

Better Work Indonesia: Garment Industry 5th Compliance Synthesis Report

Produced in September 2015

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Executive Summary

The Better Work Indonesia programme, a partnership between the International Labour Organization (ILO) and the International Finance Corporation (IFC), aims to enhance enterprise-level performance and promote the competitiveness of the garment industry by advancing compliance with Indonesian labour law and ILO core labour standards in garment factories. Better Work Indonesia began conducting independent assessments of working conditions in garment factories in Indonesia in July 2011.

Each assessment consists of four on-site person days and includes interviews with management, union and workers, document reviews, and factory observations. The goal of these assessments is to establish a performance base by which the factories taking part in this project can cooperate and collaborate with Better Work Indonesia and the participating buyers to make improvements. The assessment findings will be addressed by the representatives of workers and management, and supported by BW Enterprise Advisors on the advisory service. The representatives of workers and management sit in the Performance Improvement Consultative Committee (PICC). In Indonesia, PICC functions are held by the Lembaga Kerja Sama Bipartit (factory level bipartite committees or LKSB) and the Panitia Pembina Keselamatan dan Kesehatan Kerja (occupational safety and health committees or P2K3).

Better Work produces public synthesis reports of factory assessments twice a year, aimed at providing transparent information about factory working conditions for both program stakeholders and common public.

This synthesis report presents the aggregated findings of 120 assessments carried out from June 2014 to July 2015. It consists of 47 first assessments, 43 second assessments, 18 third assessments, 11 fourth assessments and one fifth assessment. This sample represents factories employing 100 up to 12,899 workers.

As of June 2015, BWI has registered 142 factories employing a total of 282,727 workers out of a total estimated 500,000 workers in the export garment industry. Although these factories were registered in BWI some of them (22) were not registered in time for the current assessment exercise. The collected data captures non-compliance with labour standards in eight clusters: child labour, forced labour, discrimination, and freedom of association and collective bargaining, compensation, contracts and human resources, occupational safety and health (OSH), and working time. Main areas of non-compliance for the current report are: **discrimination** and the specific challenge in fulfilling national requirements concerning the inclusion of people with disabilities into the workforce; **OSH**, notably issues concerning OSH management systems, emergency preparedness and health services and first aid capacity; **compensation**, in particular issues concerning overtime payment; and **contracts**, notably at the level of incorrect use of non-permanent contracts.

The key non-compliance findings under each cluster are the following:

Child Labour – issues were reported in respect of 2 factories and concern mostly the lack of proper age verification systems and insufficient protection of young workers (children legally allowed to work) from hazardous work.

Forced Labour – An issue with coercion involving the imposition of a curfew, retention of ID cards and personal belongings was found in one factory and readily acted upon following advice by Better Work Indonesia and government.

Discrimination – Employers continue not meeting existing legal requirements concerning the inclusion of, at least, 1% of people with disabilities in their workforces. This is mainly due to lack of knowledge by employers of the 1% rule and difficulties in recruiting and finding skilled disabled people.

Freedom of Association – Poor quality of collective bargaining remains an issue with some of the existing CBAs (14 out of 44) offering less favorable provisions than national law. There are also still issues with workers not having been provided with copies of CBAs.

Compensation – Non-compliance is high when it comes to overtime payment. This is often due to workers being awarded “all-in” contracts incorrectly because of employers’ lack of full understanding of the wage structure and scale mechanisms in national law. The entry into force of new regulations on social health security (*jaminan sosial kesehatan*) and the administrative burden that those regulations carry contributed also to high levels of non-compliance.

Contracts and Human Resources – Factory-level bipartite committees (LKS Bipartit) are still not operating effectively in 76 of the assessed factories. Workers on non-permanent contracts receive multiple non-permanent contracts that go beyond the limits established by law.

Occupational Safety and Health – Non-compliance is high across almost all of the cluster, with very high non-compliance rates observed concerning emergency preparedness, health services and first aid. There is still a lack of commitment by factories to implementing OSH management systems and reinforcing OSH rule. OSH Committees (Panitia Pembina Keselamatan dan Kesehatan Kerja/P2K3) are not yet performing to the desired level and organizational requirements are not being fully fulfilled. For illustration purposes, the OSH committee secretary is not certified into the required form - General OSH (K3 Umum); monthly meetings are not being held regularly, and the Committees’ activities are not being reported to the local Manpower Office, as established by law.

Working Time – In 88 of the assessed factories, workers have been engaged in excessive overtime - i.e., they have worked more than 3 hours of per day and over 14 hours per week in normal days - often due to production demands. In a smaller but still substantial number of factories, attendance records were found to be inaccurate due to improper recording of overtime on work days, weekly rest days or/and public holidays.

Compliance Effort

Better Work defines compliance effort as the difference in non-compliance between two consecutive Better Work assessments. Positive effort means there have been improvements and they are shown in nearly all compliance points.

Positive efforts are widespread through all the different compliance points. To note are the following improvements:

Discrimination – as mentioned above, many factories experience difficulties in recruiting people with disabilities. Despite of this, there are at least eleven additional factories that now comply with this regulation.

Compensation – Overtime payment to “all-in” workers and the implementation of paid leave and break time, including breastfeeding breaks, has improved by 17%.

Contracts and Human Resources – Improvement has been made by sixteen factories in respect of functioning bipartite committees and compliance with the law and regulations on subcontracting

Occupational Safety and Health – Most companies (55%) have shown improvement in providing lockers for their workers to store their personal belongings. There is also an increase in the number of employers who provide adequate accessible toilets which are separated by gender and equipped with hand washing facilities and soap.

Working Time – Thirty-three more employers provide opportunities for breastfeeding breaks. Ten additional factories have reduced regular weekly working hours to 40 hours.

Several factors affect compliance. The main factors affecting compliance during the assessment period include:

- (1) **New regulations on social security:** new regulations on the national health security system were implemented in 2015. Employers found it difficult to register their workers to the provider due to incomplete administrative documents of the workers or their family, or due to the provider's low capacity to absorb such high numbers of new registrations.
- (2) **Termination:** there was an increasing number of terminations registered since many factories closed their operations in Greater Jakarta and moved to other areas with lower minimum wage levels. Regrettably it has been noted that many employers did not pay the outstanding accrued leave and other legal benefits for termination.
- (3) **Emergency preparedness:** this is a particularly challenging issue because the installation of fire detectors and alarms requires significant investment by factories.

There are a number of compliance points for which significant improvements in compliance efforts over the last twelve months contrast with still high rates of overall (i.e. average) non-compliance. This may be at least partly explained by the different composition of samples used. While in average the compliance rate uses a sample consisting of a large number of newly registered factories, the compliance effort data comes only from the factories in their second cycle or beyond, i.e. the factories that have seen a longer engagement with Better Work. As such, it is possible that, for certain points, the compliance effort may be positive due to the good performance of established factories, whereas the newer factories keep showing high rates of non-compliance. Further research and analysis may be needed to conclusively verify this, including closer examination of the compliance performance of individual factories in the sample.

