companies, 22 per cent of Nokia’s staff was hired through three agencies, while 78 per cent of its staff is either trainees or confirmed workers. Flextronics staff ratio was 40–60 permanent employees to contract workers, hired through four agencies. Flextronics did not use trainees. It confirmed contract workers having worked for 1–2 years at the factory. At Foxconn, more than 40 per cent of the workers was hired through five agencies, 600 were trainees, making a total of 3,200 or 55 per cent of the workforce in precarious positions. Salcomp hired 400 workers through two contract agencies, which means that 90 per cent of the workforce was regular (but includes a large number of ‘trainees’) and 10 per cent was contract labour. Salcomp transfers contract workers to their own payroll at the latest after 1.5 years with the company, and confirms both trainees and contract workers after two years in service.

5.1 CONTRACT LABOUR – A DEAD-END TRACK

Whether large or small, the figures above are a cause for concern because the contract labour approach to staffing is a way for companies to circumvent their responsibilities as employers. Companies interviewed for this study justified the use of contract labour by claiming that contract workers could be hired faster and handled ‘unskilled’ work (more on this later), or “simple work” in the words of a Nokia manager, such as inventory and material movement for assembly. What he meant was that permanent workers do more complex production processes requiring greater skill than contract workers. However, workers interviewed for the study have observed that every department in the four companies had a percentage of contract workers.

Nokia’s registration certificate as the principle employer, required under the Contract Labour Act, dated 29 November 2010 shows that manpower for nearly every aspect of its operations is supplied by third party agencies.²⁸ The table below presents the number of contractors licensed by the state authorities to provide Nokia with its workforce for a select list of labour processes which are part of Nokia’s core business.²⁹ Each contractor is licensed to supply a specified maximum number of workers.

²⁷ Interviews with management and comments of the companies, March-August 2011

²⁸ This study did not delve into the registration of the other companies’ registration as principle employers and whether or not the contractors that each of the four companies currently use are licensed by the state bodies as required under the Contract Labour Act.

²⁹ Examples of labour processes left out are: scrap management, installation of new machines, fire-fighting systems, and so on which would be understandably handled by ‘outside’ agencies.

Table 3: A Select List of Jobs for which Nokia Uses Contract Labour³⁰

| Nature of Work | No. of Agencies | No. of Workers Supplied |
|---|-----------------|-------------------------|
| Assembly, Shrink-wrapping | 3 | 1,400 |
| Warehouse Operator | 2 | 1,400 |
| Security | 2 | 381 |
| Facilities Management | 3 | 315 |
| Catering | 1 | 220 |
| Housekeeping (& Allied) Services | 3 | 171 |
| Warehouse Management | 1 | 50 |
| Housekeeping Services at Childcare Centre | 1 | 20 |

Although the jobs listed above seem to be regular and perennial in nature, with the majority of the contract workers (2,800) used for assembly and warehouse operations, Nokia claimed that these jobs are incidental and not core jobs in mobile phone manufacturing. On the registration certificate referred to above, the nature of Nokia’s work in the SEZ establishment is listed as “manufacturing of mobile phones” but the main purpose of the SEZ unit is storage and assembly of components to be integrated into more than 20 models of phones.³¹ This implies that contract workers are being used for perennial work that is core to the establishment’s nature of business, which Section 10(2) of the Contract Labour Act prohibits. According to Nokia, however, the act allows the company to engage short-term contract workers for the jobs listed above.

The terms of employment that a labour agency offers Nokia’s contract workers states that their services “could be deputed at the sole discretion of the Management to any of our clients’ company [sic] to do work *pertaining to or incidental to* the clients business [emphasis added]”³² showing that the agency maintains ambiguity about the production processes that contract workers are assigned. Although contract workers can be seen central to the company’s operation, they are not regularised as stipulated by the Contract Labour Act. Instead they remain on contract for years until they decide to move on to another company or another industry. Nokia did not know for how long on average or at maximum contract workers worked at its factory.

In summary, the act is not being strictly enforced in the SEZ (more on this in Chapter 1) and Nokia could technically claim that contract workers are being used in assembly not in manufacturing, supposedly its core business. One union representative confirmed this: “*Demanding permanent jobs for long-term contract workers is very difficult since the companies simply say that they are not employing any workers in perennial work despite us knowing that, for example, warehousing is staffed by temporary workers for years.*”³³ However, this disparity between claims and practice cannot be overlooked at a multinational industry leader which claims to be an ethical company. Nokia however insisted that the company does not violate the act and that it has obtained a licence from the appointed authorities.

30 Registration Certificate of Nokia India Private Ltd. related to the Contract Labour (Regulation and Abolition) Act, Department of Inspectorate of Factories, R. Dis (E) 5053/2010 dated 29 November, 2010.

31 Based on an interview and observations during a guided factory visit.

32 An appointment letter from Ma Foi Management Consultants Ltd. to a worker dated 16 November 2010.

33 Interview with CITU leader, Chennai, 9 March 2011

Nokia seemed to make no difference in the facilities provided to the workers, regardless of their employment status, except for wages (see below). Contract workers in Nokia received employer's contributions to Provident Fund and Employee State Insurance (ESI). No doubt the benefits of food and transportation that Nokia provided its staff add to higher expenses for the company. Additionally, at least one of Nokia's agencies offered workers it employs coverage under a group accident insurance scheme to the extent of Rs. 2 lakhs and medical insurance up to Rs. 50,000, which come into effect after 30 days of employment.

Foxconn was more open about using contract workers as a part of its policy since it allows a variation in its labour force. Foxconn was of the opinion that the number of contract labour depends on customer demands and is a general phenomenon in all industries. The management felt that such workers are unskilled and do simple work. The proportion of permanent workers varied normally between 40 and 60 per cent at Foxconn.

According to Salcomp and Flextronics, the wages, work hours and facilities such as canteen and transportation were the same for all workers. However, the workers' survey pointed to a significant difference in wage levels in many cases between contract and permanent workers, discussed in the following section. According to Foxconn, there was no difference between its trainee stipends and contract employee salaries. In a focus group discussion with around five men and 15 women workers from Flextronics, Salcomp and Foxconn, the interviewees explained that they had worked at the factories for 2–3 years, but only five of them were permanent and the rest were contract workers. When asked at the end what their most important message to the companies would be, all the workers said in one voice: *"Stop the contract labour system!"*

5.2 'TRAINEES' WITHOUT TRAINING

All the workers who are on the direct payroll of Nokia, Salcomp and Foxconn start as 'trainees' and are kept in this tenuous status for 15 months or more, even though their training often lasts less than a month and they do the same work as others. The only company that did not use trainees was Flextronics. According to Foxconn, using trainees is a common practice in India.

Nokia's trainees have no claim to being hired permanently

According to Nokia, workers needed three months of training before working on the line. At first, workers were trained only on three tasks and in a period of six months, they know all the line tasks. Over 50 per cent of the Nokia workers surveyed revealed that trainees did not receive any special training but were put to work on the line with other workers. Another 30 per cent estimated that training at Nokia lasts for about 15 days to one month, which included a one-week class with pay about work-related safety. Yet they remained in 'trainee' status for 15 months and their contract with Nokia stated that they are expected to abide by Nokia's standing orders as if they were regular employees. At the same time, Nokia signed trainee contracts which stated: "[i]t should be specifically understood that you [the worker] are not entitled to any benefit available to the regular employees of the company. But it is up to management to permit you to avail such benefits which they deem fit in your case [...]."³⁴

34 Nokia India Pvt Ltd 2009. Contract of Engagement as Trainee Operator.

The uncertainty of a trainee job was made clear by a contract signed in 2009 where “the company reserves the right in its sole discretion of terminating your engagement during the Training period without assigning any reason by giving one month’s (30 days) notice or payment of one month’s stipend, in lieu of notice.”³⁵ Once the ‘training’ was completed the worker had no claim to being hired permanently according to the contract. Foxconn had very similar terms in a 2006 trainee contract but offered no compensation if employment was terminated.³⁶ It was also up to the discretion of management to prolong training: “the period of training may further be extended if deemed necessary at the sole discretion of the management for such period as may be fixed by the management and at the end of the extended period your training period will come to an end.”³⁷

Salcomp confirms trainees only after two years with the company

Workers in Salcomp typically worked as trainees for the first 18 months followed by a probationary period of six months. At the time of the study (March 2011), 800 workers had completed 24 months of ‘traineeship’ although the managers admitted that a new operator can learn the necessary skills in four to six weeks on the job. Salcomp stated that the training program is in accordance with the law, and that also employees under training get salaries that exceed statutory minimum wages. Salcomp workers reported that their training consisted of a class in which they were shown “Chinese visual clips” about the 5S process.³⁸ One reason behind the fact that Salcomp had a higher number of trainees (70 per cent of the workforce) than the other companies could be that the company started small in 2007 and has hired more workers in recent years. In addition, Salcomp’s traineeship period was at least officially longer than in the other factories. Salcomp operates almost only with women and paid the lowest wages.

