



**Extract**

# Labour and women's rights in the discount business

Aldi's special bargains from China

*In September 2008, on behalf of the SÜDWIND Institute for Economics and Ecumenism, a survey of about 80 workers was carried out in six factories in the Pearl River Delta in China. These factories are suppliers of electronics, household appliances, cosmetics and textiles to Aldi.*

*On the basis of the respective ILO conventions and Chinese labour laws, the workers were asked questions about the following range of topics: forced labour, wages, discrimination in the workplace, employment of juveniles and minors, freedom of association and the right to collective bargaining, working hours as well as health and safety standards. For reasons of security, all names are kept anonymous in the following report into the findings of the survey.*

## **Working Conditions of Chinese Manufacturing Supplier Factories to Aldi**

**13 November 2008**

When investigators commissioned by the German SÜDWIND Institute went to Aldi garment suppliers in Jiangsu province in 2006, they were appalled. Their assessment was damning: "labour law violations... are far worse than any recorded so far in Chinese factories". Now more than two years on, another team of investigators have gone to a different part of China to contrast conditions in the Jiangsu garment suppliers with six factories in the Pearl River Delta (PRD), in Guangdong province, producing electronics, household appliances, cosmetics and garment factories for Aldi.

The findings are somewhat different this time. In these factories, investigators found nothing like the appalling situation in ALDI's 2006 Jiangsu suppliers, where workers had to work their first month for free and pay deposits to the factory; where workers were fined for missing work; where child labour was knowingly employed; and where workers were unable to resign, and had to run away in the night.

As in Jiangsu, investigators in the PRD uncovered violations of Chinese law in every factory – many of them very serious infringements of workers' rights. But practically speaking, these are not the worse factories in the PRD by far.<sup>1</sup>

Five of the six are big in size, all but one with more than 4,000 workers on site. Workers surveyed told us about working long hours of overtime on a regular basis, and one factory which did compensate workers at a premium rate for overtime work. Meanwhile, workers at three factories are not enjoying social insurance, which employers are legally required to purchase. Workers in all six factories have received no training about OHS, and lack crucial knowledge about work safety. No factory has any functioning industrial

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<sup>1</sup> One can compare them with the following cases. Southern Metropolitan Daily (2008) Dongguan's Child Labour 'Business' (Dongguan tonggong 'maimai'), 28 April 2008, [http://epaper.nddaily.com/A/html/2008-04/28/content\\_452688.htm](http://epaper.nddaily.com/A/html/2008-04/28/content_452688.htm) [Accessed 16 May 2008]. China Labour Bulletin, *Deadly Dust: the Silicosis Epidemic Among Guangdong Jewellery Workers and the Defects of China's Occupational Illness Prevention and Compensation System*, 2005. Available at: <http://www.china-labour.org.hk/en/node/100013> [Accessed 1 November 2008]. Students Against Corporate Misbehaviour (SACOM). See <http://sacom.hk/category/campaigns/wal-mart> [Accessed 1 November 2008].

relations mechanisms through which workers' interests can be represented. Three factories have not signed labor contracts with all employees – despite enormous publicity surrounding the Labour Contract Law, implemented this year. The list goes on.

Many of the problems detected in this survey are painfully common in the PRD, in China, and in the Global South generally. How activists respond to this ethical blight on the multinational companies supplying Western markets is a challenging question which requires a systematic response beyond case-by-case intervention in a handful of factories.

## **Section One. Background**

### **Introduction to the Pearl River Delta**

The PRD is the most intensive export manufacturing region in all of China. Encompassing 12 cities, nine small cities and 420 towns, the PRD was the source of 30 percent of all Chinese exports from 1993 to 2001.<sup>2</sup> Over the same period, the PRD also attracted huge amounts of foreign-direct investment - 30 percent of the total for the whole country.

In the decade or so following the start of economic reform in 1978, FDI came mainly from neighbouring Asian countries and territories. It was not until the 1990s that investment from Europe and North America reached significant levels. Having said that, between 1993 and 2001 a massive 68.2 percent of FDI into the PDR came from Hong Kong, where many overseas Chinese investors were advantaged by close proximity, personal connections, and/or knowledge of the local economy, culture and language. Other major investors during the same period included Taiwanese (3.8 percent), Japanese (3.4 percent), US (3 percent) and Korean (2 percent), although these figures have certainly changed since 2001.

Because of the huge demand for labour, tens of millions of workers have migrated to the PRD from other Chinese cities or villages, firstly in factories, and later in the burgeoning tertiary and service sectors. What this means is that very rarely can a 'local resident' be seen on the production line of a PRD factory. Those local people who are employed in factories, almost invariably perform management roles, on substantial salaries. For migrant workers on the production line, working conditions in PRD factories are notoriously tough. Poorly regulated private enterprise development in the 1980s and 1990s established the PRD's reputation as a place where migrants come to expend their youth, working long hours for measly pay, before returning home exhausted. Strict population controls in China, restrictions of migrants' access to social services, and the prohibitive cost of urban living mean that relatively few migrant factory workers have settled long-term in the PRD.