Section I: Introduction and Methodology

Introduction

Indonesia is the world's fourth most populous nation, the world's 10th largest economy in term of purchasing power parity, and a member of the G-20. The labour force is estimated as many as 125.3 million people, whereof a total of 2.2 million¹ people work in the garment sector. Around a quarter of these workers (516.352) work in 1,749 large and medium enterprises which are strongly connected to the export market.²

The Better Work Indonesia (BWI) Programme seeks to address the above issues by focusing on improving workers' lives and strengthening the competitiveness of Indonesian garment sector. BWI Programme is being implemented in three phases over an eight-year period (2011-2018). As of June 2015, BWI has worked with 140 factories, with a total of 280,003 workers of which 83% are female workers.³ These factories employ 111 to 12,899 workers, meaning that all these factories fall under the BPS definition of large enterprises (above 100 workers).

The programme is in cooperation with some factories to conduct independent assessments and offer advisory and training services. As part of its mandate is to share information with all the programme stakeholders and encourage continuous improvements, Better Work Indonesia uses aggregate factory assessment data to produce public synthesis reports that review the performance of all participating factories during the reporting period. This fifth synthesis report provides an overview of the working conditions of 120 factories assessed during the period of June 2014 to July 2015.

In carrying out the assessment, Better Work Indonesia employs two assessors who will use a triangulation method - factory observation, document review, and interview with the representatives of workers and employer - before making a decision regarding compliance. The assessment by Better Work Indonesia is carried out un-announced with no prior notification in order to ensure that the data and information obtained during the two-day assessment is actual.

Institutional Context

In order to achieve the BWI objectives, the programme has been working closely with the Indonesian Ministry of Manpower (MoM), particularly with the Directorate General for Labour Inspection and OSH as well as the Directorate General for Industrial Relations and Social Employment Security.

The Directorate General for Labour Inspection and OSH is still developing its 'Labour Compliance Program' (Program Kepatuhan/PROKEP) to tackle current challenges, mostly related to the shortage of labor inspector, the Ministry has issued the Ministerial Decree 257/2014 to establish the labour norms expert/cadre (Kader Norma Ketenagakerjaan/KNK). This is an initiative from MoM to respond to the challenges faced by labour inspectors on the ground. As a first step, the objective is that each factory, above 100 workers, is required to have a certified labour norms expert (KNK). Currently, the program is drafting and regulating about the role of self-assessment on compliance with the labour law. The current policy foresees that the KNK will take part in the self-assessment and that all self-assessment reports are submitted to the local Manpower Office for review and further verification.

¹ Source: BPS (2015) National accounts, Badan Pusat Statistik, Jakarta

² Source: BPS (2015) National accounts, Badan Pusat Statistik, Jakarta

Comment: According to BPS, a small firm has 5 to 19 workers, a medium firm has 20 to 99 workers, and large firms have 100 or more workers. This definition differs from ILO's definition (medium 50 to 250 workers and small 10 to 50 employees).

³ Data as of June 19th 2015: 233,125 female workers and 46,878 male workers.

The government has also released, at the end of October 2015, a new regulation on minimum wage setting mechanism (Regulation 78/2015). The regulation has two components: the first one concerns a national formula for minimum wage setting, based on GDP and inflation; the second concerns the requirement for enterprises to develop wage scales and structures.

Better Work Methodology

Better Work carries out factory assessments to monitor the compliance with international labour standards and national labour laws. In its factory and industry-level reports, Better Work highlights *non-compliance* findings. Better Work reports these figures to help factories easily identify the areas in need of improvement. Collecting and reporting this data over time will help factories demonstrate their commitment to improving working conditions.

Better Work organises reporting into eight areas, or clusters, of labour standards: four clusters cover fundamental rights at work and four others cover basic conditions at work. Each cluster is divided into its key components, known as ‘compliance points’. With very limited exceptions, the compliance points are standard across all Better Work countries.

In 1998, member states, the representatives of workers and employers at the International Labour Organization identified fundamental principles and rights at work based on eight very widely ratified International Labour Conventions - 29, 87, 98, 105, 100, 111, 138, and 182. These conventions provide a framework for assessing a country’s non-compliance with Child Labour, Discrimination, Forced Labour, and Freedom of Association and Collective Bargaining clusters across all the countries where Better Work operates.

An additional four big clusters assess the conditions at work—including compensation, contracts and human resources, occupational safety and health, and working time. The compliance points covered in these clusters are largely consistent across countries; however, each compliance point contains specific questions that may vary from country to country due to differences in national legislation. In the countries where national law fails to address—or lacks clarity around—a relevant issue regarding conditions at work, Better Work establishes a benchmark based on the international standards and good practices.

The detailed list of compliance points within each cluster is indicated in the table below.

	Compliance Clusters		Compliance Points
Core Labour Standards	1	Child Labour	1. Child Labours 2. Unconditional Worst Forms 3. Hazardous Work 4. Documentation and Protection of Young Workers
	2	Discrimination	5. Race and Origin 6. Religion and Political Opinion 7. Gender 8. Other Grounds ⁴
	3	Forced Labour	9. Coercion 10. Bonded Labour 11. Forced Labour and Overtime 12. Prison Labour
	4	Freedom of Association and Collective Bargaining	13. Freedom to Associate 14. Collective Bargaining 15. Union Operations 16. Interference and Discrimination 17. Strikes
Working	5	Compensation	18. Minimum wages 19. Overtime wages 20. Premium Pay ⁵

⁴ As described in more detail below, this compliance point covers discrimination related to disability as well as HIV/AIDS status.

⁵ Indonesia does not have any requirements under the category of Premium Pay.

			<ul style="list-style-type: none"> 21. Method of Payment 22. Wage Information, Use and Deduction 23. Paid Leave 24. Social Security and Other Benefits
	6	Contracts and Human Resources	<ul style="list-style-type: none"> 25. Employment Contracts 26. Contracting Procedures 27. Termination 28. Dialogue, Discipline and Disputes
	7	Occupational Safety and Health (OSH)	<ul style="list-style-type: none"> 29. OSH Management Systems 30. Chemicals and Hazardous Substances 31. Worker Protection 32. Working Environment 33. Health Services 34. Welfare Facilities 35. Worker Accommodation 36. Emergency Preparedness
	8	Working Time	<ul style="list-style-type: none"> 37. Regular Hours 38. Overtime 39. Leave

Calculating Non-Compliance

Better Work calculates **non-compliance rates** for each factory and reports these in individual factory reports. The non-compliance rate is reported for each sub-category, or compliance point, within a cluster. A compliance point is reported to be non-compliant if one question within it is found to be in non-compliance.

In public synthesis reports, Better Work calculates the average non-compliance rates for all participating factories in each of these same sub-categories. For example, an average non-compliance rate of 100% means that all participating factories are found to have a violation in that area.