Foxconn trainees also wait long for permanent positions

According to Foxconn, trainees were assessed at the end of the year and were put on probationary status for six months, after which they were automatically confirmed in permanent status, if there were no performance problems during the training period. According to Foxconn, trainees operate in all departments where they get on-the-job training. Foxconn also shared that around 50 trainees were confirmed to permanent workers every month and around 600 workers will become confirmed in 2011. However, in focus group sessions, some Foxconn workers reported that no permanent order was given even after a trainee period of two years although some workers were promised confirmation of employment after six months of joining the company. Foxconn strictly claimed that all trainees have been confirmed after two years in service and that direct probation of six months concerns only the staff category. Furthermore, Foxconn confused contract terms in its factory by offering “contract regularization” to one worker who had completed his trainee period and probation. But this was not the same as becoming a permanent employee, something which was only granted to the said worker in 2010 after much agitation.³⁹

35 Nokia India Pvt Ltd 2009

36 Foxconn India Pvt Ltd 2006. Order to Engage as "Trainee Operator.

37 Nokia India Pvt Ltd 2009. Contract of Engagement as Trainee Operator.

38 This refers to the Japanese lean management style of “Seiri, Seiton, Seiso, Seiketsu, Shitsuke” which can be loosely translated as “Sort, straighten, shine, standardize and sustain” as a form of workplace organization for higher efficiency and productivity. See <http://www.training-management.info/5s.htm> (accessed 18 March, 2011)

39 Interview with a Foxconn employee. (Foxconn India Pvt Ltd 2008)

Flextronics's training period can last less than a month

In comparison to the other three companies, Flextronics did not have a separate category of 'trainees' because contract workers gained their training on the job and can be appointed as permanent workers after assessment. Flextronics' focus in recruitment was on "fresh" and young people, who will be trained by themselves. The preliminary training period was three to six days with a combination of classroom-based and practice at model work stations. Managers reported that workers could do their tasks satisfactorily after an on-the-job training period of 15 to 20 days.

Companies are under no legal obligation to hire 'trainees' as regular employees once the training period is completed. Nokia's agreement with workers specifically confirms this and workers in other companies confirm that this is the general understanding. Although we do not have figures on the attrition rate among trainees, Nokia apparently has less trainee turnover than other companies. Flextronics reported that their own annual turnover rate is 10 per cent for contract workers and 2–3 per cent for permanent workers, and Foxconn stated that fluctuation is the same at their factory as in other companies.

Many interviews with workers conveyed a sense of great frustration and disillusionment with employment in these mobile phone manufacturing companies built upon the contract labour and trainee systems. In their own words, workers were not fully informed about the lengthy process toward regular, permanent employment. Salcomp and Flextronics used the local language (Tamil) for all appointment letters. According to Flextronics, all their employees have been briefed on their employment processes and policies since their first day of work. Foxconn was of the opinion that it is not that difficult for workers to understand English, which was tested during their training period. During the focus group sessions with workers, however, it became evident that most workers did not have sufficient fluency to conduct the interviews in English.

Salcomp's government-approved factory rules, the standing orders (around 50 pages), were posted in Tamil on the notice board. Flextronics' standing orders and the EICC code of conduct were also displayed in Tamil. While other companies' salary slips were in English Salcomp used Tamil for these too. According to Salcomp, the HR booklet, which has all the appointment letters and related documents, is available in both English and Tamil, so that all the workers can see the process they will go through also for future potential promotion. In the absence of such written material in the local language, it is more difficult for contract workers and trainees to learn about the progression of their careers, the expectations of the company and so on. More importantly, as discussed below, the contract labour and trainee systems trap workers in an unfair and exploitative position.

5.3 WHAT PRECARIOUS WORK MEANS FOR WORKERS

In the survey, many workers shared that they chose to work in the mobile phone manufacturing companies due to the wide-spread image of foreign multinationals as good employers. They arrived at multinationals with the expectation of good salaries and employment benefits. Many of those interviewed had anticipated a higher salary within two years of being hired but, as the study uncovered, were bitterly disappointed not only with the salary but also the insecurity of their jobs.

5.3.1 Wage Discrimination and Payments in Cash

The monthly minimum wages in Tamil Nadu was at the time of writing (May 2011) slightly above Rs. 3,500 (56 euros).⁴⁰ In 2009, the LPF union negotiated a one year settlement with Nokia where workers got Rs. 1,750 to 3,300 increases on their salaries leading to new monthly wages of approximately Rs. 6,150–7,700 (98–123 euros). In 2010, a three year agreement was made with further improvements which mean that long-term assembly line employees can now earn up to about Rs. 11,666 (186 euros) per month.

A Nokia industrial training graduate, employed as an operator, had seen his wage payments move up from Rs. 3,290 in early 2006, when he was employed as a trainee, to the most recently available Rs. 11,240 (gross) including allowances for early 2011.⁴¹ While the current amount represents a three-fold increase, it is still only less than half of what a worker in the nearby Hyundai factory with ten years' experience and similar education to those at Nokia is earning, i.e. Rs. 31,000 (493 euros) per month.⁴² Nokia pointed out that the average length of experience of a Nokia employee is three years, whereas at Hyundai it is ten years. LPF felt it had to walk a fine line between demanding the wage level that workers sought and ensuring the long-term survival of the mobile phone manufacturing industry in Chennai.⁴³

Nokia has become a wage leader in the industry by agreeing to these wage settlements with the union:

Table 4: Nokia's Wage Increases 2010–2012 (in Indian rupees)⁴⁴

| | From 1.4.2010 | From 1.4.2011 | From 1.4.2012 |
|----------------|---------------|---------------|---------------|
| Over 48 months | 3,100 | 1,600 | 1,350 |
| 36 - 48 months | 3,000 | 1,500 | 1,250 |
| 24 - 36 months | 1,400 | 1,000 | 1,250 |
| 16 - 24 months | * | 750 | 1,250 |

The central problem is that contract workers and trainees are paid significantly less than permanent workers and are exempted from wage rises. Trainees receive what is referred to as a 'stipend' instead of a wage. The following monthly salary range figures for a six-day workweek were provided by the companies:

40 The preliminary notification for revision of minimum wage rates in the electronics industry, G. O. (2D) No. 48 dated 21-07-2004 available at <http://www.tn.gov.in/gorders/labour/default.html> lists the wages for skilled workers as Rs. 2,895; semi-skilled workers as Rs. 2,591; and unskilled workers as Rs. 2,438. Company managers interviewed cited the minimum wage as being Rs.3,400 (Nokia); Rs. 3,780 (Salcomp); Rs. 3,860 (Foxconn); and Rs. 3,680 (Flextronics). Variations in the reported statutory minimum wage signals confusion among employers and lack of clarity for workers.

41 (Nokia India Pvt Ltd 2006 Payslip; Nokia India Pvt Ltd 2011 Payslip). In 2010, the salary varied between about Rs. 7,700 and Rs. 20,400 (average Rs. 10,000–12,000) depending on the inclusion of various extra allowances and an Rs. 8,000 bonus in the month of October.

42 A Hyundai Motor India Limited company pay slip dated July 2010

43 Interview with LPF union leader, 5 March, 2011

44 Source: Agreement between Nokia India and Nokia India Workers Progressive Union (2010)

Table 5: Salary Range at the Four Companies for Workers (in Indian rupees)⁴⁵

| Company | Salary Range | | |
|-------------|-------------------|----------------------------|----------|
| | Permanent Workers | Contract Workers | Trainees |
| Nokia | 6,000–11,666 | 4,400 (25% above min wage) | 4,820 |
| Salcomp | 4,600–6,000 | 4,200 | 4,200 |
| Foxconn | 8,000–9,100 | 5,000 | 5,000 |
| Flextronics | 5,300–6,000 | 4,130- 5,500 | - |

Nokia pays contract workers 25 per cent above the minimum wage but not a living wage

Nokia claimed to pay contract workers 25 per cent above minimum wages, i.e. around Rs 4,400 (70 euros) per month in 2011. Our survey revealed that contract workers were paid a monthly wage between Rs. 3,600⁴⁶ and Rs. 6,000 (57–95 euros) depending on how long they worked at the company. However, they did not receive the same wage rises as permanent workers. According to Nokia, there are different qualifications and job categories for permanent workers and ETLs. Permanent workers have 70 skills and ETLs have 10 skills. Nokia said that many ETLs are working in material movement and packing. According to Nokia, the monthly salary of permanent assembly workers (including trainees) varies between Rs. 4,820 (77 euros) (for those who worked 0–15 months) and Rs. 11,666 (186 euros) (for those who worked more than four years). Permanent workers who have worked from two to three years at Nokia’s factory are paid Rs. 6,420 (102 euros) per month.

