



BetterWork

**Annual Report 2017:
An Industry and
Compliance Review**
Indonesia

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AUGUST 2015 - DECEMBER 2016



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Summary Findings

Better Work has been conducting assessments of working conditions in Indonesia's export-oriented garment factories since 2011. The current report draws on findings of assessments conducted between August 2015 and December 2016 by Better Work Indonesia in 153 factories. Just over half (80) of the 153 factories in the sample were newly registered to the programme, or have been with the programme for less than 2 years (cycle one or cycle two).

The Findings section examines the relationship between the length of time that factories have been enrolled with Better Work Indonesia and non-compliance on ILO core labour standards and national labour law (section 2.1). The analysis also includes a snapshot of issues which are subject to public reporting (see box) as of July 2017 for all 153 factories. Using publicly reporting questions, section 2.2 also includes a trend analysis for factories that have been with the programme at least four years. The resultant charts illustrate decreasing non-compliance in factories that continue to receive Better Work advisory, assessment, and training services.

As with past publications, the Report provides a comprehensive overview (section 2.3) of non-compliance rates of all 153 factories assessed in the 18-month reporting period. The analysis in this section includes non-compliance rates for the 37 Compliance Points that cover working conditions and fundamental rights at work. The section highlights insights into the key drivers of non-compliance, based on Better Work's assessment and advisory work with enterprises.

IMPACT OVER TIME ENROLLED WITH BWI

◆ Although data on some questions was inconclusive, most non-compliance metrics improved with the length of involvement with the programme. On the question of compliance with Termination standards (process and payment for dismissed or resigning workers) non-compliance fell from

61 percent for cycle one to 7 percent for cycle five factories.

◆ On those issues to be subject to public reporting significant non-compliance rates were found in the Compensation cluster, particularly on the issue of correct overtime pay (50 percent). Also significant were issues in the Occupational Health and Safety cluster around the safe storage of chemicals and hazardous substances (46 percent), the existence of OSH committees (44 percent), fire detection and alarm systems (43 percent) and the accessibility of emergency exits (42 percent).

Trends observed in factories with 4 or more assessment cycles

Using the 26 questions that form the basis of public reporting as of July 1, 2017 (see box) and looking at the 44 factories that have four years or more with the programme, the following results, among others, were observed:

- ◆ Consistent and often significant improvements were seen in the OSH cluster, including on the storing of chemicals and hazardous substances, drinking water, fire detection systems and the presence of OSH committees. For instance, non-compliance on the latter issue fell from 86 percent in cycle one, to 23 percent in cycle four.
- ◆ In the Compensation cluster all metrics showed improvement in non-compliance, however the question of overtime work remains an issue. In cycle one, 52 percent of factories were non-compliant on the issue of correct overtime payments on regular days, by cycle four the figure had improved to 41 percent.
- ◆ On the Contract and Human Resources cluster, non-compliance on work agreements and bullying and harassment showed clear reductions, 75 to 16 percent and 30 to 9 percent respectively.

- ◆ Core ILO standards on freedom of assembly and collective bargaining agreements showed considerable improvement over the four cycles. By the end of the fourth cycle all of the 44 factories in this subsample had no non-compliance on the question of freedom to join unions, implementation of collective bargain agreements and management interference in unions.

For section 2.3 it was found that assessment results from factories covered in this report are largely consistent with the findings of previous Better Work reports, with non-compliance most heavily concentrated in the working conditions clusters, particularly Occupational Safety and Health and Contracts and Human Resources. Regarding core labour standards, acting to address discrimination against people with disabilities continues to be a challenge. Also, out of the 53 percent of factories under review that have a collective bargaining agreement (CBA), 22% of them have issues related to the content of the CBA being different than the law and lack of awareness by workers. Factories that have been part of Better Work for longer often have lower non-compliance rates compared to those that have joined the programme more recently.

ILO CORE LABOUR STANDARDS

Child Labour

There were no findings of children under the age of 15 engaged in work in BWI registered factories. Sources of non-compliance in the Child Labour cluster include three instances (2 percent) of workers under 18 working in an environment which, as per the applicable regulation, is considered hazardous; three cases (2 percent) of workers under the age of 18 working overtime or at night and five cases (3 percent) of improper documentation of workers under the age of 18. All the factories that have non-compliance in the Child Labour cluster are either in their first or second cycle.

Discrimination

Non-compliance in the Discrimination cluster was

mostly due to failure to observe the national requirement on the hiring of people with disabilities. 87 percent of factories did not comply with the established quota of one person with disabilities employed for every 100 workers. Despite the importance of such regulations for social inclusion and Better Work and government initiatives to address the issue, factories face persistent challenges in encouraging people with disabilities to apply for jobs.

Forced Labour

In this reporting period, Better Work Indonesia found no evidence of Forced Labour.