Although it is a strict indicator, the non-compliance rate is useful for Better Work to aggregate and compare the data across all countries. However, this number is not sufficient to fully describe the specific issues that Enterprise Advisors have observed during their assessments. For this reason, tables highlighting key non-compliance findings at the question level are also presented in Section II with the title of 'In Focus' tables. These tables, showing the number of factories found to be non-compliant based on each specific question, allow the reader to fully appreciate the specific challenges identified in the factory assessments under particular compliance points.

Note on the factories presented in this report

The synthesis report presents a snapshot of non-compliance in the participating industry of the respective country. The rates presented in the synthesis report refer to participating industry averages.

This synthesis report presents the aggregated findings of 47 first assessments, 43 second assessments by Better Work Indonesia, 18 third assessments, 11 fourth assessments and one factory being assessed for the fifth time from June 2014 to July 2015.

Limitations in the assessment process

The factory-level assessments carried out by Better Work Indonesia follow a thorough checklist of over 280 questions covering the above mentioned labour standards. Information is gathered through a variety of sources and techniques, including document reviews, observations on the shop floor, and interviews with managers, workers and union representatives.

The detailed factory assessment reports are based on what has been observed, investigated and analysed during the actual assessment and a review of relevant documents collected during the assessment visit. Before the reports become official, factories are given seven days to provide feedbacks and clarifications on its findings.

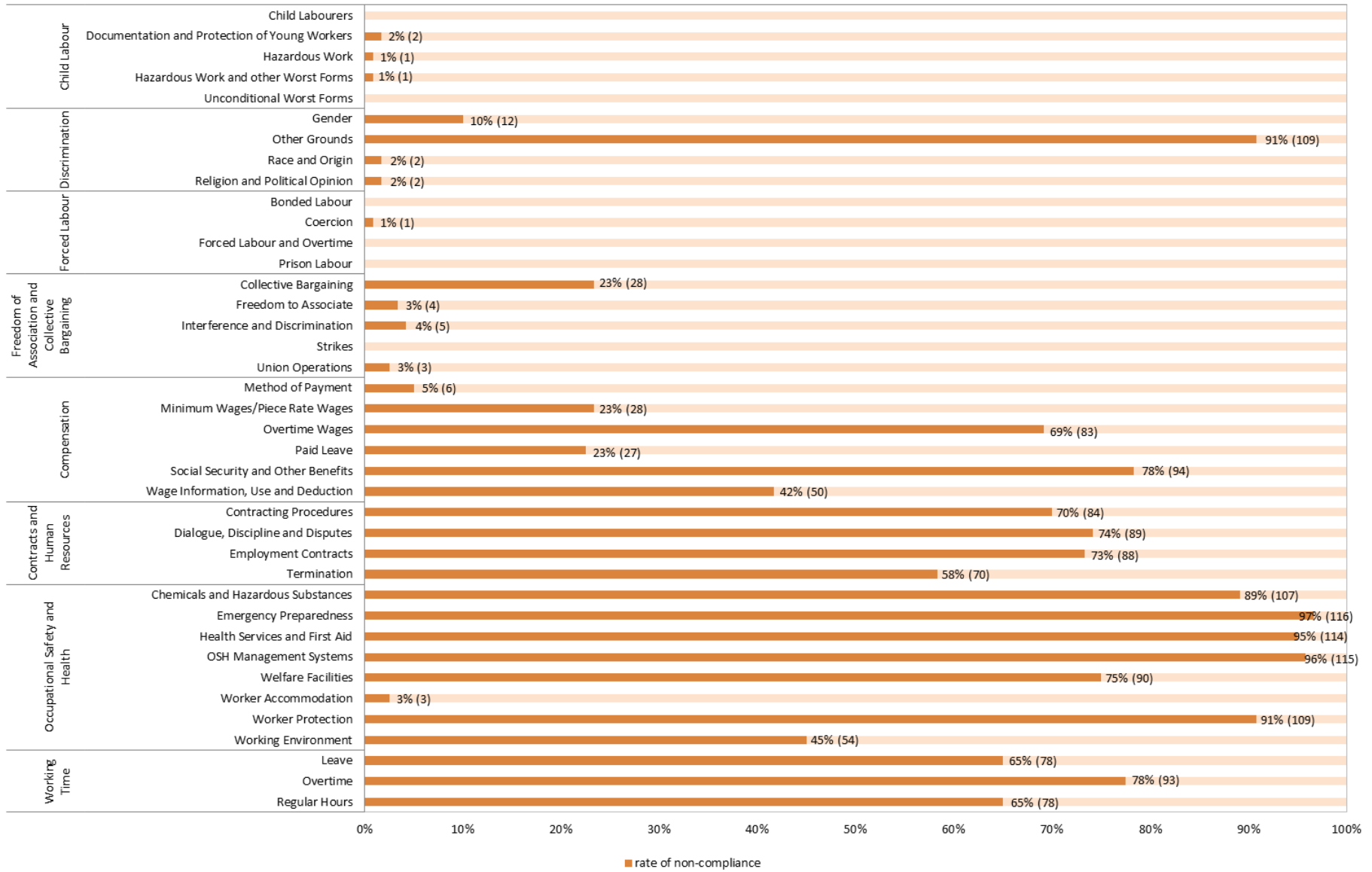
Among the issues covered in Better Work's compliance assessment tools, sexual harassment is one of the most sensitive and most difficult issue to detect during the factory assessments. It is often unreported due to fears of retaliation, power imbalance between the victim and the perpetrator, as well as cultural perceptions and stigma associated with it. As a result, the assessment of sexual harassment in the workplace by Better Work Indonesia is likely to underreport the extent of its occurrence. Nevertheless, Better Work impact assessment, which uses a different research methodology from the factory assessments, has indicated that sexual harassment is a concern for workers in Indonesian garment factories. Better Work Indonesia, in collaboration with the Better Work global programme, has been developing a set of tools to help Enterprise Advisors identify sexual harassment in factories, and to help factories prevent and address it through awareness raising and training.

Section II: Findings

Average Non-Compliance Rates

Chart 1 provides an overview of average non-compliance rates for factories covered in this report. Key findings are provided below, followed by a section with additional details.

Chart 1 : Average non-compliance rates



Detailed Findings

This section describes the levels of non-compliance across participating factories for each sub-section (compliance point) within each of the eight categories of labour standards covered by the Better Work Indonesia assessments. Through the In-Focus tables, detailed findings are presented at the question level for a number of compliance points.

1. Core Labour Standards

A. Child Labour

Two factories were non-compliant with the compliance points for Documentation and Protection of Young Workers and Hazardous Work and other Worst Forms. One factory had a worker under the age of 18 working in the same workplace as adult workers. The same factory also had workers under the age of 18 working at night and engaged with overtime. The second factory did not comply with the documentation requirements for workers under the age of 18; and did not have a verification system in place to prevent child labour. In the same factory, workers under the age of 18 were found to perform work that is hazardous by nature.