Flextronics pays contract workers even less than Nokia

According to Flextronics, the company paid for unskilled level contract workers around Rs. 4,130 (66 euros) per month, and for skilled permanent workers around Rs. 5,300 (84 euros) per month. One interviewed Flextronics worker earned Rs. 4,700 per month after working there for three years and finally got a permanent job. His salary as a permanent worker is only slightly higher than what he earned as a contract worker. Similarly, many other workers at Flextronics as well as at Salcomp and Foxconn reported that their salaries after four or five years at the same company were not much higher than their starting salaries.⁴⁷ According to Flextronics, there is no significant difference in wage levels between contract and permanent workers. Flextronics said that, on average, any employee who has worked for more than four years with the company will receive a 53 per cent pay increment from their entry level salary. Additionally, apart from wages and bonus, Flextronics offered non-statutory benefits such as medical insurance for employees and their families, education assistance scheme, scholarship scheme for employees’ children, wedding gift, bereavement assistance, and new born babies’ gift.

45 Interviews with management and comments of the companies, March-August 2011

46 All salary figures cited from the survey are assumed to be net figures, i.e. post- deductions, as our research revealed that workers did not have a comprehensive understanding of their wage slip, and may have reported the amount they received ‘in hand’.

47 Focus group meetings with workers

Foxconn pays contract workers slightly more than Nokia

Foxconn has signed a three-year wage settlement with the LPF union in October 2010 with retrospective effect to June 2010. This settlement, which covers 1,400 of the total 6,000 workers, has raised permanent workers' wages by 75–80 per cent. Salary for contract workers at Foxconn was higher than in Nokia at Rs. 5,000 (80 euros) per month with PF and ESI included. In addition, workers received free transport and food with an attendance bonus. According to the union wage settlement, confirmed workers with two or three years' experience receive Rs. 8,000 (127 euros); those with three to four years receive Rs. 9,000 (143 euros) and those with more than four years receive Rs. 9,500+ (150+ euros). Additionally, the company has started distributing gifts among workers for pujas and certain religious holidays, and presents an advance sum of Rs. 25,000 (~400 euros) as an interest-free loan for marriages.

Contract workers must pay for uniforms around Rs. 750 (12 euros) per year. Some workers reported that the annual bonus at Foxconn was only Rs. 150 even though they had worked very hard and kept up the required speed and production level. Women workers have approached supervisors and managers to ask why this is so but have not received satisfactory responses. According to Foxconn, the company exceeds legal requirements by offering "Diwali ex-gratia", because bonuses must be paid only by companies that have operated for more than five years, which is not the case with Foxconn as the company has been operating in India for less than five years. This "extra benefit" is paid in accordance with days worked at the factory and therefore varies among workers.

Salcomp pays contract workers the same as regular workers, but less than Nokia

Salcomp claimed that the wages and benefits for contract and regular workers are the same. According to Salcomp, the starting monthly salary was Rs. 4,200 (67 euros), which was raised to Rs. 4,600 (73 euros) after 1.5 years for the probation period of six months. Confirmed workers' salaries varied between Rs. 4,600 and Rs. 5,100 (73–81 euros) per month, depending on performance, as discussed in the workers' committees. In 2011, the highest possible salary will increase to Rs. 6,000 (95 euros). Salary increases were decided every year and all workers were given the increased salary based on an annual performance assessment system. Our survey of workers revealed that monthly salaries for contract workers in Salcomp were Rs. 3,400,⁴⁸ and for trainees, only slightly higher. Salaries remain low even up to two years. For example, a female contract worker at Salcomp earned Rs. 3,600 after working there for two years while a trainee earned Rs. 4,000 after two years and a permanent worker earned Rs. 5,200 after 3.5 years at the company.

To justify the low wages, a Salcomp manager explained that the profit margins at Salcomp were very small, making it difficult to pay higher wages to workers. He compared Salcomp, a contract manufacturer, with Nokia, which pays workers twice as much due to its higher-end location as the buyer in the production chain. One manager claimed that the wage revisions at Nokia and Foxconn put pressure on the company to increase its own wage levels.

What is important to note is that differences in wages prevailed despite the fact that contract workers and trainees do the same work as permanent workers. Wage disparities among them violate the 'equal pay for equal work' principle enshrined in Article 39(d) and Article 14 of the Constitution of India,

⁴⁸ All salary figures cited from the survey are assumed to be net figures, i.e. post- deductions, as our research revealed that workers did not have a comprehensive understanding of their wage slip, and may have reported the amount they received 'in hand'.

as well as the Equal Remuneration Act of 1976. However, Nokia denied this by saying that trainees and contract workers are not doing the same work because trainees are trained in core skills and contract workers in incidental jobs. Many interviewed workers noted little difference in the labour processes that contract workers, trainees and permanent workers do as they work together on the same lines.

Some contract workers quit after six months because of the low salaries. They are easily replaced. Labour agencies have a presence at the factories and can be reached directly by workers but, according to the workers interviewed, their complaints often did not result in any improvement. They have no recourse to mediation.

The interviewed workers also reported that a large percentage of contract workers in three of the companies – Flextronics, Salcomp and Foxconn - were paid in cash. This is a serious problem and makes it more difficult to verify how much workers are actually paid. It also means that the contractors’ payroll records may not reflect the complete list of workers who actually work at the principal employers’ sites, leaving workers legally unprotected in case they are denied their wages, are paid late or are affected in a work-related accident that compromises their health, to name just a few negative consequences. The Contract Labour Act requires the principal employer to oversee payments made by the contract agency to the workers.

According to Flextronics, only 20 per cent of contract employees were paid in cash, because they were unable to produce the documents required by banks. Flextronics claimed that all salary payments are monitored by the HR department and that they have not received any complaints regarding their payment process. Salcomp stated that contract employee salaries



Foxconn workers in their two room's apartment (monthly rent of Rs. 2,500 / 40 euros) shared by seven men. Each of them kept a soap on the window ledge. Photos: Finnwatch

are paid in the presence of Salcomp HR representative, which in Salcomp's opinion is the most efficient way to ensure that the workers are paid correctly. Salcomp only pays the contract labour agencies based on proof of payment to the employees. Foxconn also stated that the payment process is supervised by the company. In Nokia's case, 90–95 per cent of the contract staff's salaries was paid directly into bank accounts which managers helped set up. These bank accounts were checked to ensure that contract workers get paid the amounts they are due.

MINIMUM WAGES FAR FROM SUFFICIENT

In focus group sessions with workers, many claimed that they could barely survive on their current salaries. In addition to housing (discussed in Chapter 3), they spend Rs. 2,000 (32 euros) per month for food, Rs. 500 (8 euros) for phone use, Rs. 50 (1 euro) for electricity, the rest for other necessities such as bus fares and cinema in Chennai. Some managed to send Rs. 1,000 (16 euros) as remittances to their families about four times a year, but not every month. Instead, some received money and food-stuff from home to support themselves, and others borrowed money from friends to pay bills.

Workers emphatically stated that their wages were nowhere close to a living wage. Flextronics seemed to agree that it is difficult to talk of a living wage when five to six workers have to share a cramped room in far-away villages since they cannot afford better housing when employed by the company.⁴⁹ In the workers' opinion, a living wage would be between Rs. 9,000 and Rs. 15,000 (145–240 euros) per month. With that money, they could marry, rent their own room and start a family. If they got a better salary now, they would get married sooner. It costs Rs. 3,000 to rent a room of 20–30 sq metre in the outskirts of Chennai, which was too expensive for any assembly worker to rent alone. This also made it difficult to establish and accommodate a family while working in the factories.

All four companies claimed to set their wage scales in accordance with the local statutory minimum wage, just above Rs. 3,500 (56 euros), which raises the issue of whether or not the legal minimum wage is a living wage. The Communist party affiliated union, CITU took the position that the minimum wage should be Rs. 10,000 (160 euros) per month. Its leader criticised the current minimum wage in relation to the preferential recruitment of young workers for mobile phone manufacturing, which locks workers in their earning capacities at these factories.

The Asia Floor Wage campaign issued new figures that constitute minimum living wages in Asian garments-producing countries in May 2011. The floor wage (minimum living wage) is designed to guarantee that workers receive enough to meet basic needs for themselves and their families. The new minimum living wage benchmarks for 2011 and 2012 translated through the PPP (Purchasing Power Parity) conversion factor for India was Rs. 7,967 (127 euros).⁵⁰ This means that the actual minimum wage in Tamil Nadu was far below a minimum living wage, and less than half of it.