In recent years, however, these migrant workers have been demanding more from their employers and the government. Countless industrial actions take

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<sup>2</sup> Zhang, K.H., *China as the World Factory*, New York, Routledge, 2006. All PRD statistics sourced from Zhang unless otherwise stated.

place daily in the PRD, including strikes, go-slows, road blockages and daring public demonstrations. High profile labour activist in exile Han Dongfang estimates that strikes of over 1,000 workers happen daily in the Pearl River Delta.<sup>3</sup> Staff turnover is a huge problem – even for relatively good factories – as workers vote with their feet and change factories frequently in search of better conditions. One survey of ITC factories in the region revealed that company managers characterized 25 percent annual staff turnover as relatively low! Many factories were experiencing turnover of 35 to 40 percent each year.<sup>4</sup> The PRD is facing a pronounced labour shortage, especially of skilled workers – a stark contrast to the queues of migrant workers looking for work outside factory gates in the 1990s. Factories are having to offer better conditions to attract and retain staff, while local city governments have announced significant annual increases in the minimum wage since 2006 in order to help workers meet the high cost of living in the region (particularly in big cities such as Shenzhen, where the minimum wage is now the highest in the country at 1,000 RMB (113 EUR) per month.<sup>5</sup> Now factory conditions in the PRD are generally better than many newly industrialized provinces and cities in China's inland, although the cost of living – especially housing – is oppressively high.

Table One: Minimum wage standards and recent adjustments in surveyed cities.

City	Minimum Wage (before overtime) RMB	Minimum Wage (before overtime) EUR	Most recent adjustment	% increase since 2007 adjustment
Dongguan	770	87	1 April 2008	11.6%
Foshan	770	87	1 April 2008	11.6%
Shenzhen (inner)	1,000	113	1 July 2008	17.6%
Shenzhen (outer)	900	102	1 July 2008	20%

\* 1 RMB = 0.113 EUR as of 31 October 2008.

### Introduction to ICT, household appliances, textiles and cosmetics industries in China

In this six-factory sample are three information and communications technology (ICT) factories, one mechanized appliances, one garment and one

<sup>3</sup> Radio Free Asia, *China's Pearl River Delta: 40,000 fingers lost annually, 1,000 workers strike daily*, 16 January 2008. Available at: <http://rfaunplugged.wordpress.com/2008/01/16/chinas-pearl-river-delta-40000-fingers-lost-annually-1000-workers-strike-daily/> [Accessed 1 November 2008]

<sup>4</sup> Lüthje, B., *Global Production Networks and Industrial Upgrading in China: The Case of Electronics Contract Manufacturing*. Presented at the International Conference on Multinationals in China: Competition and Co-operation, Guangzhou, July 2004.

<sup>5</sup> 1 RMB = 0.113 EUR as of 31 October 2008.



cosmetics. ICT manufacturing, in particular, is thriving in the PRD, which is now the largest manufacturing zone for ICT products in the world. ICT hardware accounted for a huge 58 percent of Guangdong's total exports in 2001.<sup>6</sup> Since the 1990s, when early overseas Chinese investors began manufacturing low-end products such as keyboards and mice, highly sophisticated production and assembly facilities have emerged which can provide highly integrated services, and even Original Design Manufacturing (ODM).<sup>7</sup> Between 2001 and 2005, the industry grew at breakneck speed, at an average rate of 28.8 percent for the country as a whole.<sup>8</sup> The sector is dominated by Taiwanese companies. In 2002, Taiwanese ITC firms produced 63 percent of their hardware in mainland China. These high-end ITC factories are often more sterile and modern than other export manufacturing plants – if only to protect fragile products and components. The industry is extremely hazardous to workers' health, as they come into contact with a flood of chemical combinations on a daily basis.

Since the 1990s, China has become the single most important world producer of cheap electronic household appliances. In 2004, 40 percent of the world's refrigerators, 30 percent of washing machines, and more than 80 percent of air conditioners and microwave ovens were produced in China. Between 2001 and 2005, China accounted for approximately 60 percent of world exports in vacuum cleaners, electric irons and hair dryers, and 70 to 80 percent of the export of coffee makers and toasters.<sup>9</sup> This market dominance has increased further since then. The production of high-end, quality household appliances is conducted mostly for foreign brands.

Garment production has also developed on an enormous scale in China, owing to the country's combination of cheap labour, local availability of raw materials, and reliable logistical infrastructure. In spite of safeguards invoked by the US and the EU after the phase-out of the WTO Agreement on Textiles and Clothing in 2004, China has gained an additional 12 percent of the world clothing market and accounts for 31 percent of world exports (WTO International Trade Statistics 2007). When these safeguards will expire at the end of 2008, China's share is likely to increase further. In the longer run, however, this low value-added industry will be replaced by higher value-added industries. Already now, the textile and clothing industry is struggling to remain profitable in the PRD, where production costs have risen significantly in recent years. Competition with Asian neighbours, combined with the economic downturn in export-destinations has reduced export sales. Textile sales to the US, for example, declined 10 percent in the year leading up to July 2008.<sup>10</sup> Working conditions in the garment industry are notoriously bad. Studies of garment factories, in particular, have revealed that workers are

<sup>6</sup> Zhang, 2006.