B. Discrimination

The highest non-compliance rate for this cluster concerns the hiring of people with disabilities - 109 out of the 120 assessed employers are failing to comply with the national rule which requires employers to have at least 1% of disable workers in their workforces. The main difficulties in complying with this rule are: employers do not have enough knowledge about the 1% rule; it is difficult to recruit people with disabilities in the labour market (there may also be an issue with disabled people initiative in applying to jobs in the industry); or having skills suitable for the type of job in garment and footwear industries. Four factories included race and religion in their job application or recruitment forms.

C. Forced Labour

One factory was found to be restricting workers' freedom of movement from the dormitories by imposing strict curfew and requiring personal identification (ID cards) or personal belongings to be held up when workers wanted to leave the dormitory outside curfew hours. The employer had implemented this system as a way to guarantee that workers do not move to other employers given the serious labour shortages issues in the area. Because of the seriousness of the matter, this finding has been followed up by Better Work Indonesia through advisory and together with a team from Directorate General Labor Inspection almost immediately. At the time of publication of this report, the factory in question has already overturned this system and workers are no longer required to leave ID card/personal belongings as a guarantee if they want to leave the dormitory for personal matters.

D. Freedom of Association and Collective Bargaining

The compliance point with the highest non-compliance rate (23%) in this cluster was Collective Bargaining, with 28 non-compliant factories. This high rate of non-compliance was primarily because the employers did not provide workers with the text of work agreement.

In Focus 1: Collective Bargaining

Question	Number of factories out of compliance
Does the employer consult with workers/ unions when legally required?	2
Does the employer inform workers about the contents of the collective bargaining agreement and provide them with the text of agreement?	13

Does the employer refuse to bargain collectively or refuse to bargain in good faith with the union, worker representatives, union federations or confederations?	0
Does the employer refuse to implement any of the provisions of the collective bargaining agreement in force?	9
If there is a collective bargaining agreement, are the existing provisions at least favourable for workers as regulated by the law?	14

Four factories were non-compliant on the compliance point for Freedom of Association because workers are automatically unionised once they were employed, and no consent, choice or registration form is available. . This happens because of the union express request to management for such an automatic affiliation system to be put in place or because an agreement between the employers and the workers/union has been put in place to the same effect. On the union/workers’ request, the companies have deducted union dues from workers’ salaries without their formal consent, as per national law . One of the requirements to be fulfilled is a statement of willingness from workers that their salary will be partly deducted for the union dues. The three factories could not show such a statement of willingness. In either cases, we believe the issue is one of lack of information about what the right to associate (and not to associate) means.

In three factories, management are filling or are being appointed to union committee positions in a way that is contrary to national law.

2. Working Conditions

E. Compensation

The highest non-compliance rates were recorded for Overtime Wages and Social Security and Other Benefits, with rates of 69% and 78% respectively. Non-compliance with the Overtime Wages provisions is extremely high with issues cited at the level of incorrect overtime premium calculation; incorrect classification of workers as ‘all-in’⁶; switching legally required rest days with work days and avoiding the payment of overtime premium on the rest day; or unpaid additional work that may be driven by a need to achieve production targets.

Non-compliance with the Social Security and Other Benefits provisions is also an issue. A significant amount of employers did not pay the required contributions for social insurance and healthcare funds to the national level insurance system – the BPJS. The main reasons pointed out by companies for non-compliance relate with BPJS lack of capacity to register all workers, BPJS is suffering from administrative backlog and was unable to register the workers in large numbers. While this issue is not cleared, workers are covered by private health insurance schemes or the factories have established agreements with local clinics to provide health care services.

In Focus 2: Overtime Wages

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer pay workers correctly for all overtime hours worked, including overtime on regular working days, public holidays, and weekly rest days?	90
Does the employer provide meals and drinks of at least 1,400 calories to the workers working overtime for 3 hours or more?	41

⁶ ‘All-in’ work means that employers do not distinguish between regular and overtime working hours, resulting in overtime hours not being compensated at the legally required premium rate. All-in contracts are allowed by law pending the fulfilment of certain requirements that are mostly related with hierarchical and responsibility levels (people that are considered to be “thinkers, planners, implementers and controllers of the company operations are included in this category). In many cases, workers are being put into the “all-in” category without the observance of such requirements.

In Focus 3 : Social Security and Other Benefits

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer collect and forward all workers' contributions for social employment security (BPJS Ketenagakerjaan) and health care security (BPJS Kesehatan)?	27
Does the employer pay the required contributions for social employment security (BPJS Ketenagakerjaan) and health care security (BPJS Kesehatan) to BPJS?	53
Does the employer pay workers the religious holiday allowance?	7
Does the employer provide health care benefits to all workers through JAMSOSTEK or another provider that offers at least the same benefits as JAMSOSTEK?	29
Does the employer provide nutritious foods and drinks to female workers who work between 11 p.m. until 7 a.m.?	13
Does the employer provide round trip transport for female workers who work between 11 p.m. and 5 a.m.?	15

Wage Information, Use and Deduction had a 42% non-compliance rate, with 50 out of 120 factories noted to be non-compliant on at least one issue.

In Focus 4 : Wage Information, Use and Deduction

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer keep only one accurate payroll record/book?	45
Has the employer made any unauthorized deductions from wages?	8

Forty five factories keep more than one payroll records to conceal overtime that is above the legal limit in both normal, weekly rest days and national holidays. Even though overtime payment is being properly processed factories still find the need to conceal the use of overtime above legal limits during the assessment. In some cases, the assessment also found inaccurate recording of working hours happened due to the lack of a proper recording system or record management system. Eight factories made deductions to workers' wages higher than the legally permitted wage deduction limit, without any consent or clear procedure in place or without it being connected to disciplinary action.

The compliance points for Minimum Wages/Piece Rate Wages and Paid Leave have non-compliance rates of 23% each. Seventeen factories did not pay workers, who have worked for the factory for longer than a year, the correct wage. This, in accordance to national law, should be higher than the minimum wage. Twenty two factories failed to pay sectoral minimum wage, obtain improper minimum wage postponement or did not pay new workers for the first one or two days of work. Thirty one factories were non-compliant for the compliance point for Paid Leave. Seven factories failed to pay workers correctly during sick leave. Our assessments reveal that this is mainly due to the factory management rejecting sick leave requests when medical certificates are issued by doctors who are not recognized by the factory.