Based on workers' views and informed calculations of a living wage, Nokia demonstrated little understanding that Rs. 4,400 is a very low wage in suburban Chennai. Management felt that the workers only needed to spend Rs. 1,000 for their share in a room and an additional Rs. 700 for food since two meals per day are provided in the factory, making the rest of their salary into savings or remittances. Nokia was the only company which has attempted to understand what a living wage might be in Tamil Nadu. Through a consultation with three local NGOs (names not revealed), Nokia had been led to believe that there is no need to calculate a living wage for the area, because it is the same as the legal minimum wage. Nokia emphasised that it pays contract workers 25 per cent above the legal minimum wage, which provides the living of a family in Nokia's opinion. During our interview, Nokia, however, confessed that they still had no idea what a living wage would be.⁵¹

Despite many hardships, contract workers and trainees emphasised that they would like to continue working for their principal employers if their wages were increased and they were absorbed as regular employees as they feared that they would not get another job in the area because of their age.

49 Interview with Flextronics managers, Sunguvarchatram, 4 March 2011

50 For more information about the Asia Floorwage campaign, see www.asiafloorwage.org

51 Interview with Nokia management and global CSR representative, Sriperumbudur, 7 March 2011

A number of other payment-related problems were shared by workers in interviews and focus group sessions. Salaries were sometimes unfairly deducted for reasons beyond their control such as broken time-clock punching machines and late buses, or genuine mistakes when they forgot to punch the time clock. In some cases, a full-day salary was withheld for both contract and permanent workers. If workers were late by two hours, a half-day salary was deducted. However, all the companies strictly denied having made any salary deductions for the above-mentioned reasons.

5.3.2 Insecurity and Transitions

Many of the interviewed contract workers pointed out that, regardless of their qualifications and experience in the same company, they had limited scope of being confirmed as permanent employees as theirs is a separate track within the company's human resources policy. Nokia pointed out that the lower education required of contract workers, i.e. 10 years of school, prevented the company from confirming them in positions for which higher education (10 plus 2 years) is required.

Workers are either shifted from one company to another with a change in contract, or they try to gain experience at one company and try to move into a better position at another. However, the trainee system is another block to regular employment. Just as material and products flows connect companies in the Nokia Telecom SEZ, the flow of workers among them creates a common pool of insecure but highly experienced workers. It is not clear what the future holds for contract workers or trainees who do not manage to secure permanent jobs as full-fledged employees within the industry. When asked how they saw their future, most of the surveyed workers responded that the time spent in the industry was "a waste," implying that they could not imagine how their work in mobile phone manufacturing would advance their economic security, professional development or career prospects.

A few workers recounted their experience of having worked at Jabil before it shut down production and moved out of Chennai in 2008. They were only given one week notice that the company was going to shut down, and were told that some of them would have to leave while some could start work at other companies. Jabil had promised that those transferred to other companies would be recognised as experienced workers but in fact they had to start as beginners. They have also not yet been able to claim their provident funds from their Jabil accounts.

Nokia does not limit time workers remain on contract

Nokia did not have a policy on the time limit that workers remain on contract. Nokia had entered into three-year agreements with contractors in February 2011 but would consider cancelling an agreement if the contractor does not satisfactorily fulfill its role. Even if a contractor is dismissed, as was the case once, the contract workers deployed by that agency continue working at Nokia and are transferred to another contractor's portfolio of responsibility. There was no policy at Nokia to confirm contract workers in regular employment, regardless of their skills and experience, but there is no restriction either on contract workers applying for permanent posts as long as they meet the eligibility criteria. One of Nokia's manpower agencies offered "fixed term contracts of employment" for a period of eight months at the end of which "the contract will stand terminated automatically without any notice or communication."⁵²

52 An appointment letter from Ma Foi Management Consultants Ltd. to a worker dated 16 November 2010.

Workers shared that their contracts were renewed regularly, sometimes after a short break in service. Although contract agencies have a presence within the factory, Nokia did not have any employment records on contract workers as they are maintained by the agencies. Nokia representatives, therefore, had no knowledge about the tenure of any contract worker on their shop-floor. Contract workers may have worked for Nokia but could have been legally employed by various agencies on a rolling contractual basis. This means that innumerable workers contribute to Nokia's brand and wealth for years without any security, wage rise and possibilities for career advancement. Under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act of 1981, any worker who is engaged in a company, where 20 or more workers are employed, for a period of 480 days (16 months) within a period of 24 calendar months should be made permanent. According to Nokia, however, the act does not apply to Nokia's contract workers because they are not employees of Nokia and their service conditions are defined by their employers. Workers have not yet organised themselves to challenge this practice in court collectively.

Salcomp transfers contract workers to their own payroll after 1.5 years in service

Salcomp stated that contract workers were usually hired for eight months or at most for two years, mainly because workers could be hired much faster through contractors. Salcomp claimed to prefer hiring permanent employees rather than contract workers. According to Salcomp, there are no seasonal fluctuations in the volume of production. So the flexibility offered by contract labour is reserved for unforeseen contingencies. Salcomp pointed out that their operations are not built on contract labour and that they have used contract labour only when recruitment using their normal methods has been too slow to meet their needs. All contract workers are transferred to Salcomp payroll at the latest after 18 months, followed by a probationary period of six months. Fixed employment is not usually offered to workers within less than two years. Nearly 80 per cent of line leaders at Salcomp were recruited internally and a condition for such promotion is a minimum of one year at the company, or six months for a worker with a 10+2 years of education. According to Salcomp, no one is forced to quit and there is a natural turnover of workers.

Foxconn hires contract workers for one year at a time

Foxconn told that contract workers were hired for one year and may get their contracts renewed after one year or move on to another company on a new contract. "It is up to the choice of the worker," said one Foxconn manager, when in fact workers have limited choices about their place of work and are forced to accept the placement they are offered by the agencies. Foxconn has not had reason to discontinue the services of any of them since it started operations in the Chennai area. According to Foxconn, contract workers are used because of high business fluctuation and variety, and they are all unskilled performing mostly physical jobs such as helping and assembly work. According to Foxconn, there is no limit on the number of contracts made with contract workers. In fact, workers at Foxconn could have been working as contract labour even up to three years. Foxconn, however, emphasized that the laws are strictly followed and that many contract workers have found better job opportunities elsewhere.

Flextronics confirms contract workers after 1–2 years if there are vacancies

Flextronics had no specific time-frame within which the shift from contract to permanent took place, or indeed, how long workers were kept on contract. According to Flextronics, contract workers are offered permanent positions whenever there is a vacancy. Usually the change in status happened

after working for one or two years. One manager admitted that: *“It is good for us to have permanent workers since they have more experience and higher skills.”* According to Flextronics, their recruitment policy trend is towards offering more permanent posts. Flextronics claimed that high skill jobs were for permanent workers while contract workers do assembly, packaging etc. *“As they get trained they can move on.”* Although promotion at Flextronics is based on skill rather than seniority, only workers who have already worked for the company for some time have the opportunity to move up the ranks as the company strived to promote internally rather than recruit new workers.

5.3.3 Erosion of Collective Bargaining Power

The contract labour system fragments the workforce in a two-tier system with a privileged class of regular employees and an underclass which constantly aspires to be in the former. Without decent employment in sight nearby, precarious workers are in no position to resist or fight back against this ‘low road’ manpower strategy. Comments received through the focus group sessions and the worker survey indicated that contract workers were acutely aware of their tenuous positions in the factories and therefore did not get involved in unions for fear of losing their sources of livelihoods at any time. At Nokia, they were told that contract workers could not join unions, which is untrue, whereas during the interview with Foxconn managers, one stated point-blank: *“We don’t want a contract workers’ union.”*

A young woman who was recruited by an agent four years ago and is now a permanent employee at Flextronics pointed out that confirmation “depended upon the management and only those who were *favoured* by the managers can work continually.” Flextronics denied this by saying that their hiring criteria are competency-based and clearly communicated in writing. This however implied that contract renewal and confirmation into regular employment are partly subjective and contract workers are well-aware that joining a union, or challenging the status quo in any other way could eliminate the possibility of getting confirmed. That leaves a significantly smaller and slightly less insecure proportion of the workforce at the four studied factories to pursue their right to representation. To what extent they manage to secure it is the subject of the following chapter.

6. WORKER REPRESENTATION AND PROTECTION OF RIGHTS

A study of industrial relations in the electronics industry shows that the industry, which prides itself for its flexible, innovative and market-driven nature, has been established upon an anti-union corporate culture. Since the 1980s, global electronics companies have been found to apply creative and aggressive strategies to resist unionisation.⁵³ Managers foil attempts to unionise by offering benefit programs to rival those negotiated by unions, establishing internal complaint procedures to mollify disgruntled workers and taking immediate action at the first sign of worker organisation.⁵⁴

This chapter explores the theory and practice of key contentious issues of the study – the freedom of association and the right to collective bargaining – as they have played out in the Nokia Telecom and Flextronics SEZs. Two of the four companies within our study, namely Nokia and Foxconn, had unions, while the other two had workers' committees at the time of writing. This chapter sheds light especially on the recent struggles and strikes for a union that have taken place at Nokia and Foxconn. It also discusses the two large rival trade unions, namely LPF and CITU, which are connected to political parties, and describes some consequences of the strikes such as the suspension of workers and other retaliatory action against union activists.