<sup>7</sup> Lüthje, B., 2004.

<sup>8</sup> International Metalworkers Federation (IMF) and Asia Monitor Resource Centre (AMRC), Report on Industrial Relations and Working Conditions in IMF-related TNCs in China, 2007. Available at: [http://www.amrc.org.hk/system/files/IMF\\_china\\_report\\_EN.pdf](http://www.amrc.org.hk/system/files/IMF_china_report_EN.pdf) [Accessed 2 March 2008].

<sup>9</sup> IMF et al, 2007.

<sup>10</sup> *Textiles Intelligence*, 'China loses its competitive edge in clothing', *Textile Outlook International*, No.134, July 2008.

often very lowly paid, and work extremely long hours.<sup>11</sup> Profit margins for producers are often low.<sup>12</sup>

Revenue from the Chinese cosmetics industry now ranks eighth in the world, and second in Asia, with annual sales worth 50 billion RMB (5.65 billion EUR). The Chinese cosmetics and pharmaceuticals industry has been haunted by suspicion about dubious quality and risks to consumers' health (never mind workers'), for example, the case of diethylene glycol, a chemical used in engine coolants, being detected in Chinese-manufactured toothpaste and cough syrup, in the latter case killing at least 50 people in Panama.<sup>13</sup> The production of high-end cosmetics brands is undertaken largely by foreign brand companies or joint-ventures between Chinese and foreign companies.<sup>14</sup> Virtually no critical attention has been given to working conditions and labour rights in this sector specifically.

Affecting all these industries are factors such as the rising value of the Chinese currency, and difficulty for investors to obtain finance as the Chinese government tightens credit to limit inflation. Gradual improvements in labour and environmental standards are raising the costs and pushing low value-added production away from prosperous coastal regions, such as the PRD, and into inland China or offshore to other countries.

### **Multinational Companies and Labour Rights in China**

Labour laws and regulations in China are surprisingly good, and incorporate many of the ILO conventions (except No.s 87 and 98 on trade union rights), as well as labour rights enshrined in Western industrial relations standards. However, it is extremely rare to find a factory that adheres to all of them, or local government department willing to take action to remedy any but the most serious violations. Instead, violation of labour-related laws is ubiquitous, and is integral to the so-called 'competitive advantage' that underpins China's international competitiveness. Western companies off-shore because of the cost advantage that comes from greater exploitation of labour, and lower expenditure on issues like occupational safety and social security. The violation of workers' rights in the Global South is a fundamental feature of Western economies.

While it is useful to compare the working conditions at these six factories to the legal regulations and ILO conventions, the violations detected do not make these factories any worse than others supplying international brands. It is clear from investigations into suppliers of other multinational companies such as Wal-Mart, Apple, Hewlett-Packard, Nike, Adidas, Disney, Mattel etc. that labour rights violations in China are something that all North American

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11 Play Fair 2008, 'No Medal for the Olympics on labour rights'. Available at: <http://www.cleanclothes.org>.

12 Ethical Trading Initiative Norway, *China Suppliers' Roundtable*, 2007.

13 BBC, *US checks toothpaste for toxins*, 24 May 2007. Available at: <http://news.bbc.co.uk/2/hi/americas/6686627.stm> [Accessed 3 November 2008]

14 Research and Markets, *China Cosmetics Market Report*, 2008. Available at: <http://www.researchandmarkets.com/reports/613730/> [Accessed 22 October 2008]

and European multinationals have to worry about – no matter how good their Corporate Social Responsibility (CSR) policy might appear.

## Section 2: A Survey of Six Factories

### Introduction to factories

In order to gain an insight into Aldi's Chinese supply chain beyond the garment sector, a team from a Chinese labour rights NGO (non-government organization) conducted surveys of six factories across four industries: information and communication technology (ICT), household appliances, cosmetics and textiles. Factories were identified from a SÜDWIND list of Aldi's suppliers, current as of the second half of 2007. All surveyed factories were located in the PRD. Cities were located in three medium to large cities in Guangdong province: Shenzhen, Dongguan and Foshan. All are highly industrialised, with highly concentrated industrial zones. Shenzhen's inner districts form a Special Economic Zone, the site of one of the earliest export processing zones in the region, which is subject to restricted access (much less so now than in the 1980s and 90s). 12 to 15 migrant production line workers were surveyed at each site in September 2008, the majority of whom were women under 30. They were interviewed individually, away from the factory premises, to avoid compromising their security and having them worry about their comments being heard by colleagues or supervisors. At one site – Factory 6 – the investigator was unable to access workers because of tight security, and so posed as a job-hunter and actually worked inside the factory for two days in order to gain information. All investigators were ethnically Chinese, and from a migrant worker background themselves.

It so happens that – with the exception of Factory 6 garments – all factories are medium to large in size, and are foreign owned (see Table Two). Labour rights violations generally tend to be more serious in smaller factories, and so the large size of these factories has bearings of the findings of this survey. One ITC factory is unusually large, with 19,000 workers. The cosmetics factory surveyed has approximately 10,000 workers. From workers' responses it seems that the average age of workers in the six factories is somewhere in the early to mid-twenties, and women make up 60 to 80 percent of the workforce. All factories advertise themselves as being ISO9000 or 9001 certified. Factory 6 garments even claims to have SA8000 certification, although it falls far short of the necessary standard.