In Focus 5 : Minimum Wages/Piece Rate Wages

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer pay higher than district minimum wage for regular hours of work to permanent (PKWTT) and non-permanent workers (PKWT) who have worked for more than 1 year?	17
Does the employer pay piece-rate workers correctly for regular hours of work?	0
Does the employer pay the correct district minimum wage for regular hours of work to permanent full time workers (PKWTT)?	8

Does the employer pay the correct district minimum wage for regular hours of work to non-permanent workers (PKWT) and probationary workers?	14
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In Focus 6 : Paid Leave

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer pay workers correctly for annual leave?	1
Does the employer pay workers correctly for breastfeeding breaks, as required under the work agreements, company regulations or collective agreement?	0
Does the employer pay workers correctly for sick leave?	7
Does the employer pay workers correctly for the rest time before and after childbirth?	6
Does the employer pay workers correctly for work stoppages?	6
Does the employer pay workers correctly for paid public holidays?	4
Does the employer pay workers correctly when they feel pain for the first two days of menstruation and they notify the employer?	1
Does the employer pay workers correctly when they take time off for personal/family matters, as required by national law?	6

F. Contracts and Human Resources

Contracting procedures; dialogue, discipline and dispute, and employment contract for Contracts and Human Resources, have non-compliance rates higher than 70%. In-Focus Tables 7- 10 show the lists of the areas of compliance and non-compliances in detail.

In Focus 7 : Contracting Procedures

<i>Question</i>	<i>Number of factories out of compliance</i>
Do the workers pay any recruitment fees?	0
Does the employer comply with limits on the use of work agreements for a specified period of time (i.e. limits on the employment of non-permanent workers)?	66
Does the employer comply with the requirements concerning home-based workers?	0
Does the employer comply with the requirements concerning sub-contracted workers at the workplace?	31
Does the employer comply with the law and regulations on subcontracting part of its work to another enterprise?	24
Is the probationary period applied only to permanent workers (PKWTT) and for no longer than 3 months?	2

Employers in the garment industry may use non-permanent workers, but a limited contract term of two years and can be extended only once for maximum of one year is strictly regulated by law. However, sixty-six factories were found to have employed non-permanent workers in a way that did not comply with the legally defined limits.

In Focus 8 : Dialogue, Discipline and Disputes

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer resolve grievances and disputes in compliance with legal requirements?	4
Do the disciplinary measures comply with legal requirements?	44
Does the factory have a functioning bipartite cooperation institution?	76

Have any workers been bullied, harassed, or subjected to humiliating treatment?	14
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Seventy six factories were found not to have functioning LKS Bipartite committees because the member composition was unequal, worker representatives were not democratically elected or no regular monthly meetings have been held.

In Focus 9 : Employment Contracts

Question	Number of factories out of compliance
Do all persons working for the factory, both on the premises and offsite, have a work agreement?	53
Do the company regulations comply with legal requirements as stipulated in the labour law and regulations?	39
Do the work agreements comply with company regulations, the collective labour agreement, and prevailing laws and regulations?	23
Do the work agreements specify the terms and conditions of employment?	16
Does the employer give a copy of the work agreement in Bahasa to workers?	34

Fifty three factories were found not providing workers with copy of work agreements. There were also issues concerning subcontractors not providing work agreement to their employees.

In Focus 10 : Termination

Question	Number of factories out of compliance
Are workers given the opportunities required under law to defend themselves before they are terminated?	2
Does the employer compensate workers for unused paid annual leave and other legally required termination/resignation benefits?	46
Does the employer comply with requirements regarding severance pay and reward for service?	23
Does the employer only terminate workers for valid reasons?	20

Forty six factories did not compensate the unused paid annual leave and other benefits when workers resigned or were terminated. This was primarily because those factories did not have adequate systems in place to pay the unused annual leave.

G. Occupational Safety and Health

The CPs for Emergency Preparedness, Health Services and First Aid, and OSH Management Systems have non-compliance rates higher than 90%.

In Focus 11 : Chemicals and Hazardous Substances

Question	Number of factories out of compliance
Are chemicals and hazardous substances properly stored?	64
Does the employer have chemical safety data sheets for the hazardous chemicals used in the workplace, and are the chemicals properly labeled?	79
Does the employer keep an inventory of chemicals and hazardous substances used in the workplace?	59
Does the employer provide adequate washing facilities and cleansing materials in the event of exposure to hazardous chemicals?	54
Has the employer appointed a Chemical Officer?	71
Has the employer trained all the workers who work with chemicals and hazardous substances?	18

In 71 factories, there is no OSH Chemical Officer/Chemical Expert in place, as required by law. Of these 71 factories, 59 did not maintain an inventory of chemicals and hazardous substances used in the workplace. In some cases, factories were marked as non-compliant because they did not report the use of chemicals and hazardous substances to the Local Manpower Office. Without the submission of the inventory to local authorities, the hazard category cannot be established and no specific measures can be fixed. Common chemicals used in garment factories include benzene, acetone, dry spot or dirt remover, diesel oil, machine oil or thinner, among others.

In Focus 12 : Emergency Preparedness

Question	Number of factories out of compliance
Are emergency exits and escape routes clearly marked and posted in the workplace?	67
Are flammable materials safely stored?	32
Are possible sources of ignition appropriately safeguarded?	7
Are the emergency exits accessible, unobstructed and unlocked during working hours, including overtime?	40
Are there enough emergency exits?	4
Does the employer conduct periodic emergency drills?	5
Does the workplace have a fire detection and alarm system?	76
Does the workplace have adequate fire-fighting equipment?	51
Has the employer appointed and trained a fire management team?	105

Seventy six factories were found not to have sufficient fire detection or alarm systems. They did not have smoke or heat detectors in high risk areas such as warehouses because of the high investment needed. Assessments also revealed that in 105 factories no fire management team had been appointed or trained. In most factories, while there was a team, no one had been certified as a fire expert. Escape routes in a majority of 67 factories were not clearly marked or the mark had been peeled off over time. Some others were undergoing renovation at the time of assessment. In addition, emergency exits and/or escape routes in 40 factories were partially or fully obstructed or blocked by boxes, machines or work in progress.

In Focus 13 : Health Services and First Aid

Question	Number of factories out of compliance
Does the employer address safety and health risks to female workers, including to pregnant or nursing workers?	7
Does the employer comply with the requirements on HIV/AIDS?	39
Does the employer provide adequate first-aid facilities?	41
Does the employer provide required medical services?	32
Does the employer provide workers with pre-assignment, annual and special medical checks when required?	42
Does the workplace have adequate trained first aid officers?	70
Has the employer ensured that there are a sufficient number of readily accessible first aid boxes/supplies in the workplace?	98

In 98 factories, there were an insufficient number of first aid boxes or the boxes were lacking supplies. Seventy factories have no trained First Aid Officers or, if any, they lacked the certification from the MoM. Forty-two factories did not provide workers with medical checks. The law requires that employers arrange for pre-employment, periodic and special medical checks at no cost to workers by a certified doctor. Assessment findings reveal that although most of the non-compliant factories had provided pre-assignment and periodic medical checks, they failed to provide special medical checks for workers above the age of 40.

