

November 2021

Labour rights violations in the Chinese textile and garment sector

A human rights due diligence analysis



Globalworks Lund AB

www.socialatrisk.com

Contents

I. INTRODUCTION.....	2
II. METHOD AND DATA.....	3
II.1 DATA.....	3
II.2 IDENTIFICATION OF TOPICS	4
II.3 QUALITATIVE ANALYSIS	6
II.3 QUANTITATIVE ANALYSIS.....	6
II.4 RISK ASSESSMENT.....	6
III. FINDINGS	8
III.1 CAT 1: CHILD LABOUR.....	8
III.2 CAT 2: DISCRIMINATION	11
III.3 CAT 3: FORCED LABOUR.....	13
III.3.1 Risk patterns.....	13
III.3.2 Resignation.....	14
III.3.2.1 Ad-hoc obstacles to resign	15
III.3.2.2 Rules-based obstacles to resign	15
III.3.3 Student interns	16
III.3.4 Other forced labour practices	17
III.3.5 Poverty alleviation	17
III.4 CAT 4: FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING	18
III.4.1 Strikes.....	18
III.4.2 Information management.....	20
III.5 CAT 5: COMPENSATION.....	22
III.6.1 Wage theft	22
III.5.1.1 Risk patterns.....	23
III.5.1.2 Wage arrears.....	24
III.5.1.3 Deductions.....	26
III.5.2 Living wage	27
III.5.2.1 Base wage and living wage.....	27
III.5.2.2 Take-home wage and living wage	28
III.6 CAT 6: CONTRACTS AND HUMAN RESOURCES	30
III.6.1 Risk patterns.....	30
III.6.2 Labour contracts.....	31
III.6.3 Social insurance.....	32
III.6.4 Other drivers of informalisation.....	33
III.6.4.1 Factory registration	33
III.6.4.2 Poverty alleviation workshops.....	34
III.7 CAT 7: OCCUPATIONAL SAFETY AND HEALTH	35
III.7.1 Risk patterns.....	35
III.7.2 Physical and psychological health issues	37
III.7.3 Covid-19.....	38
III.8 CAT 8: WORKING TIME	40
III.8.1 Risk patterns.....	40
III.8.2 Overtime	42
IV. CONCLUSIONS.....	43

I. Introduction

China is the world's largest apparel manufacturer and exporter. In 2018, the country stood for more than half of global textile and clothes production. Since then, however, the relative importance of the industry for the Chinese economy is in decline, but still substantial. Due to the country's rapid economic growth, declining labour supply, and rising price levels, minimum and average manufacturing wages in China rose steadily during the past decade.¹ Compared to competing nations in South East Asia, China gradually lost its cost advantage in the textile sector (figure 1). Workers, therefore, are hard pressed to meet productivity goals and quality standards. Often, they are paid wages that are not enough to make ends meet, have to work long hours, suffer from physical pain, and need to endure psychological stress. The Covid-19 outbreak certainly worsened the situation. But most of the information available highlights single cases or labour issues. Thus, while NGO reports and journalistic articles raise awareness of labour and human rights violations, they do not offer the systematic insights that are needed for effective human rights due diligence. The purpose of this report is to fill this gap with a systematic risk assessment that can guide non-governmental organisations, public authorities, and corporations in their advocacy and remediation work.

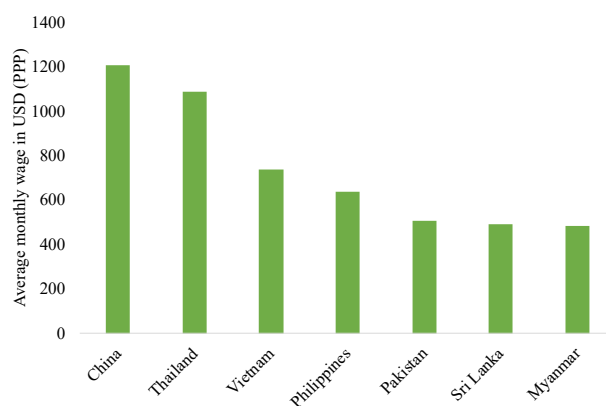


Figure 1: Wages in the textile and garment sector

Source: Manufacturing: Textiles (ISIC 13), Statista Industry Report - Asia, May 2021

For this report, we collected online available information about grievances and labour rights violations in the textile and garment sector in China. Information comes from workers' posts in online forums, online legal advice portals, and online government complaint forums. We extracted about 1.16 million posts and analysed them through our platform Social@risk™ (see www.socialatrisk.com for further information).

This report deploys an approximation (proxy) approach, i.e. we conducted a nation-wide, comprehensive analysis to derive information about labour and human rights risks and violations. The resulting assessment can be used to facilitate human rights due diligence as proposed in the UN Guiding Principles on Business and Human Rights (UNGPs). In particular, the analysis provides information on:

- Violations and grievances that workers mention and describe in social media
- Qualitative descriptions of abusive practices, violations, and grievances
- Quantitative information on the relative importance of rights violating practices (topical comparisons, time-trends, and spatial distribution)
- Insights into mechanisms and causes of ongoing rights violations

¹ Pepermans, A., 2019. China as a Textile Giant Preserving its Leading Position in the World, and What it Means for the EU. Taiwanese Journal of Political Science, 60, pp.63-108.

II. Method and data

This report uses a novel approach to identify labour and human rights risks in the Chinese textile and garment sector. Compared to audit or survey data, the analysis does not require approval from factory managers and avoids any direct influence on workers' views or agenda setting. Compared to (undercover) investigative reports, this study processes a large amount of data that can be used to systematically identify and quantify (at least in relative terms) industry-related risks for human and labour rights violations.

Data collection and analysis for this report were conducted with Social@risk™, a framework for qualitative content analysis and quantitative trend analysis of social media data. The following paragraphs account for statistical properties of the data sample and explain the analytical methods applied in this study.

II.1 Data

In this report we analyse 1.16 million public posts coming from three sources:

(1) We scraped about 350.000 petitions from workers, hereinafter referred to as the *petition portal*. Petitions allow Chinese citizens to get in contact with authorities to ask for help or advise. The largest portal is run by the People's Daily, the Chinese Communist Party's mouthpiece, collecting information nationwide. Analysing China's largest national petition portal allows us to identify labour and human rights violations as well as their relative frequency and geographical distribution. Additional insights come from answers to petitions. All complaints are forwarded to the responsible authority and each petition receives a response. This information helps us to assess how the Chinese bureaucracy deals with labour rights violations. We retrieved information for the period January 1, 2020 to December 31, 2020.

(2) Many workers turn to legal forums to get advice from lawyers. We collected about 550.000 workers' requests from two large national legal forums, hereinafter referred to as *legal forums*. Workers post their grievances at these forums 'to pitch' their case to lawyers. Many posts in do not receive an answer or the workers are invited to contact a certain lawyer. As a result, the responses to posts cannot be used for the analysis. Similar to the petition portal, legal forums help us to understand workers' grievances, their relative importance, and geographical distribution. We retrieved information for the period January 1, 2020 to December 31, 2020.

(3) When workers turn to government authorities or lawyers for help, rights violations usually have turned into open conflicts between employers and employees. Many labour issues, however, do not leave the factory. We seek to capture everyday problems and management practices with information from *online bulletin board systems* where users engage in peer-to-peer exchange. Workers share information, ask for help or offer advice on such *bulletin boards*. These forums can be related to a specific manufacturer, location, or industry. We searched for textile and garment worker forums and collected about 260.000 posts from them. Bulletin boards do not only offer a different type of information they also feature conversations for extended time periods. We were able to capture posts from these sites for the past ten years, from January 2011 to December 2020. The

information is important to answer questions such as “Have certain rights violations become more or less important over time?” or “Do certain rights violations occur more often during certain months of a year?”.

Figure 2 visualises the distribution of our three main sources. The petition portal and legal forums do not provide information on users. On the bulletin boards we could extract information on gender. About 13% of users state in their profile that they are women. This figure, however, understates the share of female users because many women prefer not to reveal their sex or claim to be men to avoid harassment and dating attempts.

Besides the above outlined primary data sources we use information about strikes from China Labour Bulletin (CLB), an NGO based in Hong Kong. CLB systematically searches in newspapers and social media for information about collective action. All information is publicly accessible at <https://maps.clb.org.hk>. We explicitly state when we make use of CLB data.

Finally, we use newspaper articles and academic literature to provide context to our analysis. These secondary sources are referenced in footnotes.

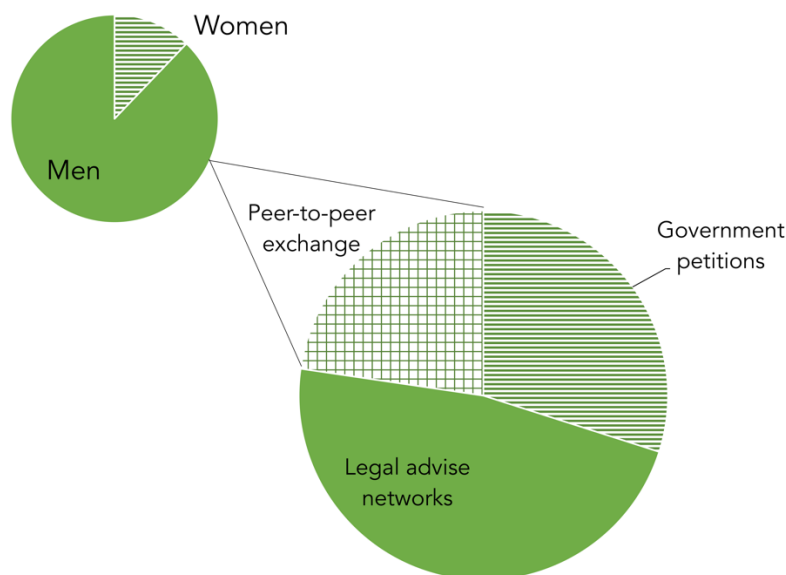


Figure 2: Distribution of data sources: bulletin boards, petition portal and legal forums

II.2 Identification of topics

We deployed a four-step procedure to identify labour and human rights related topics in the above described three online public sources:

1. Identify terms and expressions that workers frequently use in social media to describe their problems. Significant keywords are selected through a word count based on all social media posts.
2. Rank words according to their frequency and select those words that are relevant for labour issues. The resulting list consisted of about 150 terms.

3. Link keywords to topics that describe a labour issue or violation. Note that a keyword can be connected to multiple topics.
4. Link topics to the Better Work Global Compliance Assessment Tool.

In Table 1, we show eight general topics that workers frequently mention on the petition portal and legal forums. Since these sources contain nation-wide data, the identified topics can be interpreted as the result of a stakeholder consultation, where workers give their view on the most salient problems.

We sort these issues according to their relative importance. In addition, the table shows disaggregated shares for first-tier sourcing hubs: Guangdong, Zhejiang, Fujian and Jiangsu. The topical ranking in these regions is quite similar to the national situation. Notable exceptions are resignation and overtime issues, which are more prominent in these specific four provinces than the nation-wide average.

		China	Guangdong	Zhejiang	Fujian	Jiangsu
CAT7	Covid-19	6.29	8.12	7.04	6.65	7.07
CAT6	Contracts	3.59	3.35	3.66	3.73	3.07
CAT3	Resignation	3.52	6.36	6.02	5.25	5.56
CAT8	Overtime	3.37	4.87	5.70	3.48	4.61
CAT5	Wage arrears	2.88	4.23	1.39	2.47	1.75
CAT5	Deductions	1.46	1.25	1.36	1.12	2.01
CAT7	Safety and health	1.03	1.22	0.26	0.89	0.53
CAT6	Social insurance	0.71	1.25	0.98	0.72	1.19

Table 1: Relative importance of topics (measured as % of all posts) on the petition portal and the legal forums

We organised the eight topics of Table 1 in relation to underlying risk factors and the Better Work Global Compliance Assessment Tool:

- *Resignations* will be analysed under CAT3: *Forced labour*.
- *Deductions* and *wage arrears* under CAT5: *Compensation*.
- *Contracts* and *social insurance* are detailed under CAT6: *Contracts and human resources*.
- *Safety and health* issues as well as *Covid-19* are analysed under CAT7: *Occupational safe and healthy*.
- *Overtime* relates to CAT8: *Working time*.

Some important labour issues listed in the CAT are not well represented on the petition portal and legal forums. We, therefore, use alternative strategies and data sources to fill this gap:

- *Living wage*: Information from bulletin boards represent the main source to evaluate compliance with payment of living wages because workers discuss this issue extensively among each other and recruitment posts frequently outline wage structures. Insights are presented under CAT5: *Compensation*.
- *Child labour*: Our database contains little information about this issue. We, therefore, use academic articles and newspaper reports to identify risk factors. The assessment is presented under CAT1: *Child labour*.

- *Strikes and labour action*: Organising workers' rights and interests is a politically sensitive issue that few users in our database mention. To identify risk patterns and trends we rely on data from China Labor Bulletin, a Hong Kong based NGO, which collects information on strikes. Our analysis can be found under CAT4: *Freedom of association*.

II.3 Qualitative analysis

We read and assess thousands of categorised posts to find relevant issues regarding grievances and rights violations. The qualitative analysis rests on the principle that single voices matter because any injustice or violation calls for remedy.