6.1 RESPECT AND VOICE AT WORK

The high production rate in all these factories makes it tough work. For poor, rural youth, a factory job with an identity card and uniform offers a degree of social status, which makes these jobs desirable. Identity cards also serve as a mark of 'citizenship' within the SEZs giving workers the right to enter or leave the SEZ. Workers chafe against the lack of democracy in the SEZ which they experience. Some of them spoke of having their identity cards confiscated for the smallest infractions and legitimate complaints about their workplace, for example, the quality or quantity of food provided in the canteens, but this was not admitted by the companies.

Moreover, the monotony and intensity of daily work wears workers down. Women workers at Salcomp, Foxconn and Nokia described the intense pressure they were under to meet daily production targets which varied across departments. If workers did not achieve their production targets, they were sometimes issued warning letters and were made to clean the shopfloor, which was a way to humiliate them in front of their co-workers. Salcomp however stated that their employees do not have individual production targets and that nobody has ever received warning letters based on not reaching targets. According to Salcomp, they follow the normal Scandinavian practice where everybody is responsible for his or her own environment and everybody is cleaning the immediate surroundings, including the floor, before breaks.

53 See: Early, S. and Wilson, R. (1986) "Do Unions have a future in High Technology," *Technology Review*, 89(7); and Basset, P. (1986) *Strike Free: New Industrial Relations in Britain*, London: Macmillan.

54 See: Eisenscher, M. (1993) "Silicon Fist in a Velvet Glove," revised version of a paper published in German; and WWW (1991) *Common Interests: Women organising in global electronics*, London: Women Working Worldwide.

After a couple of years on the job, the reality of stagnant wages, harsh conditions and weak career prospects hit workers hard. Workers in Flextronics, Salcomp and Foxconn admitted that better salaries and no night-shifts would greatly improve their jobs. Salcomp workers explained that if they approached the management as a group, then the managers rebuke them for forming groups. Salcomp and Foxconn women workers pointed out that the night shift was stressful as they found it unsafe to walk alone to a bus stop where they were picked up for work. Moreover, they felt that they did not get enough breaks and that the toilets were not clean enough after being used by workers during the day shift. According to Foxconn, their female employees work only two shifts (8 am - 4 pm and midnight - 8 am) and buses leave for the nightshift between 9 pm and 10 pm.

All these issues made workers realise that they were vulnerable and needed to form a union in order to have a voice in their workplace. They could also see that in the Chennai area, working conditions at a number of older, established factories such as Ashok Leyland (trucks and buses) and Larsen & Toubro (electrical equipment and engineering items) which had unions, were much better and there were no sudden layoffs as in the newer factories. Labour education programmes and leaflets distributed by civil society organisations such as Cividep contributed to a heightened sense of awareness among workers of their rights. A new political consciousness led to the struggle for a union at Nokia.

6.2 UNION ALTERNATIVES

When Nokia employees went on strike in August 2009 – the first of its kind in a SEZ in India – the dispute took centre-stage attention among workers and management alike all over the SEZ who noted its development and outcomes attentively. Interviews with managers indicated that the dispute had a hard-hitting impact on the other companies. One of Salcomp's managers observed: *"At Nokia and Foxconn we only saw mob mentality when the union was formed. People are not mature in their protests."* Each of the companies has found ways to channel their staff's aspirations for representation in different ways.

Flextronics has workers' committees and Ethics Point hotline to raise complaints

At Flextronics, workers can raise issues through a number of workers' committees. There were also quarterly 'town hall' meetings, monthly shop-floor conclaves, 'skip level' meetings and an Open Hour during which workers can interact with managers on issues that concern them such as food, transportation and benefits. The Ethics Point and the Eve's Council at Flextronics described in the earlier Cividep report were still in place.⁵⁵ In theory, they address workers' complaints through impartial investigation by the company's global legal department. Salaries were increased annually automatically in such a way that the company remains competitive with other employers in the area. According to Flextronics, the company does not work against unions and is committed to freedom of association in compliance with the EICC code of conduct. As one manager put it: *"If it [a union] has to come, it has to come."* Since there have been no strikes or attempts by workers to unionise at Flextronics so far, these are untested words.

55 Cividep's (2010) *Changing Industrial Relations in India's Mobile Phone Manufacturing Industry*, Amsterdam: SOMO

Salcomp has workers' committees and HR manager's personal number to raise complaints

Salcomp also encouraged workers to participate in three core workers' committees which exist in the place of unions to handle workers' grievances, to negotiate wage revisions and to implement management initiatives. Each of the three committees had eighteen members, selected once a year by workers as their representatives. Besides the core committees, there were additional committees to attend to matters related to safety, transport, the canteen, security and other workplace issues.

One Salcomp manager expressed his desire to create an atmosphere of openness and trust between the workers and management. The human resources manager apparently received 25 written grievances per month, and had shared his phone number with workers so that they can contact him directly in case they had any problems.

One manager claimed that the company was "transparent" and he was critical of unions as being "political," driven by self-interest. He added that Salcomp was "not allergic" to unions or see them as threats, but "unions tend to come with vested interests in India." Generally, his approach to workers' demands has been, in his words, a management of expectations. It is however difficult to assess Salcomp's respect for workers' freedom of association by words alone. Six workers surveyed mentioned a failed attempt to organise a union in early 2011 during which one young woman was dismissed. The unionisation effort may have been clandestine. Salcomp denied knowledge of any effort to unionise or dismissals.

FREEDOM OF ASSOCIATION AND RIGHT TO ORGANISE IN INDIA

The dismissal of union activists indicates a breach of two ILO core conventions which protect workers' freedom of association in labour unions (no. 87) and their right to organise themselves collectively to improve the terms and conditions of their employment (no. 98). In India, citizens' freedom of association is also guaranteed under Article 19 of the Constitution which guarantees their right to form and join labour unions. Besides the Constitution, the freedom of association in India is recognised under the Trade Unions Act of 1926 which prohibits discrimination against union members and union organisers, a principle which is reiterated in the amended Trade Unions Act of 2001. Employers can, in theory, be penalised under this Act if they discriminate or retaliate against employees engaged in union activities. In practice, however, such cases are terribly difficult to prove and win in the courts that are increasingly pro-employer. There are many obstacles which prevent workers from exercising their right to organise. Employers use a myriad ways to disrupt and discourage union activities. They file false criminal charges against workers as a form of harassment, resort to demotions, undesirable transfers, coercion, threats, violence, and in extreme cases, even murder of trade unionists.⁵⁶

In order to fight these false charges by employers, workers need good lawyers to help prepare and file the case.⁵⁷ With little money to pay lawyer fees, workers are likely to need the help of already financially stretched unions, or find one of the handful of pro-bono lawyers who are willing to take up such cases on the basis of their own convictions.

⁵⁶ Annual Survey of violations of trade union rights in the Commonwealth countries and Zimbabwe, 2009 by ITUC, CSI, IGB, Pg. 31–33 on India. <http://www.ituc-csi.org/IMG/pdf/survey1.pdf> (accessed 12 February, 2011)

⁵⁷ Interview with a labour lawyer, Chennai, 16 February 2011

6.3 FREEDOM OF ASSOCIATION AND UNIONISATION

The recent worker unrest in Chennai mobile phone industry (strikes at Nokia in 2009–2010 and at Foxconn in 2010) and the subsequent introduction of unions represents an entirely new chapter in labour relations in India's Special Economic Zones. Most of the labour protests in the mobile phone industry have been related to the abuse of short-term contracts and salaries deemed too low. For example, issues that caused the first strike at Nokia in August 2009 were low wages and refusal of the company to pay annual increments. The second strike in January 2010 was caused by shift of workers on the shopfloor and later the dismissal of 63 workers due to strike activities. The third strike in July 2010 was organised demanding the reinstatement of the suspended workers and a revision in the wage settlement agreed upon after the first strike. The first agreement between the company and the LPF union was formalised in October 2009. The suspended workers were later taken back by Nokia as part of the June 2010 wage settlement signed with LPF.⁵⁸



A banner of the LPF union in the front of the Nokia Telecom SEZ. Photo: Finnwatch



A poster of the LPF union with DMK party leaders. Photo: Patrik Oskarsson

Nokia has recognised an independent union

As discussed in the previous chapter, the wage settlement signed by Nokia and the LPF made a substantially positive difference to workers. Nokia's quick recognition of LPF came as a surprise given the Indian context where workers have to struggle bitterly for years to have their unions recognised (see Box *Which Union, Whose Choice?*). Political observers have conjectured that this move was to keep out the CITU, known in Tamil Nadu for its militant, pro-worker nature. The fact that the LPF is affiliated to the political party under which Nokia's entry into India was facilitated with great pomp may also have some bearing in this case.