Table Two: Number of employees, product range, and ownership of surveyed factories

Name	Location	Employees	Products	Ownership
ICT				
Factory 1 (Foxconn subsidiary)	Foshan	19,000	Digital cameras, mobile phones, projectors.	Taiwan
Factory 2	Dongguan	4,000-5,000	Computers, palm pilots, walkie	Hong Kong

			talkies	
Factory 3	Shenzhen (inner)	4,000	Monitors	Taiwan
Electronic Household Appliances				
Factory 4	Shenzhen (outer)	2,000+	Blenders, juicers, food processors, egg beaters	Taiwan
Cosmetics				
Factory 5	Shenzhen (outer)	10,000	Cosmetics	US
Textiles				
Factory 6	Dongguan	200 - 300	Fabrics, oven mitts, aprons, seat cushions, gloves	China

### Preliminary Factory Assessment

Before delving into a detailed assessment of working conditions in these six sites, it might be useful to provide a preliminary assessment and ranking of the surveyed factories whilst bearing in mind two overarching problems in Chinese factories: a) Legal minimum wages do not cover the basic needs of workers and their dependants, and b) trade unions have to be affiliated with the state union, the ACFTU.

Least violations: Factory 1 ICT.

A huge factory, bought recently by one of the biggest ICT contract manufacturers in the world, Foxconn. Wages are slightly above minimum standards, and benefits are good. The trade union is inactive. Management is quite strict. Staff turnover is low.

Some violations: Factory 3 ICT.

Promotes itself as the fifth largest monitor manufacturer in the world. Wages and social insurance meet most legal standards, and women are offered paid maternity leave. Workers, however, are dissatisfied with the lack of a cafeteria, and the low amount of overtime offered recently due to lack of orders. The trade union is inactive. Staff turnover is high.

Middle-range: Factory 4 Appliances.

Hours are long, and wages fixed at the bare minimum level, however workers here do not have to face the problem of seasonal variations in earnings. Meals are free, and social insurance provided. No industrial relations mechanisms are in place.

Middle-range: Factory 5.

Hours are even longer. Workers do not receive social insurance until after one year, but women do have paid maternity leave, which is rare. The trade union is inactive, and workers were asked to sign a dubious blank collective contract. The factory provides no cafeteria or meal allowance. High staff turnover.

Numerable violations: Factory 2 ICT



Serious problems were detected regarding wages, benefits, industrial relations, contracts, OSH, etc. Funnily enough, worker turnover is low.

Most violations: Factory 6 garments

Even more serious problems were detected regarding wages, benefits, industrial relations, contracts, OSH, etc. The only one that falls below legal rates of pay. Relatively informal style of management. One investigator posed as a job hunter to get information. When interviewed by human resources she was told: "Work here is really tiring. Can you handle it?".

## Wages and Hours

Table Three: Average Monthly Wages, Working Hours, Seasonal Variations and Miscellaneous Deductions.

Name	Average Monthly Wage (RMB) *	Average Weekly Hours	Seasonal Variation	Deductions (RMB)
ICT				
Factory 1	805 base** + 600 – 900 OT	8 hours + 2.5 - 3 hours OT. 6 days p/week.	Little OT in slack season	Free dorm & meals
Factory 2	770 base + 730 – 830 OT	8 hours + 3 hours OT. 6 days p/week.	Average 200 RMB lower off-peak	Dorm: 60 Food/"Living": 220 p/month
Factory 3	1,000 base + 300 OT	Relatively little OT. 5 days p/week	Very few orders currently.	Dorm utilities: 26 No canteen. 1 RMB allowance p/meal.
Electronic Household Appliances				
Factory 4	900 base + 7 – 800 OT	8 hours + 4 hours OT. 5/6 days p/week	No seasonal variation	Dorm: 60 Utilities: 10 Free meals.
Cosmetics				
Factory 5	900 + up to 900 OT	8 hours + 5 hours OT. 6/7 days p/week.	Oct – Dec slow season.	Dorm: 40 No canteen, no allowance.
Textiles				
Factory 6	1,100 – 1,200 base and OT together. <b>No OT penalty rate</b>	[Piece rates] 11 hours/day. 6 days p/week	Salary 400 – 500 less off-peak	Dorm: 30 Utilities: 10 Food: 180 p/month

\* 1 RMB = 0.113 EUR as of 31 October 2008.

\*\* The only factory paying above the local minimum wage (770 RMB in this case).