Freedom of Association and Collective Bargaining

Non-compliance under the Freedom of Association and Collective Bargaining cluster was largely due to issues with Collective Bargaining, with 22 percent of factories non-compliant. There was a smaller percentage of factories non-compliant on issues related to Freedom to Associate (7 percent of factories), Interference and Discrimination (2 percent of factories), and Union Operations (2 percent of factories). This cluster together with some aspects of the Discrimination cluster including issues such as sexual harassment may be seriously under-reported due to the difficulty in obtaining conclusive and incontestable proof of non-compliance, as required by Better Work assessments.

WORKING CONDITIONS

Compensation

The non-compliance rates in the Compensation cluster are concentrated in Social Security and Other Benefits (67 percent of factories non-compliant) and Overtime Wages (64 percent non-compliant factories). Non-compliance in the Compensation cluster was also observed in Wage Information, Use and Deduction (31 percent of factories non-compliant); Minimum Wage/Piece Rate Wages (26 percent); and Paid Leave (20 percent).

Contracts and Human Resources

The non-compliance rates in the Compensation Contracts and Human Resources Cluster are 68 percent for Dialogue, Discipline, and Dispute and Employment Contracts; 65 percent for Contracting Procedures; and 45 percent for Termination. Half of the factories under review did not comply with limits concerning the use of non-permanent workers (PKWT). Fifteen per cent of factories do not comply with requirements concerning sub-contracted workers.

Occupational Safety and Health

As in previous reports, the non-compliance rate in Occupational Safety and Health (OSH) continues to be persistently high. The highest non-compliance rates are concentrated in Health Services and First Aid (91 percent), OSH Management Systems (91 percent), Worker Protection (90 percent), Emergency Preparedness (86 percent) and Chemicals and Hazardous Substances (84 percent).

The reasons behind non-compliance in this area are varied. Lack of a culture of safety and care lies behind issues such as non-availability of chemical safety sheets or the non-use of PPE equipment. Lack of proper systems sometimes comes into play, such as in the case of fading emergency exit marks. And finally, cost and financial considerations are an impediment to compliance as can be seen with the case of medical check-ups. Better Work has been working intensely

in improving factories compliance in this challenging area. The analysis (section 2.2) on some of the OSH issues covered by public reporting shows that improvements can be achieved in a sharp and sustained way especially for those factories that have been with the programme for longer.

Working Time

The vast majority of factories (71 percent) do not meet the daily and weekly overtime limit. Overtime issues are a persistent challenge for the garment industry, and Better Work's research provides evidence of the adverse consequences of sourcing pressure. Factory managers' concern with supply chain pressures such as uncertain orders, late delivery penalties, and changes in technical requirements, Indonesian customs requirements, can also translate into working hours violations.¹

More than 50 percent of factories were non-compliant with regular working time requirements. The primary issues included regular working time for security guards and inaccurate attendance records, mostly due to overtime on Sundays or in excess of three hours. Additionally, 40 percent of factories failed to provide workers with some types of statutory leave. Employers often struggle also with the unpredictable and sometimes short notice scheduling of public holidays by government and would like to see better planning and coordination with the relevant authorities.

Section I: Introduction

Indonesia is the world's fourth most populous nation, the 10th largest economy in terms of purchasing power parity, and it is a member of the G-20. Indonesia's labour market continues to perform well. The unemployment rate continues to trend downwards. At 6 percent (2016), Indonesia's unemployment rate is considerably below the levels observed in 2007 (above 9 percent)². With a population of approximately 250 million, Indonesia's labour force is estimated at 125.3 million people, of which a total of 2.2 million³ people work in the wearing apparel sector. Around a quarter of these workers (636,684), work in 2,253 large and medium sized enterprises, which are strongly connected to the export market.⁴

The Better Work Indonesia Programme seeks to address working conditions issues by focusing on improving workers' lives and strengthening the competitiveness of the Indonesian garment and footwear sector. At the end of 2016, BWI worked with 182 factories, with a total of 400,000 workers, 83 percent of whom are female workers.⁵ These factories employ from 111 to 12,899 workers, which means that all BWI factories fall under the national statistics agency (BPS) definition of large enterprises (above 100 workers). BWI plans to cover almost half of all garment and footwear large enterprises by the end of 2018.

The programme engages with participating factories by conducting independent assessments and offering advisory and training services. As part of its mandate of sharing information with all programme stakeholders, and encouraging continuous improvement, BWI uses aggregate factory assessment data to produce public annual reports that review the performance of all participating factories during the reporting period. This six annual report provides an overview of the working conditions of 153 factories assessed during the period elapsing from August 2015 to December 2016.

Although a total of 184 assessments were conducted during this period, only the latest assessment findings for each factory were used in this report.