At the time of the interview (March 2011), Nokia reported that the LPF union quit the Nokia factory in December 2010 and the company had recognised an "independent" union, the Nokia Employees Union, even though the union was still in the process of getting formally registered. Nokia informed researchers that workers did not want to have an external, political union. Independent here means that this new union is not affiliated with any state-wide or national union federation and does not have any members outside the Nokia plant. This effectively limits the union's strength to the number of members it is able to recruit within the plant without the solidarity of a

58 Cividép's (2010) *Changing Industrial Relations in India's Mobile Phone Manufacturing Industry*, Amsterdam: SOMO

WHICH UNION, WHOSE CHOICE?

Although workers may establish and join unions of their own choosing without prior authorisation, employers in India are not legally obliged to recognise a union or engage fairly in collective bargaining. At the time of the visit (March 2011) there were banners of two competing trade unions set up in front of the Nokia Telecom SEZ gate: the Centre of Indian Trade Unions (CITU), associated with the Communist Party of India (Marxist), and the Labour Progressive Federation (LPF), the trade union wing of the then-ruling Dravida Munnetra Kazhagam (DMK). The Left parties and trade unions have criticised the DMK state government for “pro-management policy and its attempt to prop up the LPF at the cost of the workers’ interests.” They have also staged protests throughout Tamil Nadu including a massive demonstration in support of the Foxconn workers.⁵⁹

Both Nokia and Foxconn have recognised and negotiated wage settlements with the LPF, the labour arm of the then-ruling DMK party in Tamil Nadu,⁶⁰ which have made a notable difference to workers’ wage and benefits packages, but in both cases, there is a question about the extent to which the union represents the workforce. Nokia signed a wage agreement with the LPF, within three months of the workers’ first strike. It is widely believed that CITU’s fighting nature led the Tamil Nadu labour minister to get LPF established at Nokia. Both the CITU leader and workers’ accounts suggest that the labour minister put pressure on workers to agree to the LPF agreement through family intervention and verbal threats.⁶¹

While LPF remains the recognised union at Foxconn, many workers have expressed their support for CITU during their strike. However, Foxconn strongly disapproved of CITU and adamantly refused to recognise it as workers’ representative. Foxconn unanimously considered CITU “a problematic union” which “misleads workers,” “uses false propaganda,” and does not guide workers properly. Nokia had a different opinion. Recognising that the workers are very young, the company has taken them to meet with union leaders including CITU in order to learn more about the industrial disputes process and what they need to do to follow it.⁶² Even without being recognised as the collective bargaining agent of the workers, CITU has been demanding a wage hike on behalf of the workers.

Neither Nokia nor Foxconn have held secret ballot elections for their workers to choose their own unions. Nokia added that elections of new office bearers for the union were planned for August 2011 by the union.

wider membership that affiliated unions are able to mobilise beyond the factory. Without the support of a wider network of unions, the ‘independent’ union will also lack the finances to organise its workers effectively, making it more dependent upon Nokia.

Because registration of the new union was still in process, there was a council with 60 members in place at Nokia, including women, leading the union. In Autumn 2011, there will be elections of union office-bearers. According to Nokia, the new union has been completely transparent with them and already has its bylaws. Nokia reported that there are 3,500 union members (signatories), and the union is also apparently open to contract workers. At the end of 2012, Nokia will start negotiations on a new settlement with the union.

Foxconn has recognised an LPF union, but faced strikes

When Nokia workers were successful in having their union (LPF) recognised by the management, Foxconn workers also approached the LPF to request representation. The union was formed and Foxconn recognised it in April 2010. Foxconn and LPF signed a three-year wage settlement to the satisfaction of both parties. There will be a new settlement in 2014. The union agreement boosted

59 Frontline - India’s National Magazine from the publishers of The Hindu, “Labour issues: Spirited fight”, volume 27, issue 23, 6–19 November 2010 (<http://www.frontlineonnet.com/fl2723/stories/20101119272303700.htm>)

60 The DMK lost to the AIADMK party in the April 2011 elections. What effect this will have on industrial relations within the Nokia SEZ, if any, is yet to be seen.

61 Interview, CITU leader, 9 March 2011 and interviews with Nokia workers

62 Interview Nokia HR Manager, Sriperumbudur, 7 March 2011

workers' wages. In July 2010, disappointed that LPF did not fight on behalf of the workers in the aftermath of the pesticide incident and unhappy with their wage levels,⁶³ part of the Foxconn shop-floor workforce affiliated themselves with CITU.

Three hundred Foxconn workers who had participated in a strike in October 2010 for higher wages and recognition of CITU as their union were arrested and imprisoned in Velore jail for five days; 12 were detained for 14 days, and 24 have been suspended by Foxconn because of their involvement in the strike. In accordance with the law, Foxconn was paying a part of the basic salary of Rs. 2,300 to suspended workers but refused to recognise CITU as the workers' union. According to Foxconn, the management was already negotiating and concluding the new wage settlement when CITU submitted their charter of demands, the organised strike was illegal and workers were suspended because they violated the standing orders as well as destroyed company property.

Workers reported that the strikers who have been taken back to work faced discrimination in subtle and overt ways. Foxconn reportedly displayed preferential treatment of newly recruited workers over more experienced workers who were involved in the strike. According to the interviewed strikers, they were also denied the privilege of applying for the Rs. 25,000 marriage loan from the company. Some of the strikers had to sign an undertaking that they will not indulge in destruction of company property or go on illegal strikes before they were taken back. A few remained under suspension. There is very little hope of them getting back their jobs unless they agree to revert to the LPF union. At the time of writing, 17 of the 24 suspended workers had done this in order to save their jobs. Foxconn's demand that workers join a union that it favours makes a mockery of the freedom of association. Foxconn, however, strictly denied all above mentioned discrimination.

Foxconn continued to hold 'hearings' with individual suspended workers on the company's premises at the time of report-writing. These hearings were held at the factories by company management by a hired lawyer in a process that appears to be very slanted to the benefit of the company with aggressive letters sent in English to workers who are more familiar with Tamil.⁶⁴ Documents made available to the researchers made no mention of what procedures and under what authority the company was conducting the enquiry. According to the interviewed workers, they were not allowed to bring a lawyer or any other outside representative in support. Only a worker currently employed could accompany a suspended worker for the hearing, thus putting him or her at risk of becoming a future target of harassment. According to Foxconn, these "enquiries" were conducted in line with standing orders (see Ch 7.1). Indeed, the Nokia Telecom SEZ Standing Orders describe the "Enquiry" proceedings in details.⁶⁵

Foxconn managers displayed a prepared slide show of damage allegedly caused by workers during their strike and three-day unauthorised lock-in at the company. Foxconn emphasised that the strike was illegal and breached the court order which prohibits any gatherings within the radius of 100 metres from the Nokia Telecom SEZ main gate. Workers interviewed have denied any acts of violence or damage. Instead they showed video clips captured on their mobile phones which showed the workers sitting peacefully on the factory floors and the rough manner in which strikers were dragged and manhandled by the police.

63 Focus group session with Foxconn workers, 6 March 2011

64 Interview with Foxconn union members, Sriperumbudur, 14 February 2011

65 Extract: Nokia India Private Limited Standing Orders (certified by the Joint Commissioner of Labour, Chennai, on 18 January 2008): 32 Procedure and Punishment in case of Misconduct: [...] When the explanation given by the workman is not satisfactory, an enquiry into the charge shall be held by the Manager or by an Officer or person as may be designated for the purpose. [...] No outsider will be permitted to take part with the person charged in the enquiry. [...] If the workman against whom the enquiry is held fails to attend the enquiry [...], the Enquiry Officer may at his discretion, proceed with the enquiry without the workman being present, after recording such fact.[...]

THE RIGHT TO STRIKE IN INDIA

The Indian government has imposed severe restrictions on the right to strike even though employers are essentially prohibited from taking action against workers who participate in a legal strike. The Industrial Disputes Act (IDA) of 1947 outlines what constitutes a 'legal' strike. In some states, the law demands that certain private sector unions submit formal notification of a strike for it to be considered legal. Another anti-worker piece of legislation, the Essential Services Maintenance Act (ESMA) enables the government to ban strikes in public enterprises and demand conciliation or arbitration in "essential" services. Instead of defining "essential services", however, the act leaves them open to interpretation across the country, with courts often ruling against strikers.