Do surveyed factories meet the minimum legal wage standard?	
Yes	No
Factory 4, Factory 5, Factory 3, Factory 1, Factory 2	Factory 6

Do surveyed factories adhere to the legal limit on overtime work?	
Yes	No
None	All

Across the Pearl River Delta, and indeed throughout China, factory workers struggle to earn a wage sufficient to support themselves – let alone support their families. The good news at these six factories is that five pay according to local legal minimum wage. The bad news is that minimum wages in China are far below what workers would consider a living wage. There has been no calculation of what would constitute a so-called living wage in the PRD, but current minimum wage levels fall far below living standards. A comparison between Tables One and Three shows how only one factory – Factory 1 – paid at a rate slightly above the legal minimum. The minimum wage is typically expressed as a monthly sum, covering a maximum 8 hours per day and 44 hours per week, according to Article 36 of the Labour Law.

Workers' wages are boosted enormously because of overtime at these six factories. At Factory 1, Factory 2 and Factory 5, almost half of workers' wages was coming from evening and weekend overtime. When an interviewer asked a worker at Factory 2, "what happens if you don't want to work overtime?", her response was: "We've come to work, not have fun. Which worker doesn't want to work overtime?" This demonstrates clearly how inadequate the minimum wage is in China. Factory 6 garment factory had the same serious problem as many other Chinese garment factories: workers are paid by piece rate rather than the number of hours worked, and given no overtime premium for work done in excess of eight hours per day, or on weekends.<sup>15</sup> Overtime on weekday evenings should be paid at 1.5 times the regular hour rate, Saturday and Sunday work at two times the regular rates, and public holidays three times. In the surveyed factories, all except Factory 6 garments pay overtime premiums according to the law.

Article 41 of the Labour Law limits the number of overtime hours to 36 per month, including overtime. Despite this, 12 hour days, six or seven days a week, are normal in the PRD. Weekends are also classified as overtime. The six surveyed factories average between 10 to 15 hour working days when business is good, and thus all are exceeding the legal limit (except for Factory 3, but simply because they currently do not have enough orders). Workers all said that they could decline to work overtime. Article 38 specifies that workers must have at least one day off per week. This provision is being respected in all factories except Factory 5 where workers sometimes work seven days a

<sup>15</sup> Verité, *Piece by Piece: how the overtime pay of piece-rate workers in China is falling short*, Verité Issue Brief, June 2006.

week, in breach of this standard. It is only at Factory 3 that workers have a regular two-day weekend.

As for holidays and time off, Article 40 of the Labour Law grants employees with service of over 12 months the right to paid holidays, but no factory in the survey sample offered paid leave, and indeed it is extremely rare in PRD's manufacturing sector.

Five factories provide workers with wage slips that are easy to understand, and which outline all hours worked, benefits paid, and items deducted. On the other hand, Factory 6 garments provided no wage slip whatsoever, indicating a quite informal management system! Factory 6 has already emerged as clearly the worst factory in this sample.

Workers in several factories have to cope with seasonal fluctuations in their workload and wages, reflecting the destabilizing influence of flexible, 'just-in-time' production systems implemented by buyers across many industries. Workers in all factories except Factory 4 household appliances factory have to cope with seasonal changes in their wages. Factory 6 garment workers' wages drop dramatically by around one-third in the off-peak season. Factory 2 workers' wages slump by approximately 13 percent. Factory 1 workers also face significant fluctuations. The good thing is that workers in all six factories reported that management does not lay workers off during slow seasons, and all but Factory 6 guarantee that payment of regular 44-hour-a-week wages according to the legal minimum during slow periods.

Unpaid or owed wages is a huge problem in China, and is frequently the subject of labour disputes, especially in the construction sector.<sup>16</sup> Fortunately none of these factories seem to have problems paying workers on time. Only one – Factory 2 – implements the common practice of withholding payment of wages for a month. The law in Dongguan does allow for a period of up to 30 days to calculate wages (not the case in Shenzhen), although in reality many factories in the PRD hold back a month's wages as a kind of deposit to deter workers from leaving without approval. The other five factories withhold no wages, deposit, documents or personal belongings from workers. Demanding of deposits used to be common – Factory 6 used to demand a deposit of 50 RMB in the past – but it is explicitly illegal.

### **Additional Benefits: food and dormitory accommodation**

Benefits and allowances are important factors to consider, given how little Chinese workers are paid. Furthermore, state-owned enterprises have a culture of comprehensive benefits that, before reform in the 1980s and 90s, extended as far as accommodation, food, medical, childcare and other allowances. By this welfare standard, Factory 1 is particularly good, providing free meals, accommodation and entertainment facilities. Factory 4 also provides free meals. On the other hand, the situation at the other four

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<sup>16</sup> China Labor News Translations, *Migrant Workers and the Chronic Problem of Owed Wages*, February 2008. Available at: <http://www.clntranslations.org/article/28/migrant-workers-and-the-chronic-problem-of-owed-wages> [Accessed 2 October 2008]

factories was poor. Factory 3 offers no cafeteria whatsoever, merely a 1 RMB (0.11 EUR) allowance per meal (a basic fast-food meal costs at least 5 RMB (0.57 EUR per person). Factory 5 is worse, providing no cafeteria and providing no meal allowance. Factory 2 charges 220 RMB (25 EUR) per month for food and "lifestyle" benefits, and Factory 6 deducts 180 RMB per month for food. The only factory that offered any special benefits was Factory 1, where monthly birthday parties are held for workers.