In Focus 14 : OSH Management Systems

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer ensure that the building is safe and have legally required permits?	108
Does the employer have the required certificates for setting/operating the electrical installations as well as other machines and equipment?	17
Does the employer record and report work-related accidents and diseases to the Local Manpower Office?	49
Does the factory have a written OSH policy?	26
Does the factory have an OSH Committee?	78
Has the employer performed initial and regular reviews of general occupational safety and health issues in the factory?	29

In 108 factories, employers were not able to show the legally required safety certificates (Sertifikat Laik Fungsi/SLF). Although some factories were able to show the building permits (Ijin Mendirikan Bangunan/IMB), employers stated that the local authorities had not established a regulation concerning the safety certificate or the procedure on how to acquire it was not clear. The law requires that local authorities make an implementation plan for the district, and it is clear that in some cases this has not been completed. Seventy eight factories were marked as non-compliant with the requirement of having an OSH Committee. Although many factories did have OSH Committees (Panitia Pembina Keselamatan dan Kesehatan Kerja/P2K3), in many cases, the Secretary of the committee was not a certified OSH expert. The law also requires that the OSH committee consist of both workers and management representatives, with the head of the Committee being a high level management representative. The committee is also required to submit a report on the activities of the OSH committee to the Local Manpower Office every 3 months.

In Focus 15 : Welfare Facilities

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer provide adequate lockers for workers to store their personal belongings?	31
Does the employer provide workers enough free safe drinking water?	13
Does the workplace have adequate accessible toilets (separated by gender)?	26
Does the workplace have adequate hand washing facilities and adequate soap?	35
Does the workplace have an adequate eating area?	53
Is the workplace clean and tidy?	25

In Focus 16 : Worker Protection

<i>Question</i>	<i>Number of factories out of compliance</i>
Are all workers trained and obligated to use machines and equipment safely?	33
Are all workers trained and obliged to use the personal protective equipment that is provided?	49
Are appropriate safety warnings posted in the workplace?	20
Are electrical wires, switches and plugs properly installed, grounded, and maintained?	29
Are proper guards installed and maintained on all dangerous moving parts of machines and equipment?	39
Are workers punished if they remove themselves from work situations that they believe present an imminent and serious danger to life or health?	0
Do the operators/technicians/officers responsible for machinery/equipment/installations/lifting equipment have the required license?	22

Does the employer comply with ergonomic requirements?	88
Does the employer provide workers with all necessary personal protective clothing and equipment?	42

Eighty eight factories did not comply with ergonomic requirements as required by national law. Indonesian law requires that workers who are required to sit during his/her job should be provided with seating that is suited to their body size and comfort, and it must have a backrest. Standing workers must also be provided with seating when they need rest.

In Focus 17 : Working Environment

<i>Question</i>	<i>Number of factories out of compliance</i>
Are noise levels measured by the employer and in line with the applicable standards?	10
Is the workplace adequately lit?	4
Is the workplace climate measured by the employer and in line with the applicable standards?	51

Fifty-one factories did not measure the climate or it was found that the climate was not in line with the applicable standard. Under the Indonesian regulation, climate must be measured based on web-bulb globe temperature. Some factories used room thermometer to measure the temperature, where it showed higher than Indonesian standard, which is 30 Celsius degree (on web-bulb globe temperature).

H. Working Time

In Focus 18 : Leave

<i>Question</i>	<i>Number of factories out of compliance</i>
Can female workers take time off when they feel pain during the first two days of menstruation and they notify the employer?	31
Does the employer allow workers to take time off for personal or family matters as required by national law?	24
Does the employer allow workers to take time off when they are sick?	0
Does the employer provide 1.5 months of maternity rest before a worker's estimated due date and another 1.5 months after delivery?	11
Does the employer provide 12 days of annual leave per year?	25
Does the employer provide opportunities for breastfeeding breaks?	56

Indonesian law requires that breastfeeding breaks are provided. However regulations do not mention how long the break must be. The large number of non-compliant factories can be attributed to the fact that there is no policy to regulate how workers can take a break for breastfeeding. Better Work advises that the break can be regulated on the collective bargaining agreement, company regulation or a special policy to provide it.

In Focus 19 : Overtime

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer prepare written instructions on overtime?	22
Is overtime limited to 3 hours per day, 14 hours per week?	88
Is overtime voluntary?	4

In 88 factories, both production and non-production workers were found to have worked overtime more than three hours per day and 14 hours per week. Excessive overtime was conducted mostly because of production

demand, such as rush shipment date. In 22 factories, employers did not prepare written instructions on overtime, as required by law. In most cases the non-compliance was cited because the written instructions had not been provided to non-production workers such as security guards.

In Focus 20 : Regular Hours

<i>Question</i>	<i>Number of factories out of compliance</i>
Do regular daily and weekly working hours exceed legal limits (40 hours per week; 7 hours a day, 6 days a week or 8 hours per day, 5 days a week)?	38
Do the attendance records reflect the hours actually worked?	68

In 68 factories, attendance records were inaccurate because not all overtime hours were reflected in attendance records, or there were additional activities such as regular production meetings or Monday ceremony for 15-30 minutes (raising of national flag) which were not reflected. Assessments for the mentioned factories consistently revealed a lack of a reliable attendance recording system for non-production and all-in workers such as security guards.

Section III: Changes in Compliance

Methodology

This section of the synthesis report addresses the 73 factories that have been assessed more than once by Better Work Indonesia.

Chart 2 shows the changes in non-compliance that have occurred in these 73 factories in the most recent Better Work Indonesia assessment compared with the previous one. Better Work defines compliance effort as the difference in non-compliance between two consecutive Better Work assessments.

As such, positive percentages indicate improved performance, and negative percentages indicate a decline in performance.

It is important to note that the data may not fully capture all improvements made at a factory, as a question or compliance point may still be non-compliant even if positive changes have been made.

Findings

Each cluster is explored in detail below:

Child Labour

- Eight factories improved their documentation and protection of young workers. Two factories were found to have put systems in place to verify the age of workers prior to hiring. Three factories were found to have moved the workers under the age of 18 and placed them in a separate workplace from adult workers.

Forced Labour

- One factory improved its voluntary overtime payment system.

Discrimination

- Eleven additional factories hired one disabled worker for every 100 workers. During advisory sessions, the Enterprise Advisor facilitated a meeting between the factory management and the organizations concerned with disabilities, including Balai Besar Rehabilitasi Vokasional Bina Daksa (BBRVBD) – a government owned vocational training center for people with disabilities located in Bogor, West Java. This initiative has contributed to the improvement.

Freedom of Association

- Four additional factories began to implement the prevailing provisions of collective bargaining agreement.
- Workers in 3 additional factories were free to join a union of their choice.
- Three additional employers stopped trying to intervene, manipulate or control the union(s).

Compensation

- The number of employers paying workers incorrectly for all overtime hours worked, including overtime on regular working days, public holidays and weekly rest days decreased from 93 to 30. The CP for Social Security shows a negative downward trend. This can be attributed to the newly established health care system and the time it takes to implement the changes. However, there were significant improvements made where the employers collected and forwarded workers' contributions for social employment security and health care security in 7 additional factories and 15 additional employers paid the required contributions.