But even though individual posts can provide important information, they could also contain incorrect claims or biased views. Therefore, to ensure that insights are relevant and robust, findings are presented within a broader context that features posts from different users making similar claims, posts from different users confirming a particular issue or practice, or posts from different users adding up to a pattern of rights violating practices. This approach ensures that we do justice to single voices and at the same time enhance the reliability of the findings.

We code each post that informs a qualitative claim. Numbers in brackets in the following text are references to these posts. The coding list is not part of this report. We keep it encrypted and separate from the raw database to ensure that single users cannot be traced even in case of a data breach on our server.

II.3 Quantitative analysis

We deploy quantitative textual analyses assessing the relevance, and relative importance of posts relating to a specific labour issue:

- We discern the number of posts belonging to a topic as a share of all posts. This number informs us about the relative weight of a topic, i.e. its importance in social media discussions.
- We use the change of this share over time as a trend indicator.
- Lastly, we look into the spatial distribution of this share across provinces, to investigate plausible regional differences.

II.4 Risk assessment

The collected data can be deployed for human rights due diligence as advocated in the UN Guiding Principles on Business Human Rights (UNGPs). The UNGPs advocate a risk-based assessment of human rights issues where brands should prioritise the most salient problems. Saliency is defined as “ issues that stand out because they are at risk of the most severe negative impact through the company’s activities or business

relationships.”² A negative human rights impact is salient by virtue of one or more of the following characteristics: its scale (gravity of the impact), scope (number of individuals affected) or irremediability (ease of undoing consequences).³ The UNGPs do not provide a single standard for evaluating or grading risks as these may vary across businesses, sectors, regions, and countries. For the following risk assessments, we defined assessment criteria as listed in table 2.

Grade	Scale	Scope	Irremediability
Low	Negative impact limiting <u>economic rights</u> on a <u>single occasion</u> , for a <u>short period</u>	<u>Single cases</u>	<u>Monetary compensation for economic loss appropriate and sufficient</u>
Moderate	Negative impact limiting economic, <u>plus social and cultural, and/or political rights</u> on a single occasion, for a short period	<u>Few cases without systematic pattern</u>	Monetary compensation for economic loss <u>and other damages appropriate and sufficient</u>
Medium	Negative impact limiting economic plus social and cultural, and/or political rights <u>repeatedly</u> , for a short period	Few cases <u>suggesting a systematic pattern</u>	Monetary compensation for economic loss and other damages appropriate <u>but not sufficient. Assessment of legal liability under civil law and personnel consequences required</u>
High	Negative impact limiting economic plus social and cultural, and/or political rights <u>frequently</u>	Sufficient cases to <u>establish and confirm a systematic pattern</u>	Monetary compensation for economic loss and other damages appropriate but not sufficient. External review in light of <u>civil and criminal law mandatory. Personnel consequences are required.</u>
Very high	Negative impact limiting economic plus social and cultural, and/or political rights <u>permanently</u>	Sufficient cases to establish and confirm a systematic, <u>widespread pattern</u>	Monetary compensation and external legal action <u>mandatory but not sufficient to mitigate harm done.</u>

Table 2: Globalworks’ risk grading criteria

Any human rights violation that is grave in nature and/or causes consequences that are difficult to mitigate should have priority irrespective the number of people affected. Therefore, we determine salience first with the highest grade in terms of scale and/or irremediability. If scope constitutes the highest risk grade of an issue, we calculate the average of all grades, based on the following weights: low=1, moderate=2, medium=3, high=4, and very high=5.

² https://www.ohchr.org/documents/publications/faq_principlesbusinesshr.pdf

³ <https://www.ungpreporting.org/glossary/severe-human-rights-impact/>

III. Findings

The findings in this section are structured along the Better Work’s Global Compliance Assessment Tool (CAT). We assess each topic quantitatively and qualitatively. The quantitative analysis features also the spatial distribution of an issue. An exception is the section on living wages where we rely on national aggregates such as the Asia Floor Wage and the average national minimum wage. We contrast these benchmarks with textile workers’ mentions of wages in social media posts. In addition, we look at the development of each topic over time. In most cases, we use monthly data for the past ten-years. An exception are analyses highlighting developments during the Covid-19 outbreak. Here we deploy weekly data for the period January 2019 to December 2020. The qualitative analysis seeks to comprehend causes and practices behind labour and human rights violations. At the beginning of each section, we suggest a risk categorisation and possible questions to further investigate labour and human rights violations in relation to specific suppliers or supplier groups.

III.1 CAT 1: Child Labour

Risk: Work that is harmful to children’s physical and/or mental development.

Scale: Very high; *Scope:* Medium; *Irremediability:* Very high

Trend: Unknown

Saliency: Very high

Implications:

The academic literature as well as cases of child labour reported in newspapers can help to assess the risk of child labour. We find that the following factors increase the likelihood that children prematurely drop out from school and start to work:

- Living in a (registered) poor household.
- Belonging to ethnic minorities
- Entering work through internships

Furthermore, the risk of child labour is very high for children between 14 and 17, i.e. after finalising 9-year compulsory education. The risk of child labour is highest in China’s Western Region, followed by Central Provinces.

The Clean Clothes Campaign considers the likely occurrence of child labour in China’s textile and garment sector as relatively low.⁴ In the same vein, China Labour Bulletin, a Hong Kong based NGO, concluded in a report from 2019 that ten years ago, child labour constituted a “widespread, systematic, and increasingly serious problem in China.” Today, it is stated, “the forces creating both the supply of and demand for child labour have diminished considerably, and although there are still occasional reports of child labour in the Chinese media, the situation has improved.”⁵ The single most important risk

⁴ <https://archive.cleanclothes.org/resources/publications/factsheets/china-factsheet-february-2015.pdf>

⁵ <https://clb.org.hk/content/china-sees-progress-tackling-child-labour-problems-remain>

factor remaining, according to the report, is poverty in rural areas in combination with low educational quality and high school drop-out rates. The pressed situation of poor families and children caught national attention in 2016, when two videos went viral showing children from Yunnan working in textile factories at the East Coast (figure 3).⁶

The academic literature corroborates the above-mentioned observations. For example, a study based on national representative data from the China Family Panel Study suggests that child labour represented a significant risk in China ten years ago. Tang et al. (2018) find that 7.74% of children aged between 10 to 15 years were engaged in labour in 2010. About 90% of child labourers were still in school. Children worked on average 6.75 hours per day, and spent 6.42 hours less per day on study. The school dropout rate for the children who were working was 11.57%, and this was 9.6% higher than that for the children who were not working. The study also confirms that minors in rural areas are more likely to get involved in child labour.⁷



Figure 3: Video showing children at work in garment factories in 2016 caught nation-wide attention

Belonging to an ethnic minority increases the risk of child labour because these groups are often economically marginalised and socially stigmatised. The latter two factors in combination increase vulnerability and, by extension, the likelihood of exploitative practices such as child labour. The risk is particularly high for minors belonging to politically repressed ethnic groups. In this context, there are serious concerns that forced labour in Xinjiang's cotton sector went along with rising incidences of child labour.⁸ According to statements of a police officer in Hotan in 2017, Xinjiang, the local government had organised several hundred women and children to be transported to Akzu, the neighbouring county, to perform heavy work in the cotton fields to make up for wages lost after the men in their families were detained.⁹ Given that the scale of camp-internment and re-education rose during the past years, economic hardships and the

⁶ <https://www.globaltimes.cn/content/1020708.shtml>

⁷ Tang, Can, Liqiu Zhao, and Zhong Zhao. 2018. "Child labor in China." *China Economic Review* 51: 149-166.

⁸ <https://currentthoughtsontrade.com/category/forced-labor-and-child-labor/>

⁹ <https://www.refworld.org/country,.RFA.,CHN.,.5a9427b4a.0.html>

absence of legal and political protection of Turkic minorities are likely to have aggravated the situation.

A third factor increasing the risk of child labour in China are internships. For the past decade, there were 15-22 million students enrolled in secondary vocational schools every year.¹⁰ Vocational curricula afford practical training through internships a prominent role. The ILO acknowledges that such programs can facilitate a positive school-to-work transition when they are planned, managed, and monitored properly.¹¹ Yet, in China, a series of investigations from NGOs¹² as well as academic research¹³ showed that, for many students, vocational training means to perform monotonous work for long hours with wages that are below those of regular workers performing the same tasks. When under-age vocational students perform work that fails to qualify as internships, their employment instead constitutes a case of child labour.

Employing underage students through internships is not a child labour offense if working conditions are compliant with regulations protecting students. However, when employers and schools abuse students' vulnerable position (they cannot graduate without passing these internship programs) vocational training turns into incidences of forced labour and, for students under the age of 18 years, into incidences of child labour. Since the main criteria for determining human or labour rights violations refer to students' working conditions, we present insights on this issue under the topic 'forced labour'.

¹⁰ <https://www.statista.com/statistics/227035/number-of-students-at-secondary-vocational-schools-in-china/>

¹¹ http://www.oit.org/wcm/asset_upload/groups/public/---asia/---ro-bangkok/---ilo-beijing/documents/publication/wcms_306624.pdf

¹² For example China Labor Watch reports: <https://chinalaborwatch.org/students-forced-to-intern-at-wuling-motors/> or <https://chinalaborwatch.org/amazons-supplier-factory-foxconn-recruits-illegally-interns-forced-to-work-overtime/> SACOM report: <http://sacom.hk/2018/10/23/investigative-report-apple-watch-series-4-still-failed-to-protect-teenage-student-workers/>.

¹³ Chan, Jenny, Ngai Pun, and Mark Selden. "Interns or workers? China's student labor regime." *Asian Studies* 1.1 (2015): 69-98.

Brown, Earl V., and Kyle A. DeCant. "Exploiting Chinese interns as unprotected industrial labor." *APLPJ* 15 (2014): 149.

Chan, Jenny. 2017. "Intern Labor in China." *Rural China: An International Journal of History and Social Science = Zhongguo Xiang Cun Yan Jiu* 14 (January): 82-100.

III.2 CAT 2: Discrimination

Risk: Rights violations are applied systematically to (vulnerable) worker groups
Scale: Varying degrees; *Scope:* Varying degrees; *Irremediability:* Varying degrees
Trend: Unknown
Saliency: Medium – very high

Implications:

Discriminatory practices should be investigated in relation to other rights violations. The overarching question in this context is “Are rights violations a random, individual issue or are they applied systematically to specific groups? To identify risk areas, sustainability managers should ask: How high is the share of risk groups among a supplier’s /factory’s entire work force? Are there departments with a high share of risk group workers?”

Rules that disadvantage workers are not applied uniformly but often target particular groups. Discriminatory practices, therefore, need to be analysed within the context of other rights violations. In this report, discriminatory practices therefore do not have a separate analytical section. However, it is useful to highlight worker groups that, based on the information presented in this report, may be subject to discriminatory practices.

Student interns may be subjected to forced labour, low wage rates, and illegal overtime work. Vocational students, have to perform internships that last between 3-6 months in order to graduate. These internship periods have become a business that provide extra money to schools and supply cheap labour to factories. Students have no choice but to accept assigned internships even if the tasks that they are performing are not related to their studies. They receive lower pay than regular workers even though they do the same tasks. Because their pay is low, students are forced to work overtime hours, which violates regulations on student labour.

Dispatch workers are another group that may work under worse conditions than regular workers. In particular, there may be specific rules for deductions as a means to discourage them from leaving and to ensure labour discipline. Working hours and pay may fluctuate more compared to regular workers because they are the first to be sent back to the dorms when there is not enough work. As a result, they sometimes spent days idle without pay and without being allowed to leave.

Previous research shows that *women and ethnic minority workers* face a disproportionately high risk of wage discrimination.¹⁴ In this context, our study suggests that piece-rates, the predominant remuneration scheme in the Chinese textile and garment sector, may be a major factor contributing to this pay gap. In particular, our findings indicate that piece rates are used to manipulation wages, turn overtime hours into extra work without

¹⁴ Borino, F., 2018. Piece rate pay and working conditions in the export garment sector. *ILO Discussion Paper No.*, 28.

MacDonald, A.W. and Hasmath, R., 2019. Outsider ethnic minorities and wage determination in China. *International Labour Review*, 158(3), pp.489-508.

overtime premiums, and are used to impose excessive deductions when products do not fulfil quality standards. Other discriminatory practices mentioned in social media concern pregnant women who are pressured to resign. What is more, job advertisements show that certain ethnic minorities are excluded from recruitment.

Retired workers, i.e. women above 55 years and men above 60 years, are another group that may face discriminatory practices. Retired workers are not regulated under the Labour Law but under the Contract Law. As a result, a factory does not have to pay social costs. Even though there is no legal requirement, not providing medical and accident insurances to retired workers is a form of discrimination as they are exposed to the same risks as regular workers.

III.3 CAT 3: Forced Labour

Risk: Administrative obstacles to resign, penalties for resignation, non-wage payment for the last month

Scale: Medium; *Scope:* Very high; *Irremediability:* Moderate

Trend: Rising

Saliency: High

Implications:

A supplier audit should investigate whether workers in general or particular groups of workers are prevented from resigning according to law and if they are threatened or punished for intending to resign. Based on the analysis in this section, possible questions to ask are: Do workers file resignations directly with HR or with operations managers? Are there clearly described and publicised routines for resignations? When do resigning workers receive their last month's wage? How high is the share of workers who received full bonus payments and subsidies for their last working month?