The quality of dormitories also impacts significantly on the quality of workers' lives. The majority of migrant workers live in dormitories provided by their employer (usually for a small fee), because either of the high cost of renting accommodation, or simply the lack of suitable rental apartments – especially in areas with low levels of urbanization. Factory 1 is the only factory that grants workers a monthly allowance (80 RMB or 9 EUR) to rent accommodation outside the factory. Funnily enough, Factory 6 – which in most other categories ranks as the worst of the six factories – had quite spacious dormitories, with separate bathrooms for each dormitory, at a reasonable price. It is also the only factory to offer private rooms for couples, but only if both work at the factory. By contrast, workers at both Factory 3 and Factory 2 complain of over-crowding in dormitories.

Where dormitory security is strict, it can seriously curtail workers' freedom of movement, and their capacity to maintain social relationships with relatives and friends. Workers at Factory 3 have a midnight curfew, and a ban on bringing outsiders into the building – including relatives. Factory 1 also has this rule about visitors, but workers can come and go as they please.

### Social Security

Do surveyed factories contribute to social insurance for all workers?	
Yes	No
Factory 3, Factory 1	Factory 4, Factory 5, Factory 2, Factory 6

Do surveyed factories offer paid maternity leave for all women workers?	
Yes	No
Factory 5, Factory 3, Factory 1	Factory 4, Factory 2, Factory 6

China's social security system is based on an insurance scheme, which employers and/or individuals must contribute to. As re-articulated in the recent Labour Contract Law, employers must 'purchase' five kinds of social insurance: retirement, medical and occupational accident insurance, unemployment insurance and maternity insurance for women. In Guangdong province where the PRD is located, employers must by law contribute the equivalent of 10 percent of employees' salary towards a retirement pension, while individuals contribute 8 percent. Medical insurance must be paid for entirely by the employer (valued at 2 percent of salary), as must occupational injury (1 to 1.5 percent of salary), maternity (0.5 percent of salary) and unemployment insurance.

Having said that, an alarming number of private businesses fail to do this. In January 2008, the *People's Daily* newspaper estimated that only 15% of China's estimated 120 million migrant workers have a retirement pension fund.<sup>17</sup>

Surprisingly, social security is not a priority for many migrant workers in the PRD. Many see it as too long-term an investment, while others are rightfully deterred by the fact that, in most cases, social insurance accounts cannot be transferred between cities and/or provinces! When migrant workers in the PRD go home, they can either choose to leave their social insurance behind, or cash in *their own personal contributions* only (employers' contributions pile up in local government coffers, which makes employers even less likely to buy insurance for their workers).<sup>18</sup>

Of these six sample factories, only two provide retirement, medical and occupational injury insurance to all workers (Factory 3, and Factory 1 - but at Factory 1 only after a probation period of two months). Interestingly, Factory 4 does offer social insurance, but many workers have complained about having retirement pension contributions deducted from their pay, and so the factory has begun waiving pension contributions for employees who sign a written agreement with the factory. At Factory 5, social insurance was only provided for workers who have worked for more than one year, but workers here were also resentful of having to pay for social insurance.

One incredibly positive finding of this survey was that three factories offer paid maternity leave - a rare thing in private PRD factories, and something that many women in the Global North still struggle for. Factory 1 and Factory 5 offer three months on base salary, while Factory 3 offers 90 to 125 days on base salary for women and even 10 days for men. Women do have a right to paid maternity leave of at least 90 days, paid for by the employer, according to Article Seven of the *Regulations on the Protection of Female Workers.*, but this piece of legislation is usually completely ignored in the private sector.

### Occupational Safety and Health

Have surveyed factories provided any OSH training?	
Yes	No
None	All

Do surveyed factories provide regular health checks for workers?	
Yes	No
Factory 1	Factory 4, Factory 5, Factory 3,

<sup>17</sup> *People's Daily*, *Social Insurance policy has become worthless: a wave of migrant workers resign and cash-in their pension* (Shebao zhengce cheng jilei: nongmingong cigong tuibao cheng chao), 8 January 2008. Available at:

<http://news.sina.com.cn/c/2008-01-08/030314688714.shtml> [Accessed 2 July 2008]

<sup>18</sup> China Labor News Translations, *Systematic government theft of migrant workers' retirement pensions*, July 2008. Available at:

<http://www.clntranslations.org/article/31/systematic-government-theft-of-migrant-workers-retirement-pensions> [Accessed 2 October]

	Factory 2, Factory 6
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The Occupational Safety and Health (OSH) hazards across these factories were diverse, however all six have one thing in common: no interviewed worker had ever received any OSH training. All factories, except Factory 6 garments, provided training of varying formality for new recruits, but only addressed factory rules and basic procedures. No factory had an OSH committee in place, or an active trade union. OSH is wholly the domain of management.

Workers identified a wide range of safety issues that concern them. One obvious one was workers' ignorance about the chemicals they are using, including thinners, solvents, cleaners, dyes, and plastics. Workers in two factories feel that their machines were not properly guarded. Factory 4 workers complained of very loud noise in the hardware section (management provides earplugs), and intolerable heat across the whole factory. Factory 6 workers were concerned about poorly guarded blades on fabric cutting machines, the discomfort caused by masks provided to keep textile fibres out of their lungs, and dangers caused by forklifts and other vehicles passing workers in small spaces.