Contracts and Human Resources

- Sixteen additional employers complied with the law and regulations on subcontracting part of their work to other enterprises. These factories now have an internal system to make sure that when they use subcontractors, they obtain a statement from the subcontractors that they will implement the prevailing labour law and regulations. Other factories have audit/monitoring systems to their subcontractors.
- Sixteen additional factories have functioning bipartite cooperation institutions. In the advisory process, BW Advisors facilitate the establishment of the bipartite cooperation institution according to the regulations. The advisors also facilitate the monthly meeting and report the result to the local manpower office.
- There are terminations, especially in the factories in Greater Jakarta, due to high minimum wage. Hence the non-compliance rate has increased as the factories did not pay the unused leave and other legal benefits due to termination.

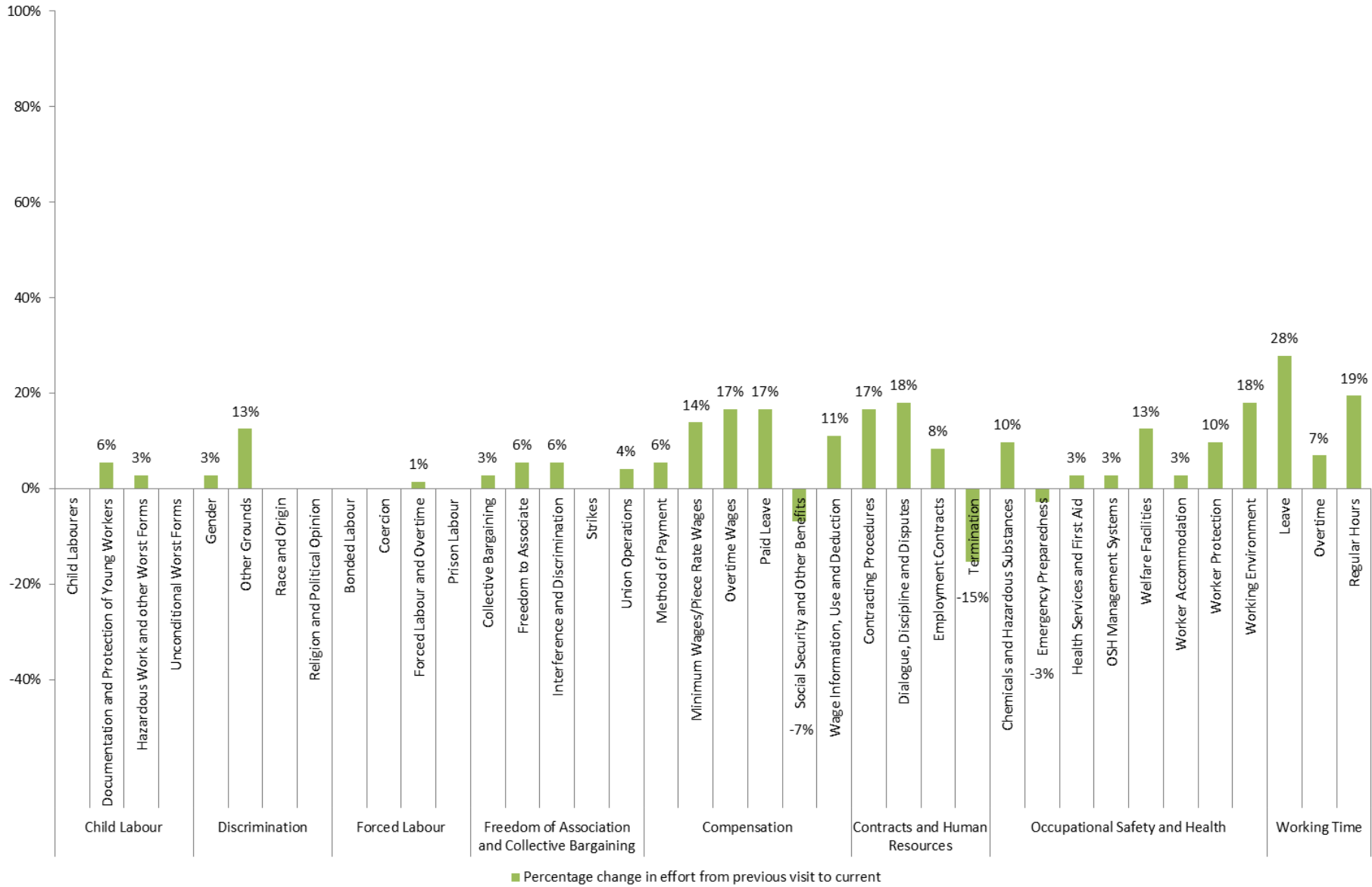
Occupational Safety and Health

- We see more than half of the factories (55%) improving the provision of lockers for workers to store their personal belongings. More employers also have provided adequate accessible toilets, separated by gender, and have had adequate hand washing facilities and adequate soap.
- Electrical wires, switches and plugs are properly installed, grounded and maintained in 15 additional factories. Standing workers are properly accommodated in 22 more factories. Twenty seven more factories trained their workers effectively and obliged them to use the personal protective equipment that is provided. Twenty additional factories effectively trained workers to use machines and equipment safely. Standing workers in 22 factories are now properly accommodated.
- Emergency preparedness is still challenging as the installation of fire detector and alarm needs quite big investment.

Working Time

- Thirty three more employers provide opportunities for breastfeeding breaks.
- Ten factories have reduced regular weekly working hours to 40 hours.

Chart 2 : Compliance effort



Challenges to Achieve the Compliance Level

In 2015, the new scheme of social security would be implemented. The scheme of *BPJS Kesehatan* which should apply since 1 January 2015 was postponed until 1 July 2015 based on the agreement between BPJS Kesehatan dan the Indonesian Employers Association (Asosiasi Pengusaha Indonesia/APINDO). BWI has suggested some factories to register their workers to BPJS Kesehatan (and obtain a confirmation letter if the registration can not continue), while at the same time they still implement their existing health care insurance system.

Concerning BPJS Ketenagakerjaan (previously called JAMSOSTEK), most factories kept registering their workers to the social security programs related to work accident, old age, and death. BPJS Ketenagakerjaan would also provide pension plan program starting from 1 July 2015. It means that in the age of retirement, a worker will receive long life money every month. The premium as much as 3% of the monthly salary, 2% from the employers and 1% from the workers, will be paid to this program.

Section IV: Conclusions

The 5th compliance synthesis report highlights several challenging issues affecting compliance which require action and support from all key stakeholders. Some of this support and action may come in the form of technical advice and capacity increase. Legislation and government policy play also a key role and BWI is working closely with government and relevant stakeholders in taking some of these important discussions and action forward. In the Project Advisory Committee (PAC) meeting, the MoM representatives stated their commitment to support the company-wide working conditions improvement through both provincial and regency governments to follow up the findings in this synthesis report and set up a coordinative work plan involving authorities in the provincial level.