We found comparatively little information on more regular forms of forced labour such as practical obstacles or financial disincentives to resign. The following analysis shows that the lack of findings is not necessarily a result of widespread compliance but because illegal management norms and practices are so common that many workers decide to adapt to rather than fight internal rules.

III.3.1 Risk patterns

Table 1 in the previous section 'Overview' indicated that resignations are a widespread cause for worker complaints. In Guangdong, Fujian, Zhejiang, and Jiangsu, problems to resign have been the second largest labour issue and nationwide they are third.

The map in figure 4 shows that, in 2020, problems to resign received the highest weights in export manufacturing hubs along the East Coast and in adjacent inner Provinces that have become new centres for lower-tier suppliers.

When we look at workers' conversations in social media over the past decade (figure 5), problems to resign show a rising trend. Within this rising trend, there is a cyclical pattern indicating that workers mention this issue more in late summer. The cyclical pattern suggests that verification audits between September and November have the highest odds to detect coercive management practices.

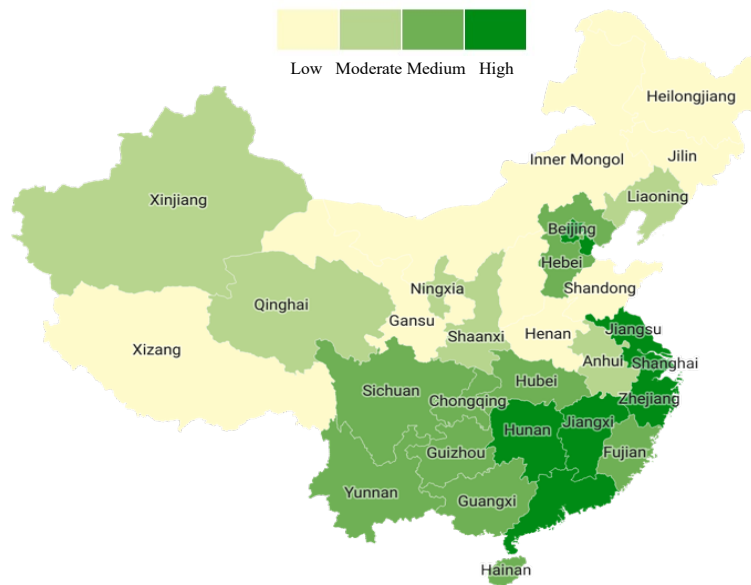


Figure 4: Spatial distribution of complaints about resignations (% of all complaints)

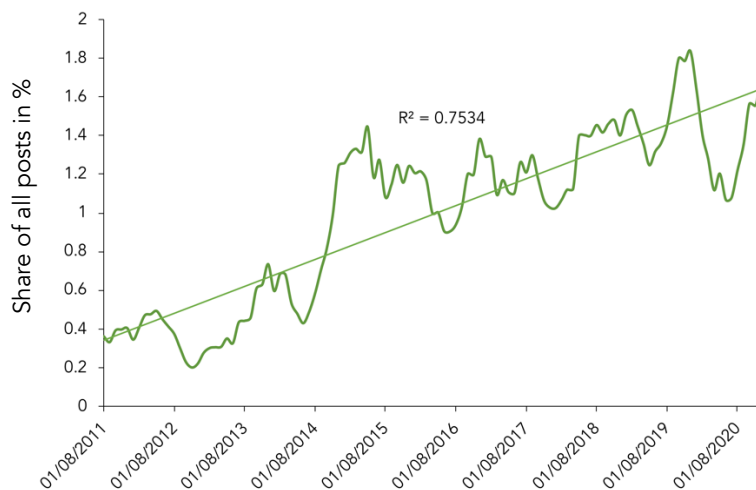


Figure 5: Mentions of resignation on bulletin boards

III.3.2 Resignation

Legal complaints (from the petition portal and the legal forums) and peer-to-peer exchanges on bulletin boards consistently show that ‘soft forms’ of forced labour (such as wage deductions upon resignation, difficulties obtaining resignation forms, or obstructing the transfer of social insurance registration), are major concerns for workers. In the following qualitative analysis, we highlight practices that sustainability managers and auditors should keep in mind when visiting factories.

III.3.2.1 Ad-hoc obstacles to resign

The Chinese Labour Law allows workers to resign after one-month prior notice (three days during probation). The most common approach to prevent workers from leaving are wage deductions [1]. Sometimes, managers decide about deductions ad-hoc. For example, a temporary worker complains that he wanted to resign after one year. The boss, however, did not agree and refused to pay the last month's wage [2]. A worker writes that her boss did not approve her resignation and deducted 80% of her wage [3]. Another worker complains that she was not paid overtime hours and remaining vacation days after she resigned [4]. In yet another case, a group of workers complain that they were not allowed to leave after three days' notice during probation [5].

Ad-hoc decisions are more likely when resignations are handled on a case-by-case basis. A worker complains that she needed to resign for personal reasons, but the factory did not provide resignation forms. She informed the manager about her plans to leave after due notice. The manager told her that she would have to wait until a replacement was found. The worker left as announced even though there was no replacement. Consequently, the company did not pay her last month's wage [6].

There are other obstacles that make it difficult for workers to move on. A worker writes that he wanted to shift to a new job during probation. The HR manager, however, did not transfer his social insurance registration, which meant that he could not get formally employed at the new factory [7]. In a bulletin board conversation, a worker warns that it is difficult to get hold of a resignation form – therefore one has to plan leaving very early [8].

III.3.2.2 Rules-based obstacles to resign

Due to a more complex organization, large factories often use management guidelines to implement soft forms of forced labour. Formalising obstacles makes them look legitimate and workers rarely question them. For example, an employee informs her peers that they can resign due to urgent matters. A proof of the urgent matter is required and the approval has to go through several management levels [9]. Chinese Labour Law, however, explicitly states that workers have the right to resign without providing a reason. A worker's labour contract stipulates that one month's wage will be withheld if she would resign within one year [10]. This is a de-facto deposit, which is illegal. Another worker writes that he left without prior notice after 50 days during the probation period and did not receive his wage. The HR manager insisted on following company procedures and did not respond to further contact attempts [11]. Chinese legal norms, however, prohibit retaining wages in lieu of due notice.¹⁵

We analysed payment rules and identified a pattern that could be labelled 'owing a worker means to own a worker': Usually, wages are paid on the 14th of the following month. When workers resign between the 1. – 10. of any month, the wage from the previous month will be paid with one month delay. That means that the company makes sure to owe at least two weeks' wages at any time, which is an important bargaining chip

¹⁵ <https://harrisbricken.com/chinalawblog/china-employee-leaving-employment-early-forget-about-payment-in-lieu-of-notice/>

[12] [13]. Bulletin board conversations indicate that workers are not aware that withholding wages and company-internal resignation rules are illegal. They discuss related issues because they need to figure out the rules. For example, a worker wonders, if she quitted after seven days at the beginning of a month, and seven days' wage did not cover the deduction for irregular resignation, would money be taken from her last months' salary? [14]. Other workers wonder the same [15] [16]. Another worker writes that, due to labour shortage, some departments at his factory prohibited formal resignations; only 'leaving on one's own' (自离) was possible [17].

'Leaving on one's own', is not explained in this post. However, electronics workers in China use the term frequently. It refers to rules for dealing with workers who left without going through a formal resignation process. First, a worker is registered as 'detached' when he/she does not show up at work for three consecutive days. The HR department will send a SMS informing that the worker has left on his/her own. Wages will be paid after the worker returned to handle the formal checkout procedures. Commonly leaving on one's own entails wage deductions ranging between 30-100 percent of one month's wage. Processing formalities in person is a problem for migrant workers if they have returned to their hometowns or moved on to other cities. If a worker is not formally discharged, his/her social insurance registration cannot be transferred and, by extension, it is not possible to become formally employed elsewhere. 'Leaving on one's own' may also evoke a black listing, which (temporarily) excludes the worker from recruitment and may permanently rule out the possibility to be employed at a higher level than 'regular worker' (普工).

At another factory, workers write about deductions for "fast track resignations". This term seems to refer to the same practice as 'leaving on one's own'. The cost for 'fast track resignation' ranges between RMB 1500 and 2000, which is about 30-70% of a monthly take-home wage (including overtime and bonuses) [18] [19].

III.3.3 Student interns

Larger textile and garment suppliers receive student interns from various vocational schools. Formally internships are part of a student's education and serve to provide experience. Practically, however, internships have become a source of cheap labour that factories deploy to mitigate labour shortages and production cycles. Vocational schools get paid for each student they send. Internships have become a business that factories and schools benefit from – but not students. Student interns have to perform work for three to six months [20] [21], which is unrelated to the subject they are studying [22] [23].

Since internships are compulsory, they fall within the ILO definition of forced labour.¹⁶ Students' situation corresponds to ILO indicator 1: 'abuse of vulnerability'. In addition, we found information relating to ILO indicator 10 'abusive working and living conditions'. Bulletin board conversations indicate that students get only 80% of the regular wage even though they perform the same job as regular workers [24]. This violates the legal principle of 'equal pay for equal work'. What is more, wages are low [25] [26]. Therefore, to make ends meet, interns are forced to work overtime [27]. Chinese legislation, however, does not permit overtime for student interns because many

¹⁶ https://www.ilo.org/yangon/publications/WCMS_227848/lang--en/index.htm

of them are underage, i.e. ages 16 – 17. Finally, we find information relating to ILO indicator 8 ‘withholding wages’. In this context, social media posts state that if interns cannot stand the work pressure and leave, they are not paid for the past 20 days [28]. If students resign early, no internship certificate will be given [29], which in turn will prevent them from graduating.

III.3.4 Other forced labour practices

Managers and factory owners abuse migrant workers’ vulnerability forcing them into undesired labour relations. In this context a worker reports that the management at a shoe factory demanded from workers to sign a labour contract with a third party employer (probably dispatch) and at the same time sign a resignation form stating that they want to leave for personal reasons [30]. Involuntary overtime is another incidence of forced labour. Workers complain that they have to work every day two overtime hours without overtime pay. If they refuse to work overtime, they are punished with a wage deduction [31]. At another factory, a worker writes that they are off officially for two days per month but in fact have to work without clocking in [32].

III.3.5 Poverty alleviation

President Xi Jinping’s poverty alleviation program officially aims at eradicating absolute poverty in ethnic minority areas through vocational training and promoting employment of surplus labour. The risk of forced labour increased steadily over the past years even for programs that target minorities that are not politically oppressed. The reason for this is a quota system governing poverty alleviation. Xi announced in 2015 that absolute poverty would be gone by the end of 2020.¹⁷ He made this goal one of his signature policies requiring particular attention throughout Party and Government Organisations. As a result, local cadres face high pressure to fulfil quotas determining the number of farmers to be relocated and incentives for using extreme means are strong.¹⁸

Identifying forced labour as a result of labour transfer schemes and relocation programs relies on an analysis of government documents. Methods for data collection and systematisation of risk indicators are different compared to the approach used in this report. It is therefore important to note that the omission of the topic is only owed to the limited scope of this report and does not imply that it is not a relevant or significant risk in the Chinese textile and garment sector.

¹⁷ https://www.chinadaily.com.cn/china/2015-10/16/content_22204202.htm

¹⁸ <https://www.tandfonline.com/doi/full/10.1080/10670564.2019.1645489>

III.4 CAT 4: Freedom of association and collective bargaining

Risk: Workers are prevented (with threats and coercive means) from voicing grievances and organising their interests

Scale: Very high; *Scope:* Very high; *Irremediability:* Very high

Trend: Rising

Saliency: Very high

Implications:

An investigation should try to determine the level of factory internal labour repression and workers' remaining means to impact working conditions. Possible questions to be asked are: Do workers elect workers representatives (ask for details about the election process) for the union or any other worker representation (e.g. food committee, etc)? Have workers representatives participated in collective bargaining? When was the latest collective bargaining round (The Chinese Trade Union Law uses the term 'collective consultation/negotiation' ('xie shang') instead of the more antagonistic sounding 'bargaining' ('tan pan') to define the official process of employment relations? What improvements did the parties agree on? How many of the company-level ACFTU representatives are workers? What activities did the ACFTU organise during the past 12 months? Are any of these clearly related to organising workers' interests or defending workers' rights?

The All-China Federation of Trade Unions (ACFTU) is the sole legal representative of Chinese workers. It is a mass organization led by cadres that pursue a political career within Party or Government organizations. During China's high growth era, the ACFTU has been reluctant to defend labour rights and instead sided with employers, and managers. Aligning the ACFTU with vested business interests was possible due a top-down nomination process. As a result, Government and Party officials who have strong political incentives to attract investments, usually chair local trade unions while most employee representatives are recruited at the management-level. By global standards, labour relations in China do not fare well. The International Trade Union Confederation (ITUC) ranks China under its fifth category, i.e. "no guarantee of rights".¹⁹

III.4.1 Strikes

Because our social media posts do not capture strikes, we use information from China Labour Bulletin, a Hong Kong based NGO, which has recorded collective action since 2011. During the past decade (2011 – 2021), CLB recorded 408 textile and garment strikes: on average about one strike per month. The map in figure 6 depicts the location of these strikes. Dark green indicates multiple occurrences. Most collective action took place along the East Coast, particularly in Guangdong, Fujian, Zhejiang, and Jiangsu. Strikes are gradually expanding to adjacent inner Provinces as well. These lower-tier production hubs record few strikes because labour repression is comparatively strong.