The Tamil Nadu Essential Services Maintenance Act (TN-ESMA), which came into force in May 2002, prescribes a penalty of up to three years imprisonment and a Rs. 5,000 fine against strike participants as well as activists who call for a strike and even includes anyone who provides financial assistance for the strike. The TN-ESMA defines essential services very broadly to include supply of water and electricity, passenger and goods transport, fire fighting and public health. "Strike" within the act refers not only to workers' refusal to "continue to work or to accept work assigned," but also to their "refusal to work overtime" and "any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service." The government of Tamil Nadu has ignored ILO recommendations to amend the act.⁶⁶

There has been a small victory, however. In relation to a strike at Sanmina-SCI (an American electronics company in the Oragadam SEZ) where workers were on strike since mid-February, CITU has received two pro-worker orders from the Chennai High Court which: (1) uphold workers' right to strike on public property next to the SEZ; and (2) prohibits the employer from hiring new, temporary workers to replace the strikers during the conciliation process.⁶⁷

66 <http://www.ituc-csi.org/IMG/pdf/survey1.pdf> Annual Survey of violations of trade union rights in the Commonwealth countries and Zimbabwe, 2009 by ITUC, CSI, IGB, Pg. 31–33 on India

67 Interview, CITU leader, 9 March, 2011

7. ENFORCEMENT OF LABOUR STANDARDS

Although all labour laws apply to SEZs and workers have the right to join unions and bargain collectively, the largest federation of world unions, the International Trade Union Confederation (ITUC), concludes that: “the [Indian] government seeks to keep trade union activity in the country’s EPZs to a minimum.”⁶⁸ The report implies that support from the central and state governments has rarely been forthcoming to workers fighting for their rights in SEZs. Whether or not the state uses its power to protect workers’ rights in the Nokia Telecom SEZ can be examined using three instances – the standing orders and the investigations related to two health and safety incidents at Nokia and Foxconn. This chapter is primarily based on secondary data as requests for formal interviews with government officials were either declined or unacknowledged.

7.1 STANDING ORDERS

According to the Industrial Employment (Standing Orders) Act of 1946 any establishment with over 100 employees is required to file a set of rules and conditions of employment, known as “standing orders” of the company with the designated public authority – usually the Labour Commissioner – within a specified period. Standing orders are certified by the government authority after there is tri-partite agreement on the final version. Three workers’ representatives are selected to approve the standing orders. According to Salcomp, the three employee representatives were chosen by the workers in the presence of a government labour officer. From correspondence with the company, it is evident that the Labour Commissioner exercised his power to lower the probation period from one year to six months. Salcomp’s standing orders have apparently been framed on the basis on a common format used by all the companies in the Nokia Telecom SEZ.

A company’s standing orders are significant in labour disputes when they are held as a breach of agreement between workers and management on the expected conduct of employees. Both Nokia and Foxconn have referred to their respective standing orders to justify the suspension of workers in the aftermath of workers’ struggles for union recognition. In separate charge sheets, Foxconn accused workers, who were seen as instrumental in the workers’ struggle, of having broken various company rules in relation to the strikes in 2010 (see Annex). In these cases, Foxconn is content with proving that the workers have acted against the “certified standing orders of the company”⁶⁹ without mentioning complaints to the police or filing of First Information Reports (FIR). These accusations, which do not seem severe enough on their own to warrant suspension, include for example, shouting within the factory premises. Foxconn workers did not know what these orders were but got a copy of them from the company as part of the ‘hearings’. It was a thick document in English, not very easy for workers to understand. Foxconn suggested to replace the word ‘hearing’ with ‘domestic enquiry’ and pointed out that legal proceedings in India are held in English.

68 Annual Survey of violations of trade union rights in the Commonwealth countries and Zimbabwe, 2009 by ITUC, CSI, IGB, Pg. 31–33 on India <http://www.ituc-csi.org/IMG/pdf/survey1.pdf>

69 Foxconn Managers were asked to provide copies of the Standing Orders and after some discussion agreed but added that the Headquarters might object to this. We have not received any documents from Foxconn.

Workers interviewed in other companies also showed very limited knowledge about the contents of the standing orders although they were found to be pasted on the walls in the factories of Nokia, Salcomp, Flextronics and Foxconn. One reason for this could be that they tend to be posted in English rather than Tamil though most of the companies now provide translations. However, in an interview, Nokia workers casually commented that they did not really need to read the detailed rules since “whatever you do that is not work is illegal” in the factory.⁷⁰

7.2 HEALTH AND SAFETY STANDARDS

The general impression from factory visits was of well organised and clean surroundings, with monotonous working conditions of a kind generally found in Indian factories. Nevertheless, given two extraordinarily serious incidents that took place in Nokia and Foxconn recently, this study included an examination of health and safety issues at all four companies.

According to Flextronics, it has made tremendous advances in its global programmes for worker safety and health. The company complies with the EICC⁷¹ standards and implements Flexpledge (a programme of worker rights), which expresses its commitment to be an employer of choice. The company programs, which allow workers to file complaints, sound impressive but are difficult to verify since there was no outside monitoring.

FATAL ACCIDENT IN THE NOKIA FACTORY

In October 2010 a female worker got stuck and died in one of the machines in the Nokia factory while trying to clear a jammed piece by herself rather than calling on a technician. When the worker next on the line at the time of the accident had tried to pull the worker out of the machine a technician told him to stop since the machine is valuable and should not be broken. Other workers pointed out that the working tempo is very high and the machines have often various problems. They had also fixed the machines by themselves. When one machine stops, the productivity of the entire line is affected since the machines are inter-connected.⁷²

The HR helpdesk response was that bonuses are set at a factory level if certain targets are met rather than on the line or worker level which would incentivise workers to strive towards higher performance. There was an eight per cent annual target incentive which has been paid out to everyone in previous years. Nokia claimed that it does not use fines or other forms of punishment to workers to increase production. However, it seems that workers were feeling stressed to keep up production targets since they all were opening the doors to unjam machines when they were stuck rather than taking the time to call a technician.

It is possible that the accident could be related to the fact that the worker was commuting for three hours, 120 km, in each direction every day to the village where she lived in Vellore District close to Arcot town. It must have been very tiring to work eight hours with a daily commute of six hours for her six day work-week.

Nokia would not say what the company paid as settlement to the family of the deceased worker but was clear to point out that it was much above the legal requirements. According to Nokia, the compensation consisted of education support for her two brothers, a family wage for the parents based on a bank deposit and medical insurance for the entire family. One source claims that the settlement was 1 million rupees (about 16,000 euros).⁷³

Shortly after the accident Nokia hired Det Norske Veritas to investigate how the accident had happened. DuPont also conducted a safety audit of the entire factory. One manager revealed a number of security features which have been added since the accident: machine doors are now interlocking which stops the machine in case opened and require unscrewing in order to be opened. There are also double motion sensors which will stop the machines across the factory.

70 Interview with Nokia union members, Chennai, 24 February 2011

71 <http://www.eicc.info/>. The Electronics Industry Code of Conduct (EICC) is a code adopted and implemented by some of the world's major electronics brands and their suppliers. The goal is to improve conditions in the electronics supply chain.

72 Interview with Nokia union members, Chennai, 24 February 2011

73 Dutta, M., & Radhakrishnan, V. (2011) Ambika's death. Kafiya. Available at: <http://kafiya.org/2011/01/23/the-new-cellu-lar-jailmadhumita-dutta-venkatachandrika-radhakrishnan/> (accessed 30 March 2011)

Salcomp reported that there are three nurses working at Salcomp and that the company had capacity to provide training in first aid, counseling, emergency preparedness, health and hygiene education, safety classes, diet advice, and advice on the employees state insurance (ESI). There has been no major accident in the factory. The most serious incident was an electrical shock. Only one chemical is used and workers were trained to use it with appropriate precaution.

During focus group sessions, Foxconn workers complained about health issues and the medical facilities available to them. They reported that there have been no health check-ups since they started work, and that the health centre has only an un-trained nurse who gives them the same pill regardless of the symptoms they complain about. Workers demanded a doctor and proper on-site health facility. In most cases, workers attended private medical clinics by paying for the expenses themselves when they got sick. According to Foxconn, well trained nurses have been employed from the nearby hospital and a medical doctor is available during the daytime. Foxconn conducted initial mandatory health check-ups only for the new employees.

Nokia workers complained about the long hours of standing. Observation around the shop-floor revealed that this could be a problem. Although rest areas were provided with comfortable sofas, a tour of the company showed that these may not be used frequently, possibly because workers do not want to be seen as lazy or slackers. There was a medical clinic for Nokia employees only in the SEZ. There will be a new bigger clinic for Nokia during 2011 with more capacity, up to 10 beds.

PESTICIDE POISONING IN THE FOXCONN FACTORY

On 23–24 July 2010 a pesticide incident forced more than 200 workers at Foxconn to seek medical help. The main symptoms were fainting, breathlessness and coughing. The incident was widely reported in the news. It appears that the contractor engaged to spray insecticide on the building walls and in toilets inadvertently sprayed the chemical in the corridors during the lunch break, and it was circulated by the factory's faulty ventilation system.⁷⁴ An independent fact-finding report has pointed to a cover up between the company and state authorities leaving workers in the dark over the cause of the incident and potential future consequences.