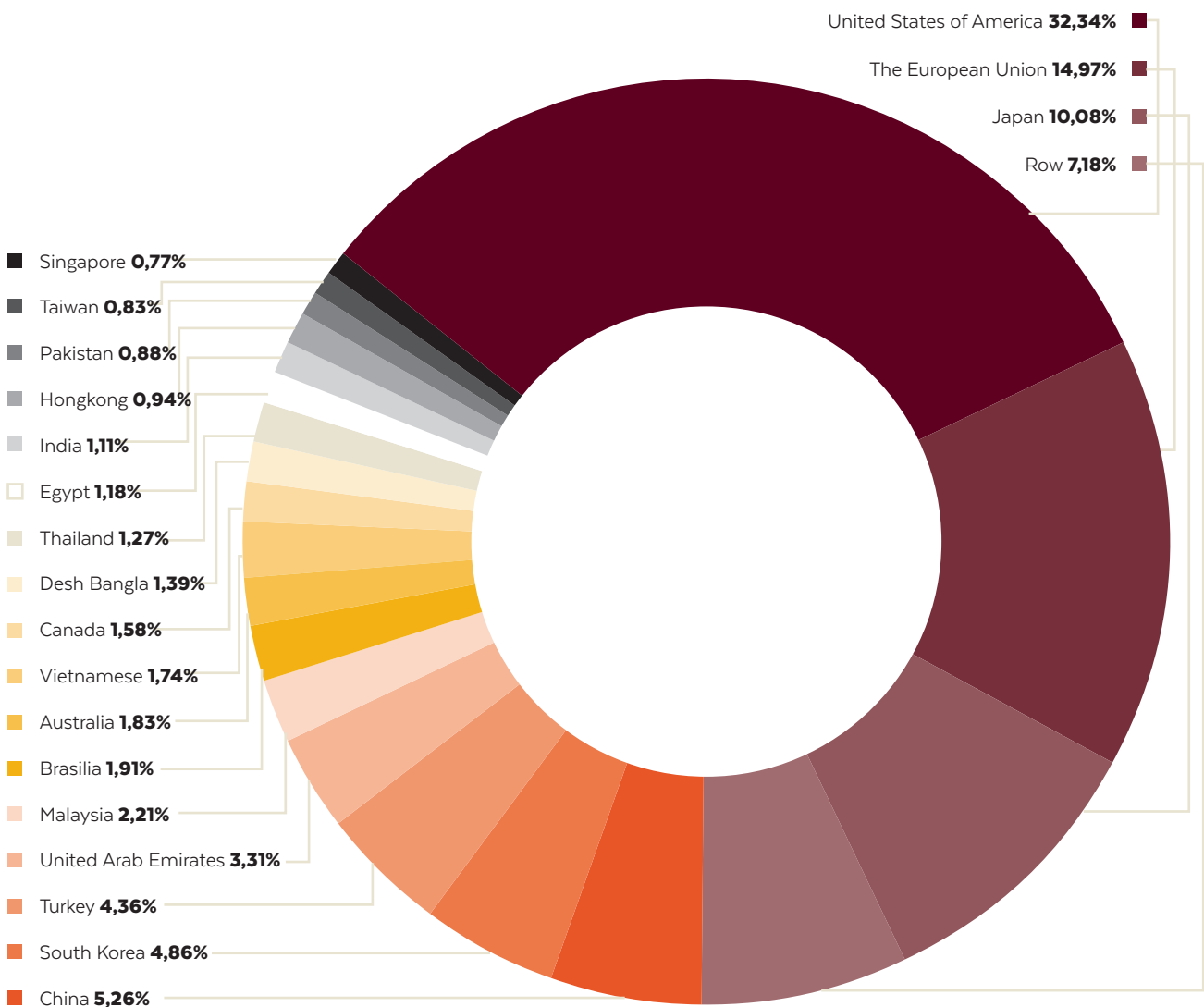
INDUSTRY PROFILE

The garment industry, together with the textile industry, is an important contributor to Indonesia's economy. In 2015 the World Trade Organization reported that Indonesia ranked among the top 15 global garment exporters, with USD 7.7 billion worth of exports in 2014⁶. Sluggish global economic growth in 2015 decreased Indonesia's exports by as much as 7.12 percent; however, as per the National Statistics Agency (BPS) report in December 2016, the garment industry still accounts for about 10 percent of Indonesia's total exports, reaching USD 4 billion⁷.

The Government of the Republic of Indonesia has developed a roadmap and framework to boost textile and apparel exports. The Ministry of Industry has announced two approaches to building the competitiveness of the sector and integrate relations between central and local governments. Firstly, through a development of 35 priority industrial clusters. Secondly, through the determination of core competencies of local industries so that they have a competitive edge⁸. Also, the Ministry has reported that government is optimistic about the progress of discussions and negotiation of trade agreements with its main export market countries⁹.

In 2016, according to the Indonesian Textile Association (API), the total export of Indonesian Textile and Indonesian Textile Product was as much as USD 11.83 billion to various international markets, with exports to the US accounting for 32,34 percent of the total, followed by the European market with 14,97 percent and Japan at 10,06 percent¹⁰.