¹⁹ <https://www.ituc-csi.org/ituc-global-rights-index-2020>

Reasons for heavy-handed interventions are public security's lack of experience with handling strikes and inter-jurisdictional competition for "low-cost" manufacturing.



Figure 6: Strikes at textile and garment factories, 2011 - 2021

While workers have never properly enjoyed the right to strike, it was included in the Constitutions of 1975 and 1978, but was officially removed in 1982. Although there is no explicit law that prohibits strikes, neither the Labour Law nor the Trade Union Law acknowledges it as a right held by workers and trade unions. Thus, participants of a strike can be prosecuted under both criminal and civil laws. In particular since 2015, NGOs and lawyers are increasingly under pressure. In a nationwide raid 300 lawyers and activists were arrested. Detentions, disappearances, and forced TV confessions continued during 2015.²⁰ The following years political repression stepped up even more with devastating effects for workers and activists who dared to strike or protest or lawyers who filed collective legal actions.²¹ As a consequence, both the frequency and size of strikes declined (figure 7).

The most dangerous labour action in China today is to independently organise a labour union. The last known attempt was in 2018 at Shenzhen-based Jasic Technology. Workers' demands for a union followed multiple and persistent rights violations. Public security dissolved related activities immediately.²² Between 2018 and 2019, more than 130 workers and students were detained or disappeared because they supported workers' actions. Arrests and charges occurred in five waves. In 2019, the repression expanded to organisations and groups that were not directly related to the incident.²³

²⁰ <https://thediplomat.com/2021/07/chinas-709-crackdown-is-still-going-on/>

²¹ For example <https://www.business-humanrights.org/en/latest-news/china-more-than-300-rights-lawyers-detained-in-nationwide-crackdown-including-lawyers-who-handled-cases-on-corporate-abuses-at-least-6-face-formal-charges/> and <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=26612&LangID=E> and

<https://www.cecc.gov/publications/commission-analysis/five-years-after-709-crackdown-lawyers-continue-to-face-repression>

²² <https://www.business-humanrights.org/en/latest-news/jasic-not-an-isolated-case-rare-spike-in-arrests-and-violent-police-intervention-to-dissolve-worker-protests-across-china/>

²³ <https://laoquan18.github.io/one-year-infographic/>

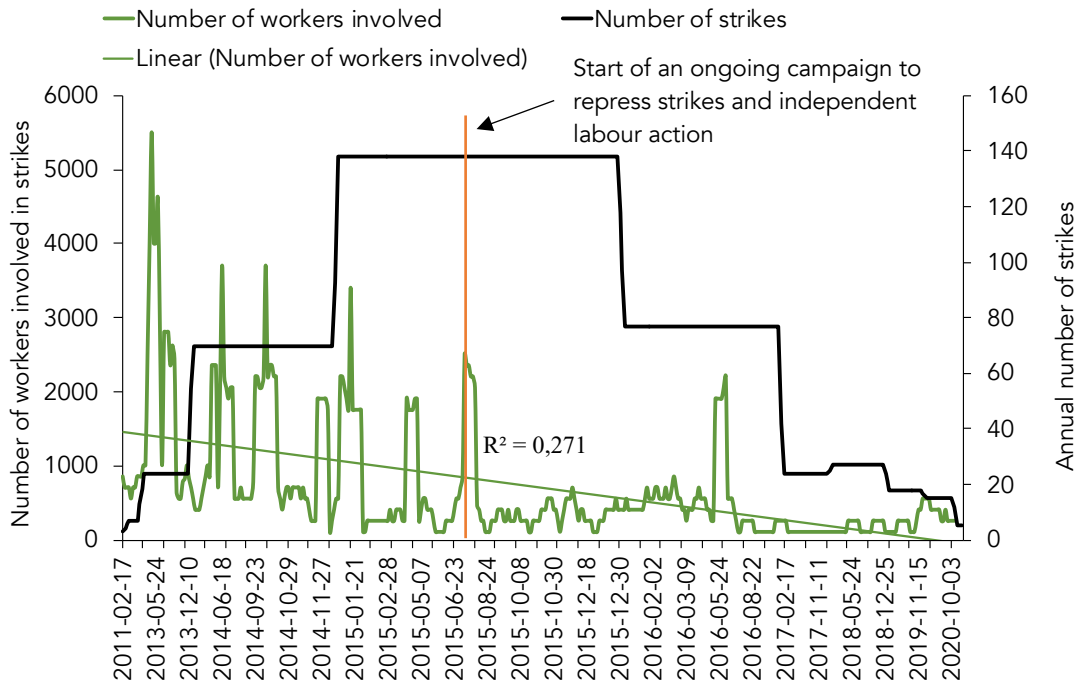


Figure 7: Workers involved in strikes and annual number of strikes

In 2021, repression on freedom of association has entered a new phase, as Beijing aims now at independent labour movements in Hong Kong as well. The Government made clear that Article 9 and 10 of the newly promulgated Security Law requires that labour unions must be educated on national security matters and their actions will be monitored. Labour activists, therefore, warn that a new political purge is under way.²⁴ For brands sourcing from China and, by extension, Hong Kong, this means, that it will become increasingly difficult to encourage or promote parallel means of independent and free association and bargaining.

III.4.2 Information management

Heavy-handed campaigns against labour activists have a negative impact on online available, independent information. For example, Students and Scholars against Corporate Misbehavior (SACOM), a Hong Kong based labour group published many independent reports and organised widely recognized labour campaigns in mainland China for a decade. Since the crackdown in 2018-19, however, the organisation has not been posting information on its website or conducted factory investigations.²⁵

Even workers' bulletin board conversations in internet forums are subject to interventions. For example, many workers post information on Tieba, a bulletin board system run by Baidu. Larger Tieba forums are managed by elected postmasters. Several textile factories take advantage of this system and try to install their own agents as forum managers. A worker writes they were prevented from becoming postmasters. He states, that managers

²⁴ <https://hongkongfp.com/2021/05/17/hong-kong-labour-activists-fear-political-purge-as-govt-says-trade-unions-must-comply-with-national-security-law/>

²⁵ <http://sacom.hk/>

demanded from all workers with a Tieba account to vote for the factory's candidate [33]. There are also signs that factory managers punish workers for what they are writing in online forums. In a post, a worker urges to delete a post because if the factory's content manager spotted it, a fine of at least RMB 100 would be levied [34].

III.5 CAT 5: Compensation

Risk: Workers are not paid wages in part or in full
Scale: High; *Scope:* High; *Irremediability:* Medium
Trend: Stable
Saliency: High

Implications:

An investigation should determine the gap between base wage and take-home wage, how wage components are tied to rights violations, and how wage deductions are used to ensure labour discipline. Possible questions to ask are: Are workers informed in detail about wage calculations and piece rates before they are assigned a position or task? How many wage components (base wage, overtime, bonus, subsidies) are there? How large is the share of the base wage compared to other components? How much was workers' y-o-y rise of base wages for the past five years? Do payslips list all wage components (see also CAT6)? When is a worker eligible to wage components? Who reports about whether requirements are fulfilled? Who decides about eligibility? Are workers informed in written about deductions and reasons for deductions? Where can workers complain and ask for more information?

The majority of legal wage complaints in our data concern unpaid wages while bulletin board conversations are more about deductions and bonus payments. Both issues belong to the broader topic *wage theft*. The following analysis will show that brand engagement is needed for both mitigating the risk of arrears and deductions on the one hand and contributing to living wages on the other. Our analysis suggests that progress towards living wages cannot be measured reliably without understanding how managers try to manipulate payrolls (see also CAT6).

III.6.1 Wage theft

Wage theft broadly relates to practices that deny remuneration or benefits to the worker to whom they are owed or entitled. Wage theft can take various forms. The most common are non-payment of wages, lack of overtime pay, pay below the legal minimum wage, illegal wage deductions, non-provision of benefits, discriminatory wage setting, and misclassification of employment.²⁶ The ILO regards non-payment of wages as a primary indicator for forced labour. Arrears, therefore, are a particularly severe rights violation. Other forms of wage theft can point to forced labour as well but only in combination with other factors. Still, deductions and denial of bonuses can have severe consequences. Medical research shows that wage theft has become a public health issue because it is the main cause for low incomes, and by extension, premature deaths and illness.²⁷

²⁶ Harkins, B., 2020. Base Motives: The case for an increased focus on wage theft against migrant workers. *Anti-Trafficking Review*, (15), pp.42-62.

²⁷ Minkler, M., Salvatore, A.L., Chang, C., Gaydos, M., Liu, S.S., Lee, P.T., Tom, A., Bhatia, R. and Krause, N., 2014. Wage theft as a neglected public health problem: An overview and case study from San Francisco's Chinatown district. *American journal of public health*, 104(6), pp.1010-1020.

In the following section we distinguish between wage arrears on the one hand and deductions and denied bonuses on the other. We look at these categories separately because the underlying risks are different. When workers do not get paid at all, their main problem is a bureaucratic and legal system that provides little help to recover wages. Deductions and denied bonuses, by contrast, are rarely subject to legal complaints because they operate in a grey-zone. The main risks in this context are the rules attached to them, such as workers giving up on legal rights in order to become eligible for bonus payments or avoid deductions.

III.5.1.1 Risk patterns

Figure 8 shows the spatial distribution of complaints mentioning wage arrears and deductions. During the Covid-19 outbreak, workers in Western China and many Autonomous Regions (Provinces that are home to ethnic minorities) ran a high risk of not getting their wages at all. By contrast, workers along the economically developed East Coast as well as adjacent Provinces in Central China (lower-tier production centres) complained frequently about wage deductions.

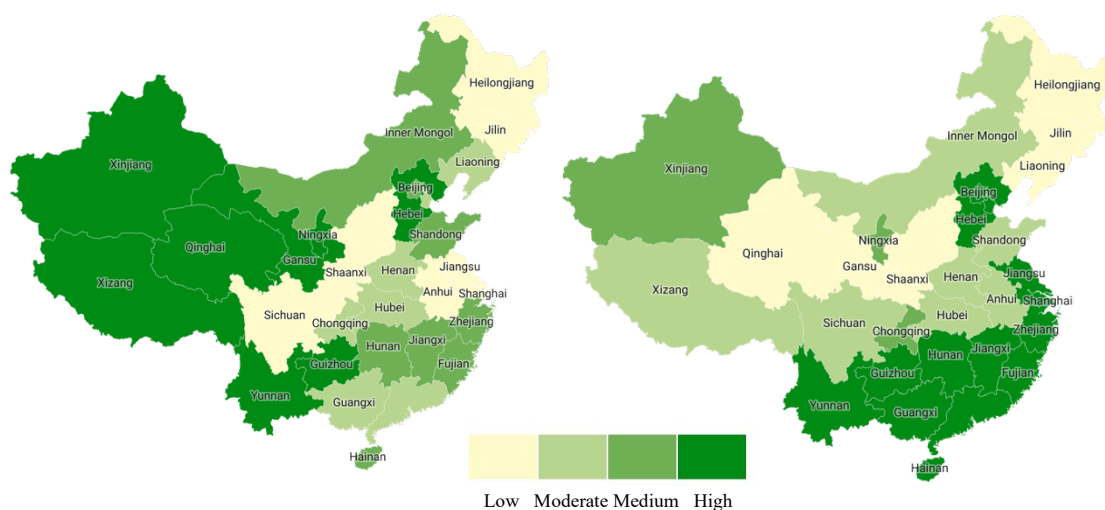


Figure 8: Spatial distribution of complaints on wage arrears (left) and deductions (right), shares in % of all complaints.

The geographic pattern of wage theft implies an ethnic bias because seven out of eight Provinces in China with an ethnic minority share above 30% belong to the highest risk category. These seven Provinces represent 78% of the regions in the highest risk category for wage theft. From a comparative perspective it can be concluded that workers in Western Provinces with a high share of ethnic minorities are frequently exposed to bluntly unlawful actions. By contrast, workers in Provinces along the East Coast and in Central China, where the Han-Chinese population dominates, become victim to ‘sophisticated’ wage theft, i.e. practices that operate in a legal grey-zone or impose a high burden of prove.

Bulletin board conversations often name deductions but rarely mention wage arrears. This is not surprising as many posts in our data come from workers at large tier-1 suppliers. Managers at these factories tend to use gradual and contained violations that can be adapted to brands' auditing schedules. The mentions-ratio in figure 8 shows that deductions are an important topic ranging between 0.5 and 2.0 percent. Discussions on deductions rose substantially during the Covid-19 outbreak in November and December 2019. There was a sharp decline during the extended Lunar New Year vacations and then again, a steep rise. Mention-rates in 2019/20 were as high as they were during economic stagnation in 2012/13.²⁸ Frequent mentions of deductions during low-growth periods indicate that managers use wage deductions relatively more when financial pressure is high.

Despite periodically fluctuations, the 10-year cyclical trend displays almost no change (figure 9). The persistence of wage theft, therefore, requires particular attention from brands. In the following qualitative analysis, we identify mechanisms that explain why this problem is so obstinate and widespread.