Foxconn was keen on pointing out that governmental authorities inspected the factory and that it got all the official clearances and was allowed to continue operations the very next day. According to Foxconn, doctors found that nothing major was really wrong with the workers although a few had to stay in a hospital for several nights and that some of the workers had already existing medical problems. The management added that workers just wanted treatment since the company was paying and that even people from the other site not affected went to the hospital to do a check-up.

According to the interviewed workers, medical reports were not released from the hospital leaving many in the dark about what had actually caused them to faint and whether they would suffer any future complications due to the exposure to a chemical.⁷⁵ The difficulties involved in getting public accountability in the accident were highlighted in a civil society fact-finding study for which no officials from the government, the company or the hospital where the workers were admitted would talk to the researchers.⁷⁶ Foxconn, however, submitted the hospital's report⁷⁷, which said that 223 workers were examined and 42 were admitted due to persistence of symptoms and signs. The report concluded that all the patients recovered completely and were discharged.

The incident contributed to the worker unrest which took place later in 2010.

74 Anonymous (2010) "Factory Inspected," *The Hindu*, 28 July 2011

75 Interview with Foxconn union members, Sriperumbudur, 14/2 2011.

76 Independent fact-finding team 2010, *The mysterious case of fainting workers: Fact-finding report on the 23rd July mass fainting of workers in Foxconn India factory in Sriperumbudur, Kanchipuram district, Tamil Nadu*.

77 Sri Ramachandra Medical Centre report, 3 August 2011 (dated)

8. CONCLUSIONS AND RECOMMENDATIONS

Nokia appears to be the most responsible as well as responsive to worker demands among the four studied companies. This is perhaps not surprising since it has the most visible brand to protect. Nokia has become a wage leader (in the case of permanent workers) in the mobile phone industry in the Chennai area and is the first company that has recognised a labour union. But almost half of the workers working at Nokia's factory are contract workers and trainees, in other words in precarious employment.

Foxconn has fared the worst and been criticised most harshly, but it has also responded by offering significantly improved wages and recognizing a labour union in 2010. In addition, Foxconn paid contract workers higher wages than Nokia. Despite this, Foxconn has had a difficult last year in terms of worker relations. Disappointed that the LPF union did not fight on behalf of them in the aftermath of the pesticide poisoning and suspension of workers, some of the workers protested and organised strikes in late 2010, leading to arrests and jailing of many. Suspended workers still awaited their reinstatement.

Salcomp has managed to stay away from the conflicts that have plagued other companies with a few progressive policies. It was one of the only companies that paid the same wages to contract and regular workers, although these are admittedly low. Only 10 per cent of its staff is on contract, which is the least of all the companies studied. Contract workers were regularized within 1.5 years of working at the company. Salcomp also permitted time off work for advance studies and offered vocational training to its staff for a transition back to rural life. How much these matter to workers in relation to higher wages and collective bargaining rights was not explored in this study.

Flextronics has an impressive setup with global CSR systems in place to manage worker safety, health, harassment and other potential issues. But the question is whether these are actually helping workers or simply act to counter-balance demands for fair compensation from workers. Flextronics was the company which most clearly expressed its reduced education demand and little interest in paying much more than the legal minimum wage.

All the four companies examined used contract workers as a low cost, unskilled and flexible workforce. In factories dominated by young, often female workers who are only expected to work for a few years due to the poor salaries and night shifts before they get married and live elsewhere, there is a high turnover of staff. However, workers interviewed for the study have observed that every department in the four companies had a percentage of contract workers. This implies that permanent and contract workers are doing at least partly similar jobs.

Using trainees for 1.5–2 years is especially peculiar when both workers and management interviewed agreed that there was really at maximum a few months of actual training involved before any worker can participate fully on line. Once a worker has fulfilled the trainee period or the contract, there was no obligation for this person to be confirmed. Most of the companies responded that they are yet to frame a policy for making staff permanent. A transparent process of worker evaluation according to a clear company policy, with the active involvement of unions, is much needed in India where employment security is one of the most sought after benefits.

The unionisation of a part of the mobile phone industry represents a unique achievement in India's Special Economic Zones. Unions have been able to negotiate with Nokia and Foxconn and achieve salary raises for the workers. It is not clear whether the unions have had any impact on other working conditions so far. Despite some progress, worker unrest has been on the rise in the mobile phone industry in India and this seems likely to continue.

The main priority for the makeITfair project is decent working conditions in the manufacturing of consumer electronics, with particular attention to freedom of association, living wages and the eradication of precarious employment. All manufacturing of electronic devices should be carried out with respect for workers' rights, as defined by the conventions and recommendations of the International Labour Organization (ILO). These include: the freedom of association, the right to collective bargaining, no discrimination of any kind, no forced or slave labour, a minimum employment age, health and safety measures, a maximum working week of 48 hours and voluntary overtime of 12 hours maximum, and the right to a living wage.

In particular, the makeITfair project asks that:

- Freedom of association and the right to collective bargaining should be respected, as these are the most important tools to enable decent working conditions to develop;
- Contract labour and other short-term labour arrangements, including migrant workers, should never be used to undermine workers' rights and working conditions. Contract and/or short-term workers should have the same working conditions, rights and benefits as permanent workers and the right to a permanent employment contract after a certain time period.
- Workers should be able to earn a living wage for their family within normal working hours (no more than 48 hours per week).

None of these demands was fully implemented by the four studied electronics companies in India. Although Nokia has been responsive to worker demands and is the first company that has recognised a labour union, questions remain about how independent the new union is, and when, if ever, contract workers are offered permanent jobs and the same benefits as confirmed workers. One of the most problematic and worrying issues found in the research concerns wage levels. Only Nokia's permanent workers with four years' experience at the company and Foxconn's permanent workers with two to three years' experience have reached the Asia Floor Wage (minimum living wage) level for India. In sum, most workers of the studied companies were employed in precarious positions and earn very low salaries even in the Indian context.

ANNEX:

EXTRACT OF FOXCONN STANDING ORDERS

These clauses have been extracted from Foxconn's charge sheets sent to workers who went on strike in September-October 2010. Foxconn was not willing to share the complete Standing Orders.

- 29.1 Not hold any meeting stick or distribute any handbills, leaflets, pamphlets, posters or collection any funds whatsoever in the Premises without obtaining the prior written permission from the Manager.
- 29.5 Not indulge on quarrels, abusing, fight, violence or any other disorderly or indecent behaviors with others either inside the Premises or outside if it is related to the factory operations. Or operation of any other Resident Unit.
- 29.9 Not bring or use intoxicating or any illegal material inside the Premises.
- 29.11 Not demonstrate or shout inside the establishment without written permission of Management.
- 31.3.1 Slowing down in performance of work, whether alone or in combination with another or others or abetment or instigation thereof.
- 31.3.3 Negligence or neglect of work.
- 31.3.4 Causing damage to work, goods in process or to any property of the company or that of any co- employee.
- 31.3.5 Habitual breach of any rule or instruction.
- 31.4.1 Squatting or remaining anywhere within the Premises of the company, other than the assigned or appointed place of work.
- 31.4.2 Loitering, idling or wasting time during working hours or being in conversation with another or other or being within the Premises out of the authorized hours of work, without previous written permission from the authorized person.
- 31.4.12 Leaving the place of work without sufficient cause during working hours and / or entering another department/ section, otherwise than in the course of duty.
- 31.4.17 Impertinence, insubordination cr disobedience or insolent behavior whether alone or in combination with another or others of any lawful and reasonable order of a superior.
- 31.4.18 Habitual breach of any Standing order or any law applicable to the company or any rules made there under.
- 31.5.4 Willful damage to work in progress, tools or to any property of the company.
- 31.6.7 Fighting riotous or disorderly behavior or conduct inside the premise of the factory likely to cause breach of peace.
- 31.6.19 Assaulting any co-employee, workman inside in connection with the employment in the company or outside (SEZ) the company.

- 31.7.12 Stay in strike or hunger strike within the premises of the company.
- 31.7.13 Striking work or inciting other to strike work, which is illegal or unreasonable.
- 31.7.14 Abetment, incitement, intimidation, instigation or acting in furtherance of strike, which is illegal or unreasonable.
- 31.7.8 Threatening abusing intimidating or assaulting any workman or any person connected with company's business inside or outside the Premises of the company in connection with the employment in the Management.
- 31.7.18 Canvassing for Trade Union or Party membership or collection of dues, funds or contribution there of within the premises of the company without the permission of the Manager.
- 31.7.19 Stoppage of work or leaving work undone resulting in damage to the company's Property.
- 31.7.20 Shouting of any slogan within the Company whether alone or in combination with others against the Company or Supervisors.
- 31.7.22 Flouting Court Orders governing the conduct of workmen during the period of strike.



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