**FIGURE 1: TEXTILE & TEXTILE PRODUCT EXPORT
2016 = USD 11.83 BN.**



There are over 2,253 medium and large size garment manufacturers¹¹ in Indonesia, mainly manufacturing shirts, cotton T-shirts, corsets, underwear, coats, sports shirts and trousers. Statistics show that in 2013 the industry employed about 2 million workers, of which 636,684 work in large and medium sized garment manufacturers¹². Primary production areas for garment and textile products in Indonesia are DKI Jakarta, East, Central and West Java provinces. West Java province

constitutes approximately 55 percent of the geographical distribution of the industry¹³. Despite the apparent lethargic growth of the apparel industry in the past three years, the Ministry of Industry reported that investment flow in the sector remains at a steady pace with new factories operating in new industrial areas around West and Central Java¹⁴.

BETTER WORK INDONESIA

Better Work is a partnership between the International Labour Organization (ILO) and the International Finance Corporation (IFC), part of the World Bank Group. It collaborates with key local and international stakeholders including international brands sourcing from Indonesia. The programme was launched in 2008 at the request and with the support of the Government of Indonesia and social partners. The goal of the programme is to reduce poverty by expanding decent work opportunities in the garment sector. The programme also aims to improve the competitiveness of the industry by ensuring compliance with Indonesian Labour Law and the ILO's Core Labour Standards and by enhancing economic performance at the enterprise level.

BWI engages with participating factories by conducting independent assessments and offering advisory and training services. In addition, the programme shares information with all stakeholders and uses its aggregate data to engage the local stakeholders. The programme is advised by a tripartite Project Advisory Committee (PAC), comprising of representatives from the government, employer organizations and worker organizations.¹⁵ The PAC has played an important role in building stakeholder support for the programme, identifying challenges and building tripartite consensus around proposed solutions. The PAC holds regular meetings where members discuss industry updates and brainstorm action points. The PAC is complemented by an annual buyer's forum, which provides for broad stakeholder consultation.

POLICY CONTEXT

The long term objective of Better Work is to have stable and prosperous garment and footwear sectors that compete on working conditions and quality of products. This can only be achieved by continuing working at the factory level and also through supportive government policies and empowered workers and management working in partnership.

BWI's partnership with the Indonesian government and notably with the Ministry of Manpower (MoM) has

produced important by-products such as the ad-hoc committee on law interpretation and enforcement - a key fora of discussion with government on issues affecting the sector and law applicability. Currently BWI is supporting the ILO Office in its engagement with government and social partners on issues related to wage policy and functioning bipartite committees (LKSBs).

BWI continues to support the development of the MoM Labour Compliance Programme - PROKEP (Program Kepatuhan/Compliance Program). PROKEP aims to improve compliance and address labour inspection resource limitations through partnership with the private sector. PROKEP, in its current (draft) form, will serve as a risk-assessment tool for employers and will lead to public recognition, by government, of enterprises compliance levels with national law.

A Labour Law review process has been announced at the end of 2016 aiming at revising the three main Labour Acts, i.e., the Act 13 of 2003 (Manpower Act), Act 2 of 2004 concerning Industrial Relations Dispute Settlement and Act 21 of 2000 concerning trade unions/labour unions. The review process aims to update current legal references reflecting past years' decisions by the Constitutional Court which have made a substantial part of these legal texts outdated. It is also been implemented within an overall context of simplification of labour law and promotion of a pro-investment strategy. There are, at least, three key areas under discussion: the efficiency of the dispute settlement system, the use of non-permanent workers and the current system for severance payments. BWI is engaging with key actors behind the review process as this may significantly affect the landscape of compliance for the years to come in sector and more widely.

BWI is also seeking to implement specific programmes to support capacity and outreach of trade unions and employers' organizations in the sector. These programmes aim at improving capacity of factory and branch level unions and employer' associations to prevent and solve disputes and advance rights and better support their members. A specific focus will also be put on empowering women in trade unions and bipartite committees.

Section II: Findings

This section of the report highlights the generally positive correlation between the length of involvement with Better Work Indonesia and factory compliance. Using as a base selected compliance criteria, namely issues that are subject to public reporting, the report shows both a snapshot of the current state of play in BWI enrolled factories and examines the trend in performance of 44 factories that have been part of the programme for four years.

This analysis is followed by a detailed breakdown of the broader compliance situation on all criteria within the reporting period. It contains analysis of the assessment findings in all relevant factories (i.e those that