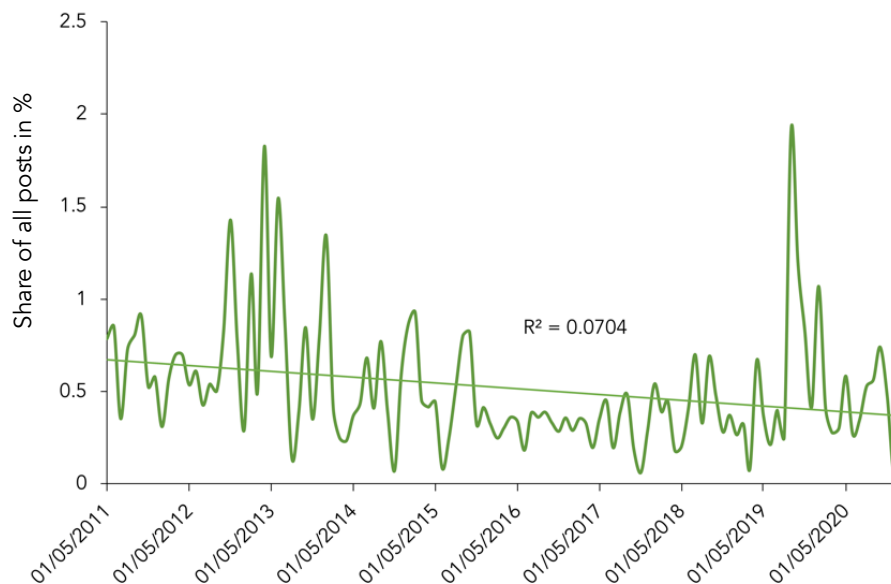


Figure 9: Mentions of deductions on bulletin boards (share of all posts)

III.5.1.2 Wage arrears

Most workers complaining about wage arrears state that they were not paid for several months [35] [36] [37] [38] [39] or that they received only part of their wages [40] [41] [42] [43]. A worker writes that he didn't get paid for one year [44]. Other workers complain that they only received pay for two months for the period January – August 2020 and the employer did not give any reason for the delay [45]. Wage debts accumulate over several months because workers try to settle with factory owners or managers first. A worker explains that she repeatedly contacted her boss because she didn't get any

²⁸ [https://www.chinadaily.com.cn/business/chinadata/2014-01/20/content_17244910.htm#:~:text=BEIJING%20%2D%20China's%20economy%20grew%207.7,trillion%20yuan%20\(%249.31%20trillion\).](https://www.chinadaily.com.cn/business/chinadata/2014-01/20/content_17244910.htm#:~:text=BEIJING%20%2D%20China's%20economy%20grew%207.7,trillion%20yuan%20(%249.31%20trillion).)

money. But each time she was told that she would have to wait [46]. Another worker writes that he did not get his wages due to the company's financial situation during the pandemic. Payments, the management asserted, would arrive before November 15, 2020. In the end, however, the company did not settle outstanding debts [47]. In another case, migrant workers complained to the mayor of Chongqing that their employer, a shoe manufacturer, owes wages to them. When they asked about their outstanding pay, company managers threatened them [48].

When workers eventually ask for help from local authorities', additional months pass before they can expect an intervention. For example, migrant workers from Guangxi and Guizhou (both are ethnic minority regions) were not paid for almost one year (August 2019 – June 2020). Despite the violations' bluntness, local authorities responded slowly [49]. In another case, a company owed six months of wages and 70 months of social insurance contributions. Authorities, however, did not intervene. Eventually the company went bankrupt. At that point, government officials reassured the workers that all issues would be dealt with within 60 days. However, after five months, the person in charge still had not followed-up on the case despite repeated requests. Workers write that they do not know how to proceed [50][51].

The often-slow response from local authorities is not least owed to complicated and time-consuming bureaucratic procedures. When workers petition to resolve unpaid wages, the local Bureau for Human Resources and Social Security reaches out to the company asking for wage documentation. If the company refuses to hand out such information, the Bureau will contact the local trade union who will then help workers to file for arbitration at the Labour and Personnel Dispute Arbitration Committee. The latter can issue an award, which the company still may refuse to follow. In this case the trade union can help the worker to enforce the award through litigation at the local court [52]. This protracted and uncertain path towards getting paid discourages workers to act.

Factory owners and managers have strong incentives to default on workers' wages because the financial returns are high and legal risks low. When workers complain to authorities, the latter may negotiate on their behalf and, at best, rectify the issue. We couldn't find a single case where companies got fined. In no case did lawyers or Labour Bureau officials consider criminal charges.

Even serious violations such as withholding labour contracts and not paying wages are treated as administrative rather than legal problems. For example, workers write that they haven't received wages for five months. They worked compulsory overtime hours during holidays and wages for those who resigned were not paid. The Bureau for Human Resources and Social Insurance contacted the company and convinced the owner to settle the outstanding wage bill [36]. When the Bureau cannot solve an issue through negotiation it advises workers to go for arbitration even when rights violations justify immediate litigation. For instance, a worker received only part of his wage; RMB 5000 were still outstanding. The worker talked to the employer several times but couldn't get his money. When he petitioned to the local government, the Bureau for Human Resources and Social Security contacted the company. The employer refused to cooperate. The Bureau asked the worker to come with documentation so that they could help him file for labour arbitration [53].

Informalisation (see section III.7) adds an additional layer of complexity that workers must overcome before they can claim pay for performed work. A recent case illustrates this problem. A factory owner ran away leaving 24 workers without pay. The workers petitioned to the local government. The Bureau for Human Resources and Social Security helped to sell assets and pay some of the outstanding wages. A group of eighteen workers went further and tried to file for labour arbitration to recover the rest of their wages. However, the company was not properly registered. As a result, labour arbitration was rejected and the case was given to the court [54]. The workers were required to take a detour via labour relationship litigation. In case a work relationship is determined through this process, workers can file for arbitration and, if no settlement is achieved, go for litigation [55]. Work relationship litigation is required for all cases involving informal labour.

III.5.1.3 Deductions

Deductions are sometimes ad-hoc and sometimes rules-based. In many cases they are illegal. An example for regular deductions comes from a complaint about a textile factory. Workers were paid by piece, RMB 1 each. When they did not fulfil a pre-determined production quota they would get a wage deduction (fine) based on the unit price; for each missing piece RMB 5 [56]. In other cases, piece rates were manipulated ad-hoc. A worker writes that her manager arbitrarily reduced the piece rate by 20% because he thought that wages were too high [57]. Deductions are also used to rollover production risks to employees. In this context a worker complains that her manager withheld three months' wages because a customer did not pay the full price due to quality issues [58].

Deductions or fines are not only illegal, they are also complex, inconsistent, and dependent on managers' will and discretion [59] [60]. For example, workers are confused about varying wage deductions for absence from work. A worker states that it costs RMB 1000. Another worker responds that he was fined RMB 300 [61]. There are no explanations why money was deducted. A worker complains that he got his last wage after he had resigned. His wage was RMB 5300 but he got only RMB 4400. He writes that he had no idea where the rest of the money went [62].

Deductions are used to enforce labour discipline. When employees do not comply with behavioural rules they are fined. During the Corona Epidemic, workers were not allowed to stop on the streets leading to factory buildings. Non-compliance was punished with a deduction of 3 points. Each worker had in total 12 points [63]. When the score count reached zero a worker would get fired. Workers write that it was possible to pay cash instead of getting a point deduction [64]. At large factories behavioural rules are monitored with surveillance cameras [65] [66].

Deductions force workers to waive legal rights. Workers were punished with wage deductions when they took a regular rest day [67]. Another worker writes that welfare benefits were used to pressure him not to take leave [68]. Another worker confirms this claim. He states that workers did not get a performance bonus if they took regular leave days [69]. A worker writes that he took five days off for personal reasons. When he went back, the shift manager would not allow him to enter the company bus so that there was no way to return to work. He was expelled for ten days. He then worked seven months in a row. Each month the company deducted RMB 400 from his salary [70].

In sum, deductions and fines are a major hinder towards living wages. They are levied ad-hoc or based on rules. In both cases workers describe respective decisions as arbitrary and intransparent. Employers use deductions relatively more during economic downturns to lower costs. Consequently, deductions enhance workers' vulnerability to crises. Deductions and fines persist over time because they are a tool to enforce labour discipline and force workers to waiver their legal rights. Eradicating deductions and fines, therefore, can even help to eliminate other rights violations such as soft forms of forced labour.

We find that most deductions and fines target bonuses, subsidies, and piece rates. Each of these wage items are related to conditions and rules that the factory can change at any time. Managers' discretion to decide case-by-case whether a worker is eligible for extra payments is a source of unregulated and uncontrolled power. Deductions and fines, therefore, enable (sexual) violence, (sexual) harassment and verbal abuse. They increase uncertainty about payments, which causes psychological stress. They force workers to give up on vacation and worktime limits, which is detrimental to physical health.

III.5.2 Living wage

A living wage should enable workers to meaningful social participation. Thus, it is supposed to cover food, housing, health, and basic needs as well as provide room for recreation, supporting a family and enable savings. Calculations of living wages are based on the premise of ensuring a decent subsistence for workers before that of competitiveness. This distinguishes them from minimum wages.²⁹

In the following analysis, we look at base wages for ordinary workers (普工). A base wage is paid for regular working hours and does not include overtime or bonus payments. The gap between base wages and living wage benchmarks is an important and robust social risk indicator because low wages are associated with high health risks and risks of exploitation. In the second part of the living wage analysis, we look at the gap between take home wages (including overtime and bonuses) and living wage benchmarks. This measure is an indicator for the risk of falling into poverty.

III.5.2.1 Base wage and living wage

We collected information about base wages for ordinary workers from job advertisements and workers' posts between 2012-2020. Note, that workers on the production floor almost always have some kind of non-exempt, basic salary + agreement linked to overtime or a productivity quota.³⁰ In the Chinese textile and garment sector, however, piece rate wages are still the norm. In fact, time-based wages are used to discipline workers because the pay is much lower compared to what can be achieved through piece rates and still may entail long, unpaid overtime hours.³¹ Thus, job advertisements usually mention a base wage even when remuneration is solely calculated by piece.

²⁹ Guerrero Medina, C., Martínez-Fiestas, M., Viedma-del-Jesus, M.I. and Alzamora Ruiz, J., 2020. Living wage in the framework of corporate social responsibility: Analyzing its impact on consumer response. *Corporate Social Responsibility and Environmental Management*, 27(5), pp.2060-2070.

³⁰ <https://www.linkedin.com/pulse/how-much-do-factory-workers-get-paid-china-jotham-burnett/>

³¹ Siu, K., 2017. Labor and domination: Worker control in a Chinese factory. *Politics & Society*, 45(4), pp.533-557.

Figure 10 displays the development of base wages in relation to the legal minimum wage (national average) and two living wage benchmarks, the Asia Floor Wage, and data from the Wage Indicator Foundation. Base wages seem to follow the legal minimum wage (figure 9). Compared to a lower living wage benchmark the income gap remains unchanged. The difference between base wages and the Asia Floor Wage, by contrast, is widening. Irrespective which benchmark we apply, wages for a regular working week in the textile and garment sector are not sufficient for a decent living. Base wages for ordinary workers, therefore, violate Art. 23 of the Universal Declaration of Human Rights stipulating that workers should receive a living wage.

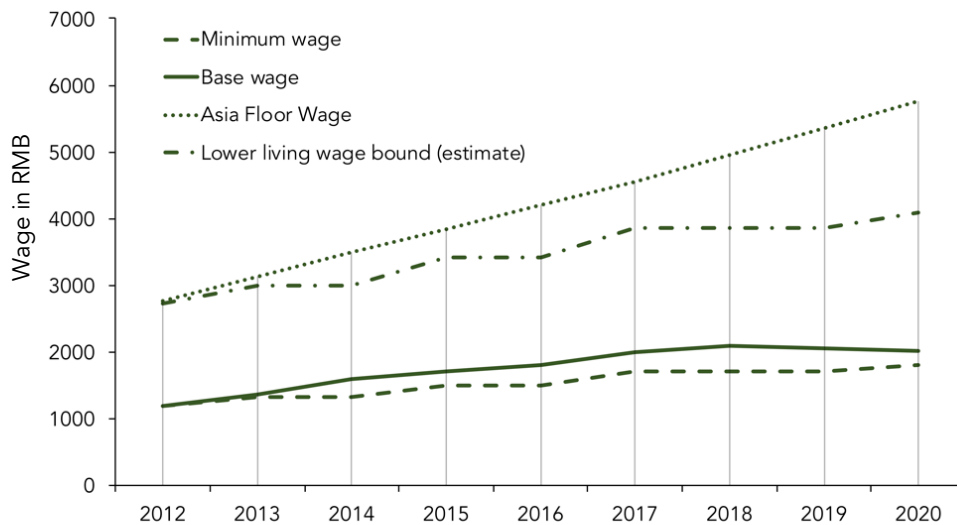


Figure 10: Base wage for unskilled textile and garment workers (RMB)

The Covid-19 Pandemic has worsened workers' situation as they saw their living costs rise rapidly. During the lockdown, workers report, that they were not allowed to leave the factory campus. Stores took advantage of a temporary monopoly and increased prices substantially [71] [72]. Workers also complained that prices in the canteens went up [73].