Only Factory 2 and Factory 6 workers knew of people who had been injured seriously in the factory. They could not say exactly how the injuries occurred, or how they were treated. No worker had heard of occupational disease in their workplace. On the whole workers' awareness of work safety was very low, and training is required.

Furthermore, only one factory – Factory 1 - provides regular health checks to inform workers about their own condition. All others except Factory 6 require workers to undergo health checks at their own expenses before beginning work. One worker has been at Factory 6 for almost 10 years and has never been given health check. Unless workers are employed in a highly dangerous industry, there is no clear legal requirement for their employer to arrange regular health checks.

**Industrial Relations**

Do surveyed factories have ACFTU-affiliated trade unions or worker representative committees?	
Yes	No
Factory 5, Factory 3, Factory 1 (but none are active, or representative of workers)	Factory 4, Factory 2, Factory 6

Do surveyed factories have suggestion boxes?	
Yes	No
Factory 3, Factory 1	Factory 4, Factory 5, Factory 2, Factory 6



China has not ratified ILO conventions No. 87 and No. 98 on Freedom of Association and the Right to Collective Bargaining. China is famous for its 'yellow unions', meaning bureaucratic entities, registered with the government-affiliated All China Federation of Trade Unions (ACFTU), and often overseen at the enterprise level by company managers or Communist Party cadres. By law, it is technically very easy to set up a trade union in China. All that is needed is 25 workers to make an application to their local ACFTU branch, or more commonly, local ACFTU officials will come to an amicable agreement with company management. There is a strong incentive for the ACFTU to set up unions, because the company must by law pay the equivalent of 2 percent of their payroll to the enterprise union, a significant proportion of which is passed upwards through the upper levels of the union. The *Trade Union Law* provides for extensive involvement of trade unions in company management. Trade unions often play an active role in state-owned enterprises, where government-employed managers, party cadres and trade union officials worked more or less collaboratively. This trade union model, however, has not taken root in the private sector. For years now, establishing unions in foreign enterprises has been a high priority national and regional government. National union coverage targets for foreign enterprises were set at 60 percent for 2006 and 80 percent 2007 (although it is doubtful that rank and file workers were involved in setting up any of the unions born out of this campaign).<sup>19</sup>

It is no surprise that none of the surveyed factories have any functioning industrial relations mechanisms, or organizations to represent workers' interests. Three factories – Factory 5, Factory 3 and Factory 1 – have trade union branches, but workers know virtually nothing about them. It was only at Factory 3 that one worker had an opinion about the union: "it is just a formality", she said. The union chair and committee members are all Factory 3 company managers. The lack of genuine trade unions mean that many of workers' legal rights are denied, including the need for a trade union to approve any overtime hours.

Both Factory 1 and Factory 3 have suggestion boxes (most probably to please buyers), but workers say that no-one uses them. Interestingly, at Factory 3 there are also notices displayed in the factory listing the phone number of the local labour department, and instructing workers to call and report instances of owed wages and failure to sign contracts. In these two cases, suggestion boxes have not played a role as a communication tool between workers and management.

The government's eagerness to see union growth in the private sector is fuelled in part by the frequency of industrial disputes. Indeed, workers at both Factory 2 and Factory 5 could recall strike action taken at their factories in recent years independently of the so-called enterprise trade unions. The issues at stake were wages at Factory 2, and both over wages and rest time

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<sup>19</sup> 21<sup>st</sup> Century Financial Times, *The strength of the ACFTU pushes foreign capital to set up unions: why are hard-stayers like Wal-Mart resisting?* (Quanzong litui waizi qiye jianli gonghui: woerma deng dezihu yuanhe jujue?), 2 April 2006. Available at: <http://finance.sina.com.cn/20060402/10022466907.shtml> [Accessed 16 October 2008].

at Factory 5 (which dispels a common assumption that Chinese workers are always willing to work overtime). Investigators also found evidence of a recent large-scale legal dispute at Factory 3 on the internet, again regarding ability to get time off, and financial compensation for un-stated violations. The outcome is unknown.

**Labour Contracts**

Have surveyed factories signed legal contracts with all workers?	
Yes	No
Factory 4, Factory 3, Factory 1	Factory 5, Factory 2, Factory 6

While a system based on the promotion of individual employment contracts may not sound progressive, this has become the national Chinese government's means of addressing the problem of casual work in private enterprises. The high profile Labour Contract Law was implemented on 1 January 2008. By law, every Chinese employee must be signed onto either an individual or a collective contract (although the reality is that very few private factories in the PRD have collective contracts, or trade unions to negotiate them). Workers who are not offered a contract are entitled to compensation worth one month's wages for each month they were employed without contract. Workers who have served ten years or more in one company now automatically qualify for an open-ended contract. In addition, workers can work under a maximum of two fixed-term contracts for any employee (ie. one year, three years) before converting to an open-ended one. Workers must be given a copy of their contract.