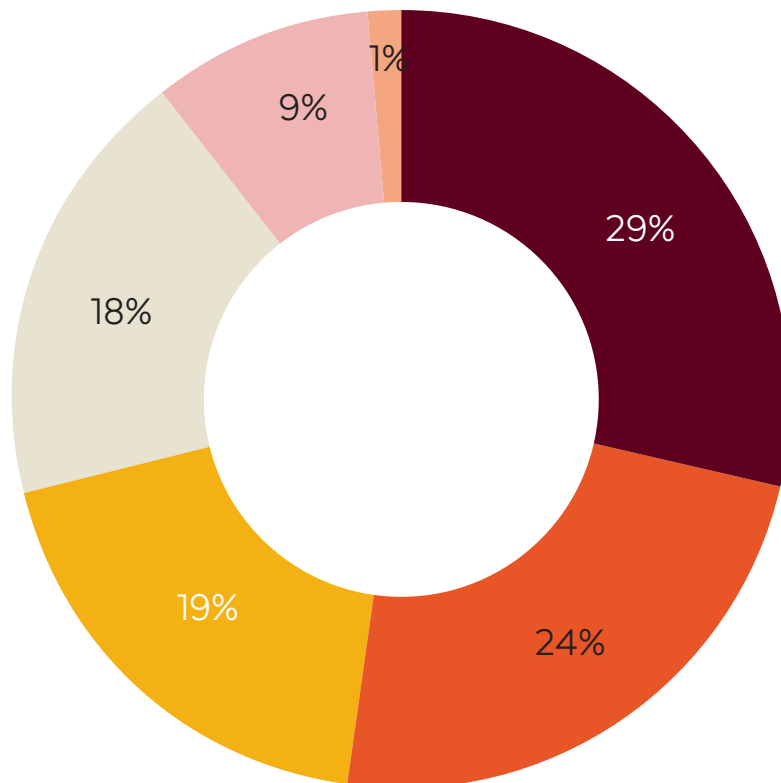
have completed two assessment cycles) on core ILO and national standards.

2.1 COMPLIANCE LEVELS AND LENGTH OF ENGAGEMENT WITH BETTER WORK

Just over half of the 153 reporting factories were newly registered to the programme, or have been with the programme for up to 2 years or less (cycle one or cycle two). Remaining factories are almost evenly divided into those in cycles 3 and 4 (57 total factories) with only 16 factories enrolled in the programme for five or six cycles.

FIGURE 2: NUMBER OF FACTORIES IN A CYCLE AND THE PERCENTAGE OF ALL FACTORIES IN THE AUGUST 2015 TO DECEMBER 2016 ASSESSMENT PERIOD

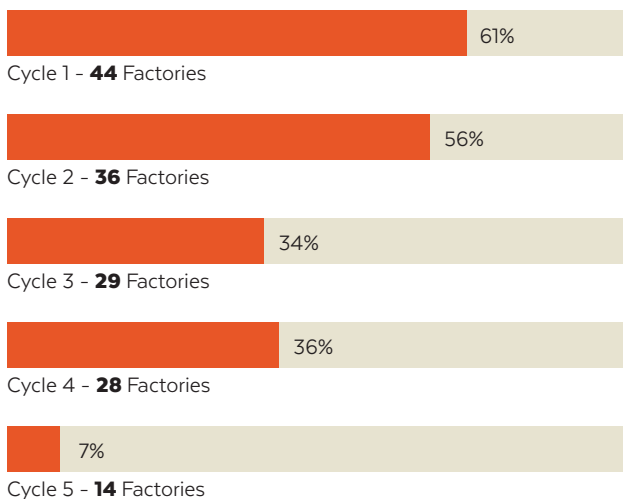
- Cycle 1 - **44** Factories
- Cycle 2 - **36** Factories
- Cycle 3 - **29** Factories
- Cycle 4 - **28** Factories
- Cycle 5 - **14** Factories
- Cycle 6 - **2** Factories



Factories that have been a part of Better Work for longer commonly have lower non-compliance rates than those that have recently joined the programme. This trend can be clearly seen in the Termination Compliance Point in the Contracts and Human Resources Cluster (see fig 3). Factories in cycle 1 have, during the most recent assessment period, had a much higher non-compliance rate (61 percent), when compared with those factories that were in cycle four (36 percent). As the pie chart above shows (fig 2), the majority of factories are in cycles one and two, and the corresponding high concentration of non-compliance among newer factories skews overall compliance numbers.

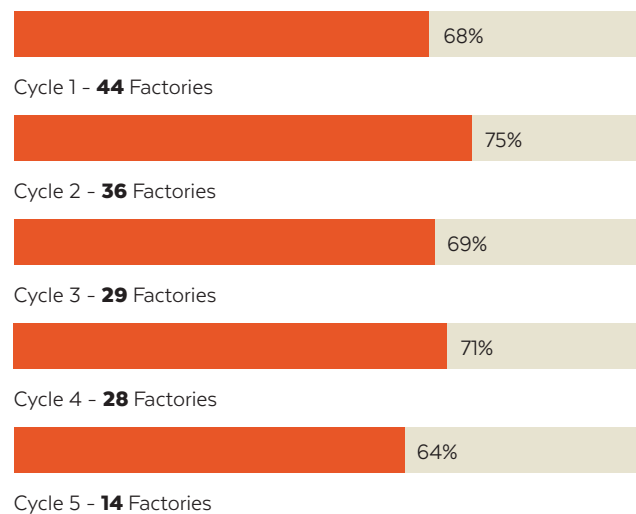
Figure 3 shows the relationship between the length of the period of factories joining BWI and the trend of improved of compliance on Termination questions, as result of assessment, advisory and training implemented.