III.5.2.2 Take-home wage and living wage

Take-home wages include base wages plus additional payments such as overtime pay, performance bonus, attendance bonus, nightshift subsidy, transportation subsidy, other rewards, and year-end bonus. Because base wages are low, workers rely on extra payments to make ends meet. Figure 9 illustrated that, for a decent living, workers' wages must exceed base wages by 2-2.5 times. To gain a comprehensive picture of textile and garment workers' wage situation, we tried to find information on take-home wages in our database. We filtered workers' posts reporting on total pay. Since take-home wages vary between workers, we divided them into two categories: wages between RMB 1000 and 3000 and between 3100 and 5500. These two categories capture most of the available information and exclude extreme values, which are difficult to assess. We divided wage categories at RMB 3000 because the Asia Floor Wage broke this mark early in our data sample (2012/13) and the Living Wage Foundation benchmark at the end of our data period in 2019.

Figure 11 shows the monthly share of workers reporting a wage above and below RMB 3000. In 2013, only 10% of the surveyed workers reported an income, i.e. take-home wage, corresponding to a living wage. In 2020 the share reached almost 80%. Since 2017 there is a distinct cyclical pattern indicating that workers face a risk to fall below the living wage benchmark in late autumn until Lunar New Year. This pattern coincides with discussions about difficulties to resign, which confirms insights from section III.2 showing that ‘resignation costs’ range between 30 and 70 percent of a workers’ monthly wage.

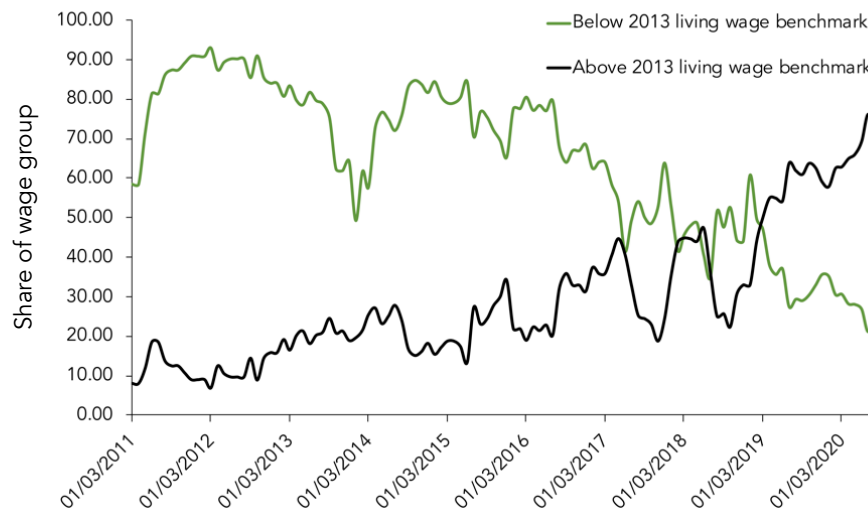


Figure 11: Take-home wage for textile and garment workers (share below and above RMB 3000)

The analysis in this section shows that ordinary workers’ take-home wage is highly dependent on overtime and bonuses, and sensitive to deductions and fines. A comprehensive understanding of a supplier’s wage structure, therefore, can reduce human rights risks. The more complex a wage structure the higher the risk for wage theft and related negative impacts on living wages as well as physical and psychological health.

III.6 CAT 6: Contracts and human resources

Risk: Workers do not have formally binding work contracts or are not registered for social insurance

Scale: Very high; *Scope:* Medium; *Irremediability:* High

Trend: Increasing

Saliency: Very high

Implications:

The purpose of an investigation in this context is to establish that all workers have legally binding contracts and have been registered for social insurance throughout their entire employment history. Possible questions are: Are all company registration documents available? Has the company changed registration in some way during the past five years? Does the number of employed workers and the number of workers registered for social insurance add up (investigate by month)? How can workers get information about their social insurance records? Were there any contract-related disputes or complaints during the past two years? What were they about? Is the salary clearly mentioned in the contract and implemented/complied to?

The Chinese textile and garment sector struggles to remain competitive as wages and related social costs are rising compared to other export processing nations in Southeast Asia and South Asia. Employers deploy various strategies to lower production costs; some of them increase workers' vulnerability as they render employment more precarious, others violate legal rights. A third strategy is to withdraw from mandatory social protection by failing to register workers and/or paying insurance premiums. While measures taken are diverse, their shared purpose is to informalize employment relations. The International Labour Organisation (ILO) identifies two main criteria associated with informal employment:

- Lack of a formal labour contract
- Lack of employers' contribution to social insurance

Criteria for informality refer to an individual worker's employment conditions. This means that informal employment does not uniformly apply to all workers in a factory. In their due diligence, brands need to be aware that enhanced social risk exposure due to informalisation may apply to parts of the workforce and the number of informal workers can change over time.

III.6.1 Risk patterns

Informal employment increases workers' vulnerability to personal crises such as severe illnesses or accidents or external shocks such as an economic crisis. The Covid-19 induced economic slow-down hit informal workers particularly hard.

Figure 12 shows the number of complaints and grievances referring to the lack of labour contracts or social insurance as a share of all posts from the petition portal and legal forums. The rising trend throughout 2020 indicates that, since the re-opening of Chinese factories in March 2020, an increasing number of workers struggle with the negative consequences of labour informalisation.

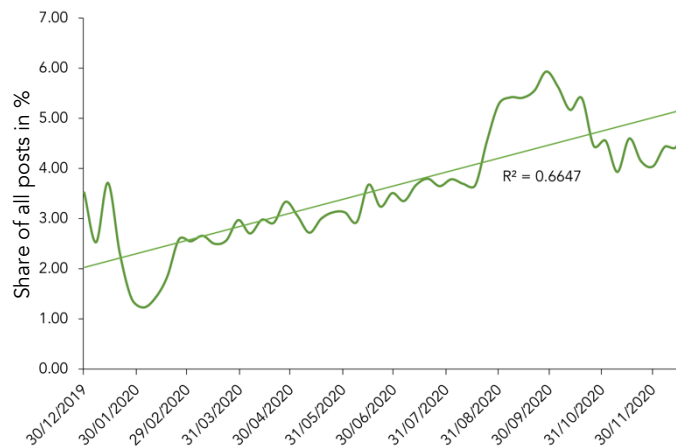


Figure 12: Informalisation of employment relations as share of all posts from petition portals and legal forums

III.6.2 Labour contracts

Our data indicates that contract issues are the most common cause for the informalisation of employment. In 2020, between 3 and 5 percent of all complaints related to this issue (figure 13). The rising trend could indicate that the risk of informalisation is increasing or that informalisation becomes more visible in times of a crisis.



Figure 13: Contract issues mentioned on the petition portal and legal forums

Workers complaints suggest that the lack of contracts could be a discrimination issue targeting specific groups of workers [74].

The lack of legal documents then paves the way for other rights violations such as defaulting on wage payments, arbitrary deductions, or dismissal without compensation. What is more, informal labour relations discourage many workers to claim their legal rights. Those who try anyway, face low odds of recovering more than a fraction of the money owed. For example, a post states that migrant workers at a textile factory do not have contracts. During the economic down-turn, the factory owner did not pay wages and eventually became unreachable. After many attempts, almost all migrants gave up. One of them, however, complained to the local Labour Bureau. Dispute arbitration suggested that he should get RMB 3000 for three months of full-time and extra work. He was not satisfied and wanted to file a legal labour dispute [75].

At another factory in Zhejiang Province, a migrant worker explains that none of them has signed a contract. During the crisis, the factory management forced some of the workers to leave without getting their last month's wage. At the same time, the company began to hire new workers [76]. Employees at yet another garment factory do not have contracts and no social insurance. To reduce costs, the company deducted several hundred RMB

from workers' wages without explanation. Workers jointly petitioned to the local government and asked for an inspection [77].

III.6.3 Social insurance

Outstanding social insurance premiums are another important driver for the informalisation of employment because it excludes workers from basic, and legally mandated social protection. Between March and December 2020, many Chinese companies could apply for suspending premium payments.³² In parallel, the Central Government began to re-organise the social security system. The purpose is to ensure better compliance with regulations. To achieve this goal, local tax authorities became responsible for assessing insurance premiums and collecting them since October 30, 2020.³³ Before, assessments were conducted by the Bureau for Human Resources and Social Insurance. The idea of the reform is that corporate non-compliance will be detected earlier and faster when assessments and premium collection are under the same roof. Basis for assessments, however, remain companies' voluntary declarations. Thus, the core institutions of China's social insurance system remain the same but the likelihood to uncover irregularities could increase. The coming years will show whether this reform effectively mitigates the risk of informalizing employment.

Figure 14 shows a rise of social security complaints since September 2020. This is probably owed to the gradual phasing out of Covid-19 relief measures allowing enterprises to reduce or pause payment of social insurance contributions.³⁴

A review of the complaints suggests that social insurance issues are diverse. The main concern, however, is the lack of insurance either because workers are not formally registered or because the company did not pay insurance premiums [78][79][80]. A worker writes that her factory does not provide health insurance for workers, which forces them to bear all medical costs privately [81]. A worker suffering from cerebral haemorrhage when returning to the dorm wonders what help he can expect given that the company did not pay social insurance for workers [82].

At another factory, retired workers state that they cannot afford medical expenses because the company does not pay for medical insurance [83]. In this case local authorities intervened successfully. The Medical Insurance Agency as well as the Department for Social Insurance Premium Collection and the Arrears Unit negotiated with the factory and received a first payment of RMB 820 000 the same month.

³² <https://www.china-briefing.com/news/china-reduce-social-insurance-commitments-smes-short-term-coronavirus-impact/>

³³ <https://www.deacons.com/news-and-insights/publications/china%E2%80%99s-tax-authorities-to-collect-social-insurance-managing-labour-cost-and-compliance.html>

³⁴ <https://www.roedl.com/insights/covid-19/china-extension-social-security-fund-reliefs>

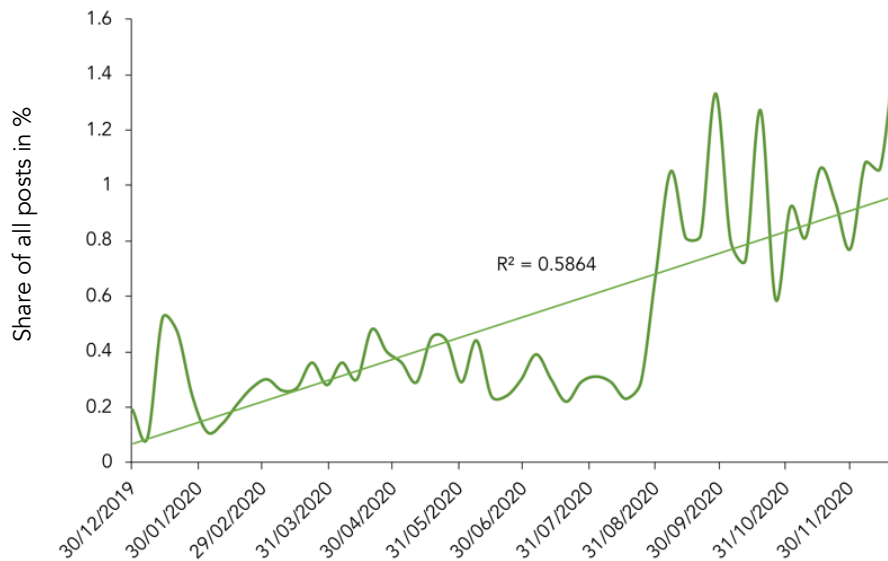


Figure 14: Social insurance issues as a share of all complaints as share of all posts from petition portals and legal forums

More often, however, local authorities are unable to recover outstanding premiums. For example, a worker complains that his company deducted social security contributions for many years but did not pay premiums to the Social Insurance Bureau. The worker realised this problem only when he got laid-off. In a best-case scenario, the worker will be able to recover premiums for two years. Insurance claims older than that cannot be investigated [84]. In the same vein a retiring worker writes that her company paid social insurance only for six out of fifteen years. The Bureau for Human Resources and Social Insurance responded that the case cannot be investigated because it is older than two years [85]. Another worker states that her company went bankrupt and now she had difficulties to prove the number of years she has worked, which is needed for calculating her pension [86].

III.6.4 Other drivers of informalisation

Mitigating the risk of informalisation by reviewing labour contracts and social insurance records will address the most common cases. A human rights due diligence that seeks to go beyond tier-1 suppliers should, in addition, take into account other risk factors that apply mainly to small-size enterprises and factories in economically less developed areas of China. Our research indicates that two factors require attention: company licenses and poverty alleviation workshops.

III.6.4.1 Factory registration

Workers are not always aware of the informal nature of their employment. In this context workers report about precarious employment conditions because factories are not correctly registered or change registration. A worker writes that she is shifting between factories. The owner is the same for both sites, but the company names are slightly

different. After an accident, the worker learned that she had no social insurance. She complained to the local authorities and received a response from the company stating that she was not employed at the factory. The complaint record indicates that authorities only contacted the company and checked formalities. There were no deeper investigations, no penalties or follow-ups [78]. At another factory, a worker complains that her company changed the name twice in recent years. As a result previous working years were not counted, which diminished seniority pay and the right to compensation when discharged [87]. At a handbag factory, workers write, local authorities ordered to stop production because the factory was not registered. The workers were not paid while waiting for the issue to be solved. Many wanted to resign, but the management would only let them go without paying owed wages [88]. At another factory, a worker voices concerns about outstanding wage payments because the production facility is not registered as a company [89].