Amazingly, despite all the hype about the new law, only half the factories had legitimate employment contracts for all workers. At Factory 6, there seem to be no contracts at all. At Factory 2 it seems that only some employees had contracts. One man interviewed has worked there for more than six months and has not been offered a contract. Factory 5 cosmetics did offer workers a contract, but a very strange and dubious one. Workers interviewed spoke of being asked to sign a blank sheet of paper which management called a "collective contract", and told them not to worry about it: "it is just for the government". No workers were interviewed who had worked long enough to receive an open-ended contract yet, although workers at Factory 3 have heard that employees with more than 10 years service are now on permanent contracts.

**Resignation**

Can workers resign when they want to?	
Yes	No
All	None

In the PRD, many workers find it very difficult to obtain permission to quit – especially in peak seasons. Often bosses will refuse to pay wages owing if a worker resigns against the management's will. Some workplaces even take an illegal deposit from workers, which is non-refundable if they leave without permission. Fortunately, workers at all six factories said that it is easy to quit.

Most factories required one month's notice, others only a few days. Interviews uncovered no instances of management withholding money from workers who resign.

### Fines

Can surveyed workers work without fear of fines?	
Yes	No
Factory 5, Factory 2, Factory 6	Factory 4, Factory 3, Factory 1

In private PRD factories, the carrots is used far less than the stick. Three of the six factories implement a system of disciplinary fines for violations of factory rules, although workers say that fines are rarely imposed. Factory 4's fines were the most extreme: one day's wages for small infringements, and one week for serious matters (workers say that no-one they know received a serious fine). At Factory 2 fines range from 10 to 50 RMB (1.2 to 5.6 EUR), and at Factory 1 20 to 50 RMB (2.4 to 5.6 EUR) (large fines are rare at both companies). Interestingly, in this survey strict management practices, such as implementing fines and regulating use of dormitories, seem characteristic of companies that in other respects treat workers quite well, and follow legal regulations.

### Gender Discrimination

Do surveyed factories recruit workers without gender discrimination?	
Yes	No
None	All

In PRD factories, employers have an overt preference for female employees, and it is men who find themselves discriminated against during recruitment. Men are perceived as more difficult to manage. They are assumed more likely to start fights, consume alcohol, defy authority and – most importantly – stand up for their rights. Indeed in this NGO's experience, the majority of labour disputes and instigated and/or led by men. Women accounted for roughly 60 to 80 percent of employees in the surveyed factories. At the time of the survey, Factory 2 was not hiring new male employees full stop. At Factory 4, women could apply for employment directly to the company, and without an introduction fee, but men had to go through a labour agency at a cost of 300 RMB (34 EUR) – one third of the monthly minimum wage. Factory 1 recruits very few men, although does not have such overt policies.

Workers had little to report about gender discrimination beyond the recruitment stage. There is no perceived pay discrepancy for equal work, although men dominate management roles which are higher paid. Generally speaking, workers observed that certain manual tasks are allocated to men, namely transporting goods, loading etc. At Factory 3, men's jobs were seen as more tiring than women's. But at the same time, that factory was the only one to offer paid parental leave to both men and women (90 to 125 days for women, and 10 for men). No worker knew of any cases of women being dismissed because of pregnancy.

Laws explicitly prohibiting discrimination in employment were only introduced very recently in China, in the Employment Promotion Law implemented on 1 January 2008. The law states that employment should be based on a principle of equality, and prohibits discrimination on grounds of gender, ethnicity, religion, etc. (the scope of the word 'etc.' are currently being contested through test cases around discrimination against Hepatitis B patients). The concept of discrimination, however, still needs time to take root amongst workers. It is not uncommon for job advertisements often include height requirements, or explicitly exclude people from certain provinces, or with certain illnesses such as Hepatitis B, although such practices are becoming less overt in the PRD.

### Child Labour

Do surveyed factories follow the ban on workers under 16?	
Yes	No
All	None

Do surveyed factories provide special protection for workers aged 16 – 18?	
Yes	No
None	All

No child labour was detected in any surveyed factory. In China, children must reach 16 years of age before beginning work. Chinese law also distinguishes a category called underage workers (*wei chengnian gong*), which demands special protection for young workers under 18, including exemption from night shifts and dangerous work. Three surveyed factories – Factory 4, Factory 5 and Factory 3 – have policies of not recruiting anyone under 18, but in Factory 5 at least one 17 year old was found to have gotten in with an ID card borrowed from someone else. No factory gave special treatment to workers under 18.

### Conclusion

For more than ten years now, labour rights violations in Chinese supplier factories of international buyers have been exposed on a case-by-case basis emphasising the need for buyers to commit themselves to socially-responsible sourcing practices. Although it is commendable that this has led a range of buyers to declare their social responsibility towards workers in supply chains, it should be born in mind that the voluntary nature of their commitment poses a problem. Ethical sourcing commitments are typically sidelined when they conflict with companies' financial and logistical considerations. Workers must first and foremost be protected by binding government regulation and the right to form independent workers' organizations in accordance with international law, and cannot rely on voluntary steps which may be ended one day or the other due to the logic of free market competition.