FIGURE 3 : NON-COMPLIANCE RATE DISAGGREGATED BY FACTORY CYCLE ON TERMINATION COMPLIANCE POINT (OVERALL NC RATE OF 45%)



However, not all trends are as obvious. The disaggregated by cycle data on some compliance issues shows only small variation in non-compliance. For instance, on Overtime issues (fig 4), there is no clear trend. This points to the persistent nature of some forms of non-compliance.

FIGURE 4 NON-COMPLIANCE RATE DISAGGREGATED BY FACTORY CYCLE IN THE OVERTIME COMPLIANCE POINT (OVERALL NC RATE 91%)



BOX: Public reporting of key compliance data comes to Indonesia

From 1 January 2017, all factories that have had at least two assessments will be subject to public reporting, with data first becoming available on the Better Work website (transparency portal) in July 2017. The introduction of factory-level public reporting is a significant addition to Better Work Indonesia's programme and is part of a wider roll out in many of the countries in which Better Work operates. It comes after the experience of Better Factories Cambodia has shown that public reporting improves both compliance at the enterprise level and enhances the reputation of the sector.

There are 26 compliance questions selected for public reporting. The questions are based on numerous criteria, including but not limited to the following: the degree of non-compliance risks to workers' health and wellbeing (including risk to life); whether they demonstrate violations of workers' fundamental rights; and whether they are classified as potential symptoms of widespread systemic issues that could compromise workers' rights, health and/or wellbeing.

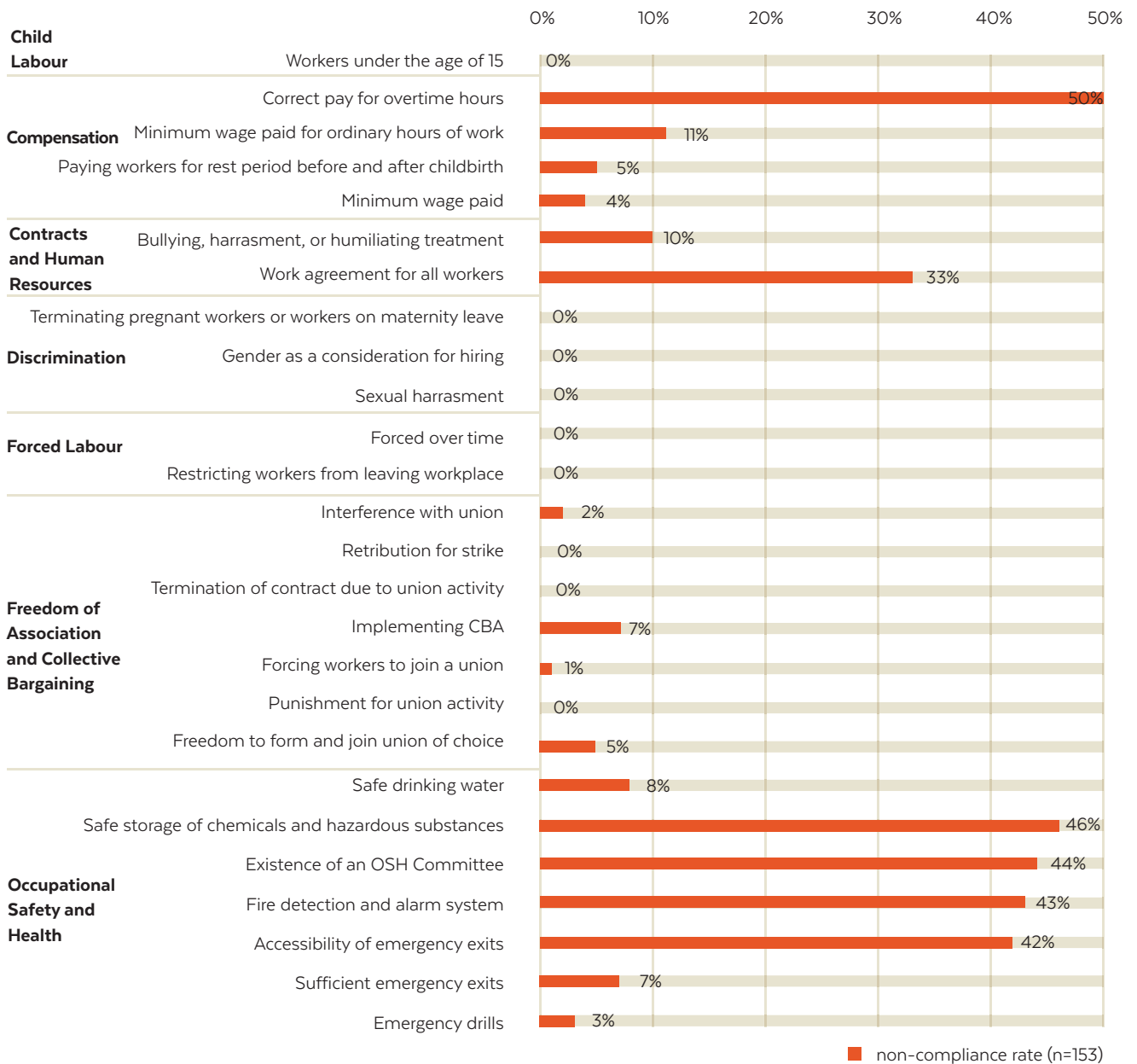
TABLE 1: LIST OF BWI PUBLIC REPORTING COMPLIANCE POINT