III.6.4.2 Poverty alleviation workshops

Since 2017, China seeks to eradicate poverty by subsidising small-scale factories in remote areas. These so-called poverty alleviation workshops are entering global textile and garment supply chains at lower tiers. Poverty alleviation workshops entail a relatively high risk of labour rights violations because the workers employed are particularly vulnerable due social, economic, and political marginalisation. Grievances posted on government complaint sites corroborate this concern. For example, a group of female workers, employed at a poverty alleviation workshop targeting the Hui (Muslim) ethnic minority in Ningxia, petitioned to the local government. The workers write that they have not received wages, because the company owner who runs the workshop used government subsidies for personal consumption [90]. Workers at another poverty alleviation workshop write that they had to work for half a month on a piece rate basis without knowing the unit price. When the manager informed them, they found the rate too low and did not want to continue. Despite low pay, they kept working at the workshop on and off. At the time when they posted their complaint, the women had received only one wage payment. Most of their wages remained withheld [91].

III.7 CAT 7: Occupational safety and health

Risk: Exposure to physical and psychological health risks. Insufficient health protection

Scale: Very high; *Scope:* High; *Irremediability:* Very high

Trend: Stable

Saliency: Very high

Implications:

An investigation should focus on risk to physical risks, hazardous situations (building safety, fire equipment and safety, machine safety, and protection from toxic substances) Such an investigation should even take into account the living situation and commuting. In addition, there is a need to identify sources of psychological harm and stress. Possible questions to ask are: How long are food queuing times? How do the dorms look like (hygiene, privacy, possibility to rest after nightshift)? What are workers' main worries? Where can workers get help when they feel harassed or abused by superiors, security personnel or other workers? How many workers have used these channels during the past two years? What were the outcomes? How are complaints documented? How many sick days were registered during the past two years (by month)? What were the main causes for sick leave? How many workers are on maternity leave (by month for the past two years)?

Many human and labour rights violations have a documented negative effect on health outcomes. For example, weak legal protection and repression of independent labour unions contribute to exploitative practices such as excessive working hours, verbal abuse and harassment. In addition, low wages are an obstacle to access to health services, increase stress and trauma. The causes for health problems, therefore, are not always discernible through an immediate assessment of the work environment. Nevertheless, information about physical and mental issues is important to evaluate overall negative effects on worker wellbeing.

In the following analysis we assess workers' posts describing pain and stress against the backdrop of the medical literature on occupational health and safety in the textile and garment sector. We then provide an account of workers experiences during the Covid-19 outbreak. Workers fears and concerns show that management plans for crises and emergencies should undergo a human rights review.

III.7.1 Risk patterns

Petitions and legal complaints about health and safety issues are more dominant in less developed Provinces and Autonomous Regions (see the map in figure 15). In these regions, health and medical insurance schemes still do not cover all workers. Work-related health and safety issues, therefore, have a comparatively strong impact on people's livelihoods. Low incomes are a related cause as discussed earlier because out of

pocket spending for medicines and treatment as well as loss of income due to illness leave little or no financial margins to satisfy basic needs.

Risk indicators for physical and psychological vulnerability in bulletin board conversation move on a low and stable level since 2016 (figure 16). This could be owed to improved health and safety. However, the relatively abrupt pattern break for both indicators at the same time suggest that censorship might causes this change. Section III.3 on freedom of association showed that factories indeed seek to take control over online forums where workers discuss labour issues.

Due to the suspicious pattern break, a prudent evaluation of health risks should assume that health risk indicators before 2016 are a better approximation of the current state. This implies that health risks gain about the same level of attention as problems to resign or wage theft. The following qualitative analysis will provide further insights into workers' discussion on symptoms and health risks.

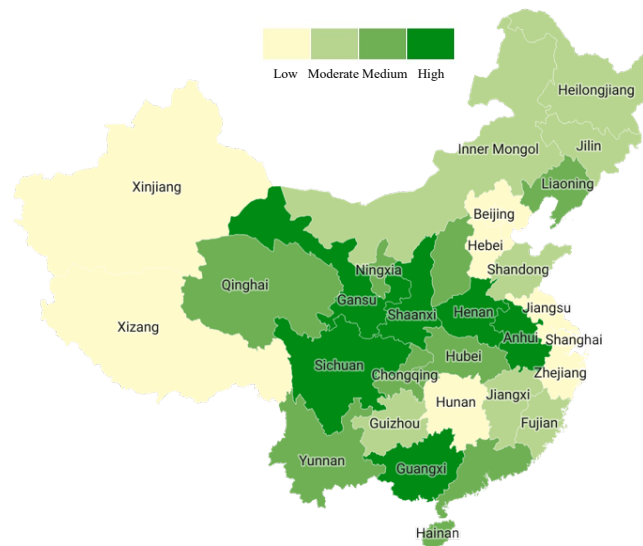


Figure 15: Spatial distribution of health and safety complaints (share of all posts in %)

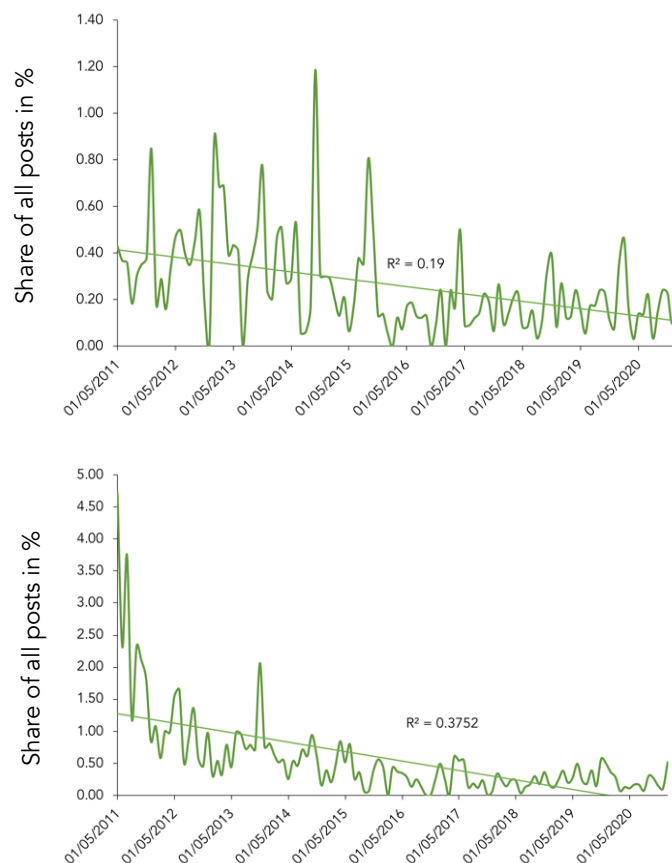


Figure 16: Mentions of psychological health risk indicators (left) and physiological health risk indicators (right) on bulletin boards

III.7.2 Physical and psychological health issues

Medical studies found that workers in the textile and garment sector frequently develop respiratory diseases, skin diseases/problems, musculoskeletal problems, hearing loss, and cardiovascular diseases. They suffer from back/joint pain, cough and common cold, headache, eye problem and loss of sight, hepatitis (jaundice), fever, diarrhoea, and gastric pain.³⁵ Women represented the majority of respondents in most study samples highlighting key disparities in women's health outcomes such as nutrition and reproductive health needs.³⁶ In bulletin board conversations, workers write about stomach pain [92][93], waste pain [94] [95] [96], feet pain [97] [98], leg and hand pain [99], back pain [100], and skin diseases [122]. Poor health of workers is also the result of other labour and human rights violations in particular wage theft, and lack of living wages. Practices within these risk areas contribute to poverty, and intake of low nutritional food; factors that are associated with poor health outcomes.³⁷ Our data confirms that poor food is a major issue for many workers [101] [102] [103] [104].

The academic literature finds that health risks in the textile and garment sector are related to exposure to an unhealthy workplace environment, few and short breaks, chemical hazards such as dust, smoke, mist, fumes, dusty raw materials, and toxic materials.³⁸ Our data confirms that workers are worried about toxic fumes and materials [105] [106] [107] [108] [109]. A review of legal complaints and petitions shows that toxins are a concern for the communities next to textile and garment factories as well. A textile factory burns production garbage at night causing a heavy smell and small oily particles covering nearby vegetable fields and homes [110]. A citizen complains about air pollution coming from a textile manufacturer. The person is worried that the heavy smell causes health damages [111]. A worker petitions to the Governor of Jiangsu. The company, he writes, built dormitories without approval and greened the rooftop to avoid satellite imaging. Toxic chemicals were stored at the ground floor of the dormitory building. There were no emergency exits. There was a heavy, unpleasant chemical stench at the plant and chemicals were directly discharged into the ground [112].

In addition to physical health problems, studies show that textile and garment workers are vulnerable to psychological issues.³⁹ Common symptoms include trauma, work stress, depression, insomnia, hypertension, and heart attack, somatic illness, anxiety and social dysfunction. Psychological risk areas are work stress, work associated demands (i.e. long working hours, worries about mistakes, time pressure, exposure to abusive language and emotional abuse, and physical demand), and work-related values (i.e. lack of freedom at work, lack of job promotion prospects, part-time work and job insecurity). In addition, long working hours, monotonous tasks, work-related injury, feeling unsafe in the workplace, and lack of recognition contribute to psychological health vulnerabilities

³⁵ Ahmed, Shaheen, and Mohammad Zahir Raihan. "Health status of the female workers in the garment sector of Bangladesh." *J Faculty Econom Administr Sci* 4.1 (2014): 43-58.

³⁶ Mohd Hajaraih, Syahidatul Khafizah, Shelby P. Gordon, and Karen M. Tabb. "Health Outcomes Among Garment Workers in Low-Middle Income Countries: A Scoping Review." *Women's Health Bulletin* 6.3 (2019): 1-9.

³⁷ Minkler, Meredith, et al. "Wage theft as a neglected public health problem: An overview and case study from San Francisco's Chinatown district." *American journal of public health* 104.6 (2014): 1010-1020.

Fernandez-Esquer, Maria Eugenia, et al. "Structural racism and immigrant health: exploring the association between wage theft, mental health, and injury among Latino day laborers." *Ethnicity & Disease* 31.Suppl (2021): 345-356.

³⁸ Akhter, Sadika. "Health and Safety Issues for Women Working in the Ready-Made Garment Industry in Bangladesh." (2018).

³⁹ Kabir, Humayun, et al. "Health vulnerabilities of readymade garment (RMG) workers: a systematic review." *BMC Public Health* 19.1 (2019): 1-20.

among textile and garment workers. Academic research shows that women in the ready-made garment sector have a particularly high risk of contracting psychological illnesses. Women frequently reported about stress, anxiety, restlessness, and thoughts of suicide, due to the double burden of work and separation from their children and family support.⁴⁰ What is more, women are disproportionately represented in job assignments that are paid by piece. Due to their traditional role as care takers and a strong sense to make sacrifices for the sake of their children, women regard piece rates as a possibility of earning more by working harder; with negative consequences for physical and psychological wellbeing.⁴¹ Workers in our data report about stress symptoms such as insomnia [113] [114] [115] [116] and organise chat groups around this issue [117]. Workers feel depressed [118] [119], and complain that pressure at work is very high [120] [121] [122] [123]. Workers write about managers cursing and humiliating them [124] [125] [126] [127] [128]. A worker warns that pregnant women run a risk of being insulted to make them resign. The harsh treatment causes stress and depression [129].

Work and living environments at some factories are not safe. Workers at a garment factory live in desolate buildings. There were notes that they should move due to safety reasons. However the company did not resettle them [130]. There is little information about work safety in social media posts. But there are indications that some employers may not take responsibility for accidents. A worker writes that she got injured during work. She had worked at the company for more than ten years. After the incident, she was told to stay home and take care of her grandchildren instead [78]. Another worker got injured during overtime work and suffered from permanent disabilities. After the accident the company fired the worker stating that the contract period had expired. The worker was a long-term employee at the company [131].

III.7.3 Covid-19

A review of workers' posts on the Covid-19 outbreak shows that workers were exposed to high infection risks after the first lockdown in February 2020. Workers complained about crowded shuttle busses and long queues, both enhanced the risk of infection. Workers were angered because managers didn't seem to care or were incapable of finding solutions [132] [133] [34]. Canteens were crowded as well and some workers didn't wear masks [134]. Finger print scanners were not disinfected [135].

In February 2020, factories still required pre-work meetings in groups of 100 or more workers [136]. Dorm rooms for eight workers were still fully occupied [137]. When medical masks were short in supply, workers got cotton masks from the factory with no protective effect [138]. Workers began to wear their own medical masks on top of the supplied cotton masks [139]. Workers wore the same mask for a week. Workers were joking that the management claims that masks can be used for a lifetime [140] [141].

Isolation served mainly to separate workers from the outside world by keeping factory campuses closed. Within the factory gates, isolation was not effectively practiced [142]

⁴⁰ Akhter, Sadika, et al. "Work, gender roles, and health: neglected mental health issues among female workers in the ready-made garment industry in Bangladesh." *International journal of women's health* 9 (2017): 571.

⁴¹ Premji, Stephanie, Katherine Lippel, and Karen Messing. "'We work by the second!' Piecework remuneration and occupational health and safety from an ethnicity- and gender-sensitive perspective." *Perspectives interdisciplinaires sur le travail et la santé* 10-1 (2008).