Other Better Work Indonesia stakeholders, such as trade unions, employer 'associations and international buyers have an equally instrumental role to play in boosting future improvements and compliance. The areas that BWI would like to prioritize and gather the necessary will and action around are:

- **The composition and function of Bipartite Committee (LKS Bipartit):** the composition and membership of Bipartite Committee (LKS Bipartit) is not fully representative of all parties in the factories; non-union workers are not democratically elected; meetings are not being held monthly or regularly nor reported to the Local Manpower Office.
- **Composition, technical capacity and function of the OSH committees (P2K3):** the biggest area for non-compliance is on issues related with OSH. In our view the root cause for many of the non-compliance situations lies with mal-functioning OSH committees. One of the issues is that OSH committees are not meeting regularly (monthly) nor reporting on their activities to the Manpower Office. Most of factories registered to BWI do not have a general OSH expert acting as the secretary of P2K3 either. In addition, in some of the factories, P2K3 is not chaired by top management. Lack of P2K3 OSH programmes in those factories also leads to high non-compliance rates in the OSH cluster.
- **Quality and level of implementation of Collective bargaining Agreements (CBAs):** The quality of Collective Bargaining Agreement needs to be improved, with 23% factories not implementing all the provisions stipulated in the CBA or with some of the provisions proving to be less beneficial to workers than national law.
- **Freedom of Association:** freedom of association should be improved as well, including union administration, considering that a number of factories in the Better Work Indonesia are cited non-compliant for having management representatives that run independent unions or because of automatic union membership for all workers with or without written consent.
- **Overtime and contracts:** There are issues concerning overtime wage, such as incorrect overtime premium calculation, incorrect classification of workers as *all-in*, work days substitution, or unpaid additional work that need to be addressed.

Annex A: Factories Covered in this Report

Avery Dennison Group (Paxar Indonesia, Pacific Label Indonesia, Avery Dennison Packaging Indonesia)
PT Ameya Livingstyle Indonesia
PT Bomin Permata Abadi
PT Buma Garment Industry
PT Bunga Teratai Cemerlang
PT Busana Prima Global
PT Cartini Lingerie Indonesia
PT Cipta Dwi Busana
PT Citra Abadi Sejati (Bogor)
PT Citra Abadi Sejati (Cikarang)
PT Citra Abadi Sejati (Cileungsi)
PT Crevis Tex Jaya
PT C-Site Texpia
PT Dada Indonesia
PT Daehan Global (Cibinong)
PT Daehan Global (Sukabumi)
PT Daenong Global
PT Daese Garmin
PT Dewhirst Menswear
PT Dong-A Decal
PT Doosan Dunia Busana
PT Doosan Jaya Sukabumi
PT Doosan Sinar Sukabumi
PT Dream Sentosa Indonesia
PT Dream Wear
PT Eastern Modern Garment
PT E-Jade Global
PT Fajar Tunggal Nasional
PT Fokus Garmino
PT Fotexco Busana International
PT GA Indonesia
PT Gistex Garmen Indonesia (Cileunyi)
PT Gistex Garmen Indonesia (Majalengka)
PT Golden Flower
PT Goldindo Primatama Sweater
PT Good Guys Indonesia
PT Greentex Indonesia Utama
PT Greentex Indonesia Utama II
PT G-Texpia International

PT Gunung Salak Sukabumi
PT Hansae Indonesia Utama
PT Hansae Karawang Indonesia
PT Hansoll-Hyun
PT Harimau Indah
PT Hesed Indonesia
PT Holi Karya Sakti
PT Hop Lun Indonesia
PT HS Garment
PT Hyupseung Garment Indonesia
PT ING International
PT Inkosindo Sukses
PT Jaya Asri Garmino
PT JS Jakarta
PT Kahatex (Panca Brothers Central Garmenindo)
PT Kahoindah Citragarment
PT Koin Baju Global
PT Kukdong International
PT Laxmirani Mitra Garmino
PT Leetex Garment Indonesia
PT Masterindo Jaya Abadi
PT Maxmoda Indo Global
PT Mitra Garindo Perkasa
PT Morich Indo Fashion
PT Muara Griya Lestari
PT Muara Krakatau
PT Mulia Cemerlang Abadi
PT Noble Indonesia
PT Notos
PT Pan Asia Jaya Abadi
PT Pan Pacific Jakarta Cabang Semarang
PT Pan Pacific Nesia
PT Pan Rama Vista Garment
PT Pandu Dewa Nata
PT Pertiwi Indo Mas
PT Pinnacle Garments
PT Poong In Indonesia Co., Ltd
PT Rismar Daewoo Garment (Jakarta)
PT Royal Fashion
PT Sabena Cipta
PT SAI Garment Industries

PT SAI Garments Industries
PT Sam Kyung Jaya Garments
PT Sam Sam Jaya Garments
PT Samwon Busana Indonesia
PT Sandang Asia Maju Abadi
PT Sandang Mutiara Cemerlang
PT Sandrafine Garment
PT Sari Warna Asli Textile Industry (Surakarta)
PT Semarang Garment
PT ShinWon Ebenezer
PT SJ Mode Indonesia
PT Solo Kawistara Garmino
PT Star Camtex
PT Sumber Bintang Rejeki (Semarang)
PT TA Global Indonesia
PT Tainan Enterprises Indonesia
PT Taitat Putra Rejeki
PT Theodore Pan Garmino
PT Tiga Gunung International
PT Tiga Kyung Seung Garmen
PT Trinunggal Komara
PT Trisula Garmino Manufacturing
PT Tun Yun Garment Indonesia
PT Tuntex Garment Indonesia
PT Tupai Adyamas Indonesia
PT Ungaran Indah Busana
PT Ungaran Sari Garments (Congol)
PT Ungaran Sari Garments (Pringapus)
PT Universal Kharisma Garment
PT Victory Garment Semarang
PT Willbes Global
PT Wintai Garment
PT Woo Shin Garment Indonesia
PT Woon Indonesia
PT YB Garment Jaya
PT Yongjin Javasuka Garment I
PT Yongjin Javasuka Garment II
PT YOU TEX
PT. SGWICUS INDONESIA
PT. Vision Land Semarang

Annex B: Buyers Participating in Better Work Indonesia

Abercrombie & Fitch
Adidas Sourcing Limited
American Eagle Outfitters, Inc.
Ann Inc.
ASICS Corporation.
Barco Uniforms
Esprit Holdings Ltd. / Esprit De Corp (Far East) Ltd
GAP Inc.
H&M Hennes & Mauritz GBC AB
Inditex
J.Crew
Kohl's Department Stores Inc.
Levi Strauss & Co
Li & Fung Trading Ltd / Fishman & Tobin
MGF Sourcing Far East, Ltd.
New Balance Athletic Shoes Inc.
NIKE, Inc.
Ninewest Holdings, Inc.
Outdoor Custom Sportswear
Pentland Brands Plc
Polo Ralph Lauren Corporation
Primark Stores Ltd.
PVH Corp.
Sears Holdings Management Corporation
Talbots, Inc.
Target Corporation
The Children's Place
Wal-Mart Stores, Inc.
Walt Disney Company