	CLUSTER	ASSESSMENT QUESTIONS FOR PUBLIC REPORTING
1	Child Labour	Have you found any workers under the age of 15?
2	Discrimination	Does the employer terminate workers who are pregnant or on maternity leave or force them to resign?
3	Discrimination	Is an applicant's gender a factor in decisions regarding conditions of work?
4	Discrimination	Is there sexual harassment of workers in the workplace?
5	Forced Labour	Are workers forced to work overtime under the threat of a penalty?
6	Forced Labour	Does the employer restrict workers from leaving the workplace?
7	FOA/CB ¹⁶	Has the employer failed to implement any of the provisions of the collective bargaining agreement in force?
8	FOA/CB	Can workers freely form and join the union of their choice?
9	FOA/CB	Has the employer tried to interfere with, manipulate, or control the union(s)?
10	FOA/CB	Does the employer require workers to join a union?
11	FOA/CB	Does the employer punish workers for joining a union or engaging in union activities?
12	FOA/CB	Has the employer punished any workers for participating in a strike?
13	FOA/CB	Has the employer terminated workers or not renewed their contract due to the worker's union membership or activities?
14	OSH ¹⁷	Are any of the emergency exits inaccessible, obstructed, or locked during working hours, including overtime?
15	OSH	Are there enough emergency exits?
16	OSH	Does the workplace have a fire detection and alarm system?
17	OSH	Does the employer conduct periodic emergency drills?
18	OSH	Does the factory have an OSH Committee?
19	OSH	Does the employer provide workers enough free safe drinking water?
20	OSH	Are chemicals and hazardous substances properly stored?
21	Compensation	Does the employer pay the correct district minimum wage for ordinary hours of work to non-permanent workers (PKWT) and probationary workers?
22	Compensation	Does the employer pay the correct district minimum wage for ordinary hours of work to permanent full time workers (PKWTT)?
23	Compensation	Does the employer pay workers correctly for all overtime hours worked on regular working days?
24	Compensation	Does the employer pay workers correctly during the rest time before and after childbirth?
25	Contracts and Human Resources	Do all persons who perform work for the factory, both on the premises and offsite, have a work agreement?
26	Contracts and Human Resources	Have any workers been bullied, harassed, or subjected to humiliating treatment?

2.2. PUBLIC REPORTING ISSUES: STATE-OF- PLAY AND PROGRESS

Following is a snapshot of non-compliance on issues to be subject to public reporting from January 1, 2017 (see box) for the 153 factories in the latest Assessment period¹⁸. Also included is a trend analysis for 44 factories that have been with Better Work for at least four years. The trend analysis as an example of how time with Better Work can help decrease non-compliance in key issues.

FIGURE 5: NON-COMPLIANCE IN PUBLIC REPORTING ISSUES FOR THE AUGUST 2015- DECEMBER 2016 ASSESSMENT PERIOD



The highest non-compliance rates noted are correct pay of overtime hours (50 percent), safe storage of chemicals and hazardous substances (46%), the existence of an OSH Committee (44 percent), fire detection and alarm system (43 percent), accessibility of emergency exits (42 percent), and presence of work agreements for all workers (33 percent). No other compliance question in the subset of publicly reported questions has over 11 percent non-compliance, and nine of the 26 questions had zero non-compliance during the latest assessment period.

The following analysis looks at trends from a sub-sample of the 153 factories that have been with the programme for four years or more, which is 44 factories. By examining these factories, BWI is able to identify how length of time with Better Work has impacted compliance outcomes for those issues that will