[143]. In January 2020, workers returning from their hometowns after the extended Lunar New Year holidays were isolated in the living area in line with regulations but could start to work immediately [162 [144] [145]. Workers complained that employees with symptoms waiting for test results were not separated, and their temperature was not measured [146]. A worker writes that she feels dizzy and sick but her manager does not approve sick leave; the worker writes that she hopes she wasn't infected with Covid-19 [147]. There were tensions because workers in factories located in Southern China got worried about newly recruited workers from Hubei (origin of the Covid-19 virus) and other Provinces in the North, where infection rates were high [148] [149] [150] [151].

Workers felt that their lives were sacrificed – they were angered that they had to continue to work when other manufacturers extended vacation periods [152] [153]. A worker asked whether their lives were really that worthless [154]. Workers got infuriated because only office staff received masks in January when they were short in supply [155]. When factories could not comply with precautions, they asked workers to sign a 'personal commitment agreement' that waived the factory's responsibility in case they would get infected [156] [157] [158] [159].

III.8 CAT 8: Working time

Risk: Workers work too many hours and/or do not get overtime premiums

Scale: High; *Scope:* Very high; *Irremediability:* Moderate

Trend: Decreasing

Saliience: High

Implications:

An investigation should not only determine the number of overtime hours but also watch out for practices to manipulate the number of registered overtime hours or overtime premiums. Possible questions in this context are: What is the share of workers being remunerated by piece? What is the share of women remunerated by piece? What is the share of ethnic minorities remunerated by piece? What quotas do workers have to achieve? How are quotas determined? Are piece rates or quotas changed during production?

Workers in the textile and garment sector often work long hours. Sometimes they agree to overtime because they need the money, and sometimes, they fear punishment. According to Chinese Law, the overtime remuneration rate for weekdays is 150% of the regular rate, 200% for weekends and 300% for national holidays. Since overtime is relatively expensive and at the same time an important management tool to adapt to fluctuating orders, factory owners and managers have strong financial incentives to undermine or circumvent overtime pay. A high number of overtime hours, therefore, points to coercive management practices and low wages. In addition, working long hours is exhausting and makes workers ill. A recent study on textile and garment workers shows that overtime increases the risk of respiratory diseases.⁴² Long working hours contribute to low-intensity pain, which worsens physical and psychological health in the long run.⁴³ Overtime is also a major contributor to worker dissatisfaction.⁴⁴

III.8.1 Risk patterns

Our analysis of workers' complaints shows that conflicts over overtime are frequent. In the four most important textile and garment hubs (Guangdong, Zhejiang, Fujian, and Jiangsu) as well as nation-wide, the topic ranks third or fourth with respect to legal disputes and complaints (see Table 1).

⁴² Khan, Muhammad, Kashif Muhmood, Shumaila Noreen, and Saima Noreen. "Economic burden of occupational illness on women workers in textile industry, Pakistan." *The Business & Management Review* 9, no. 4 (2018): 70-74.

⁴³ Rahul, V., and Dhanish Jose. "Analysing the influence of non-reported pain and risk experienced by employees in the textile industry." *Materials Today: Proceedings* (2021).

⁴⁴ Chen, Caixia, Patsy Perry, Yixiong Yang, and Cheng Yang. "Decent work in the Chinese apparel industry: Comparative analysis of blue-collar and white-collar garment workers." *Sustainability* 9, no. 8 (2017): 1344.

The map in figure 17 shows that the risk for legal conflicts related to overtime is highest along the East Coast where most first-tier suppliers are located. Overtime issues are expanding into inland Provinces that host a relatively large number of second- and lower-tier suppliers. The geographic pattern is similar to the risk pattern concerning obstacles to resign. The ten-year-trend derived from bulletin board conversations, however, is different.

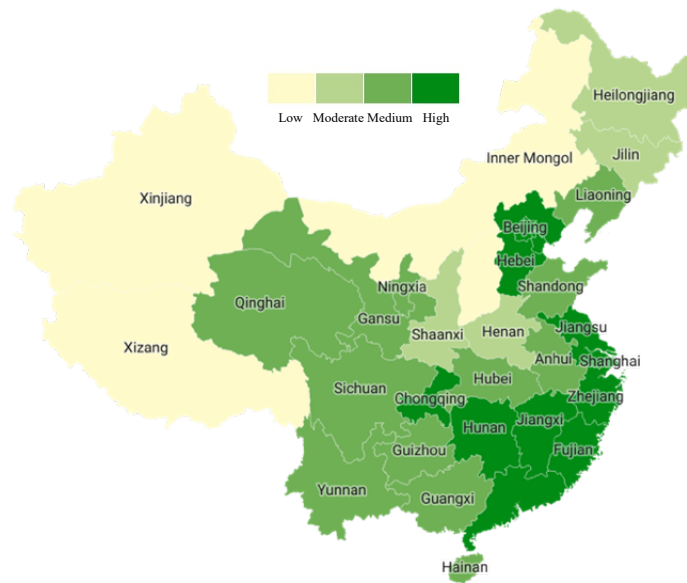


Figure 17: Spatial distribution of overtime related complaints on the petition portal and legal forums (share of all posts in %)

Figure 18 indicates that the relative importance of overtime remained stable until 2015 / 2016 and then gradually declined. Two policy frameworks influence the trend: the ‘Belt and Road Initiative’ (BRI) and ‘Made in China 2025’.⁴⁵ The former encourages textile and garment manufacturers to set-up factories in Central, South, and Southeast Asia as well as Sub-Saharan Africa. The latter incentivises domestic firms to invest in technological upgrading and automatization. Both policies are capital intensive and, therefore, target large, first-tier suppliers. The risk of excessive overtime at these production plants may decrease because labour-intensive and, by extension, overtime sensitive tasks are transferred to other destinations. At the same time, automatization creates jobs that are less sensitive to production fluctuations.

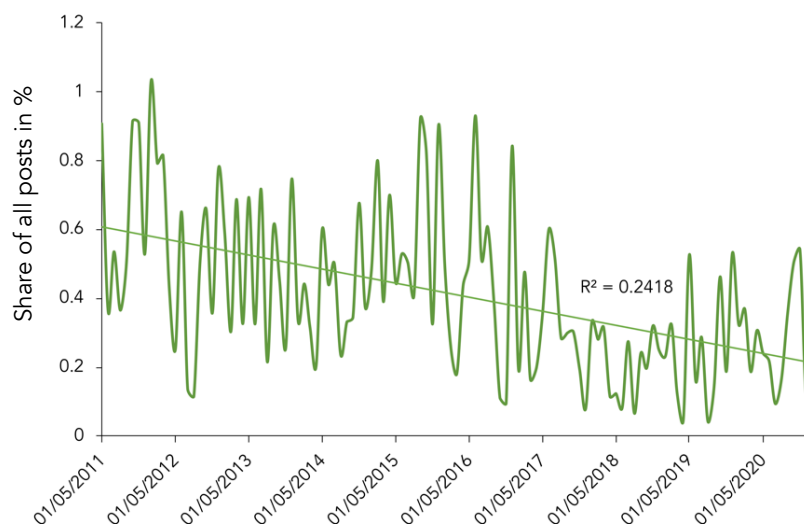


Figure 18: Mentions of overtime on bulletin boards, petition portals and legal forums.

⁴⁵ <https://www.sustainablesupplychains.org/automation-versus-relocation-in-clothing-global-value-chains-will-investments-shift-from-china-to-africa-at-a-big-scale/>

In conclusion, the risk of non-compliance with overtime regulations remains high in textile and garment supply chains. The concentration of risks, however, is shifting to China's Central Provinces, Asia, and Africa. Sustainability managers and auditors should expect a widening compliance gap between small and large manufacturers and between first tier and lower tier factories. Overtime risks become visible in a consolidated assessment across a supplier's multiple production sites and/or across a supplier's factory and main sub-supplier sites.

III.8.2 Overtime

Overtime issues contribute to dissatisfaction. Workers are frustrated and angered. They write about cruel management of working time [160], not getting proper pay for overtime hours [161], extreme exploitation [162], and about government authorities ignoring their situation [163]. Workers also report about negative health effects such as exhaustion [164] and insomnia [165].

Bulletin board conversations confirm that working hours are excessive. By law, overtime must not exceed 3 hours on a single day. A worker writes that their shift ends at 4.30 pm but everybody has to work until 10.00 pm [114]. Another post states that workers often work until 12.00 at night, sometimes until 2.00 am and even working through the whole night was not unheard of [166]. Chinese labour legislation requires at least one rest-day per week. Workers complain that they do not get off a single day. When they still take a vacation day during the weekend, money will be deducted from their wages [167].

In the textile and garment sector, wages are often determined by piece rates and quotas [168] [169]. Such payment schemes turn overtime into extra working hours without extra pay.⁴⁶ Social media posts confirm that textile and garment workers frequently don't receive premium rates when they work overtime [170] [171] [172] [173] [174] [175]. Workers report that their manager forced them to work long hours from 7.00 am to 11.00 pm or 12.00 pm without meal breaks because they did not meet the quota [165]. Other workers get wage deductions for taking a day off even though they are paid by piece [176].

Too many working hours persist in the textile and garment sector. Due to quotas and piece rates, overtime premiums contribute little to increase meagre incomes. Workers' social media posts suggest that overtime constitutes a punishment for 'underperformance' rather than a benefit. To appreciate the impact of overtime on workers' wellbeing, sustainability managers and auditors should not only look at overall compliance with legal norms but investigate if there are certain groups or departments working under piece rate and/or quota systems. Previous research shows that women and ethnic minorities are more likely to get compensated by piece and/or are subject to other discriminatory wage manipulation.⁴⁷ Thus, a gender and/or ethnic bias with respect to piece rate payment is a strong risk indicator requiring further investigation. In this context, sustainability managers and auditors should try to identify management practices that extend working hours without registering them as overtime.

⁴⁶ https://media.business-humanrights.org/media/documents/CCC_DCI_Report_OutOfTheShadows_sept2020_highres.pdf

⁴⁷ See for example <https://wageindicator.org/documents/publicationslist/publications-2016/van-klaveren-m-2016-wages-in-context-in-the-garment-industry-in-asia-amsterdam-wageindicator-foundation-april-28-2016> (page 41) or https://media.business-humanrights.org/media/documents/CCC_DCI_Report_OutOfTheShadows_sept2020_highres.pdf (page 11).

IV. Conclusions

Insights generated in this report provide guidance for best practice development, human rights due diligence, and strategic supplier monitoring. We identify six potential fields of engagement:

Child labour (CAT1): The risk of child labour is high for minors from poor families with an ethnic minority background. Brands, therefore, should check whether their suppliers participate in poverty alleviation programs that seek to transform farmers and herdsmen into wage laborers. Minors between ages 16 and 17 can be included in such programs, requiring particular care to make sure that there is no abuse of their vulnerable position. Child labour risks are also salient in the context of internships. Vocational training programs sometimes force students to do the same work as regular workers for a fraction of the regular wage and they must perform overtime hours in violation of Chinese legislation.

Discrimination (CAT2): Best practice should require from suppliers to collect and provide critical information such as the number and share of workers belonging to vulnerable groups at least on an annual basis but preferably per quarter. Information should be available by department. In particular, suppliers should be able to provide information on the number of women employed and the share of women on maternity leave, the number and share of retired workers, the number and share of student interns, as well as the number and share of workers belonging to ethnic minorities.

Resignations (CAT3): Best practice should ensure that factories have clear, transparent rules for resignation that are widely publicised and easily accessible for workers. Submitting resignations has to be easy, should not involve operational managers, and must be confirmed immediately with a receipt including a time stamp. Resignations must not be delayed on formal grounds. Submission of resignations must not have any impact on the date when wages are paid, or on work assignments.

Freedom of association (CAT4): Even though workers are prevented from organising their interests independently, factory management still can have meaningful negotiations and consultations. Best practice, therefore, should ensure that factory rules embrace and promote workers' participation in decisions on conditions directly impacting them. Participation should be documented in detail informing about how workers were involved and contributed to decisions. Documentation should make clear to what extent workers were able to formulate their interests independently. Non-interference must also apply to workers online discussions and activities.

Living wage (CAT5): Best practice should require from suppliers to report annually on collective bargaining and base wage rises. Suppliers should be encouraged to replace wage subsidies with higher base wages and compare the piece-rate with the true attendance records to be able to calculate the wage per hour. There must be zero tolerance for wage arrears. Deductions have to be clearly marked in pay slips and supplemented with written explanations.

Informalisation (CAT6): Best practice should ensure that suppliers are able to provide full documentation on company registration and history of changes. Suppliers should be prepared to provide information on social insurance registration of workers. Workers

must have access to their social insurance registration. The information should clearly state that it is truthfully provided by the employer.

Safety and health (CAT7): Best practice should eliminate hazardous situations (building safety, fire equipment and safety, machine safety, and protection from toxic substances). Other physical health risks relate to unergonomic working positions, and an increased risk of accidents due to long working hours, exhaustion, and tiredness. What is more, workers' social media posts bring to the fore stress-related health issues. In this context, focus groups or surveys can help to identify causes of stress such as work-related fears, threats, and pressure as well as the consequences of stress, for example insomnia, trauma, isolation, or depression.

Working time (CAT8): Preventing excessive working hours is closely connected to the level and composition of wages. A regular wage covering living costs is the most effective way bring working hours down as it decreases workers' incentives to 'chase hours' and reduces managers' power to force workers into extra time. Brands should ensure that suppliers do not only register overtime hours abut also extra work time (no overtime rate). In addition, orders that are predictable or anti-cyclical can contribute to balanced work days throughout the year.