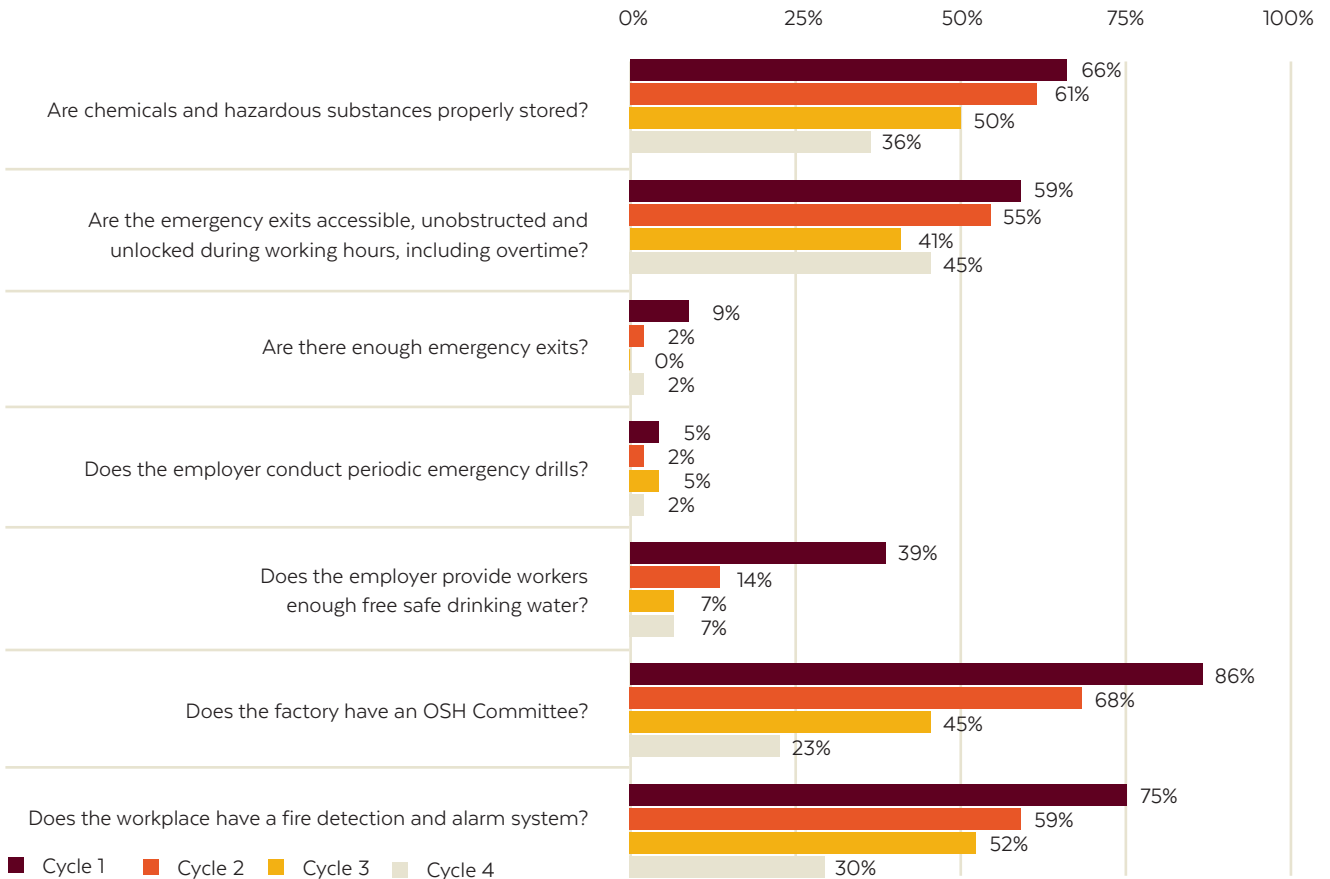
soon be subject to public scrutiny. Generally, among the 44 sample factories non-compliance decreases with years of Better Work participation with these 26 questions.

This section will illustrate the non-compliance trends across compliance questions in the Compensation, Contracts and Human Resources, Freedom of Association and Collective Bargaining, and Occupation Safety and Health clusters.

Progress in OSH indicators

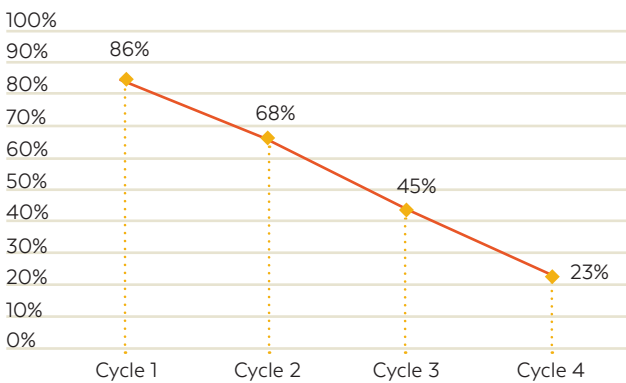
As can be seen in Figure 6, despite relatively high non-compliance rates in some clusters, factories make persistent improvements in compliance between cycles 1 to 4.

FIGURE 6: IMPROVEMENT IN THE NON-COMPLIANCE RATE FOR SAMPLE 44 FACTORIES: PUBLIC REPORTING QUESTIONS IN OCCUPATIONAL SAFETY AND HEALTH CLUSTER



Notably, non-compliance in the sample factories on the question of having a functioning OSH committee fell from 86 percent in the first cycle to 23 percent by the fourth cycle.

FIGURE 7: IMPROVEMENT IN THE NON-COMPLIANCE RATE FOR SAMPLE 44 FACTORIES: DOES THE FACTORY HAVE AN OSH COMMITTEE?



The non-compliance rate in the storage of chemicals and hazardous substances fell from 66 percent in the sample factories' first cycle to 36 percent by the fourth cycle. This is a promising validation of the thematic advisory initiative that BWI has taken to address chemical storage during the last five years.

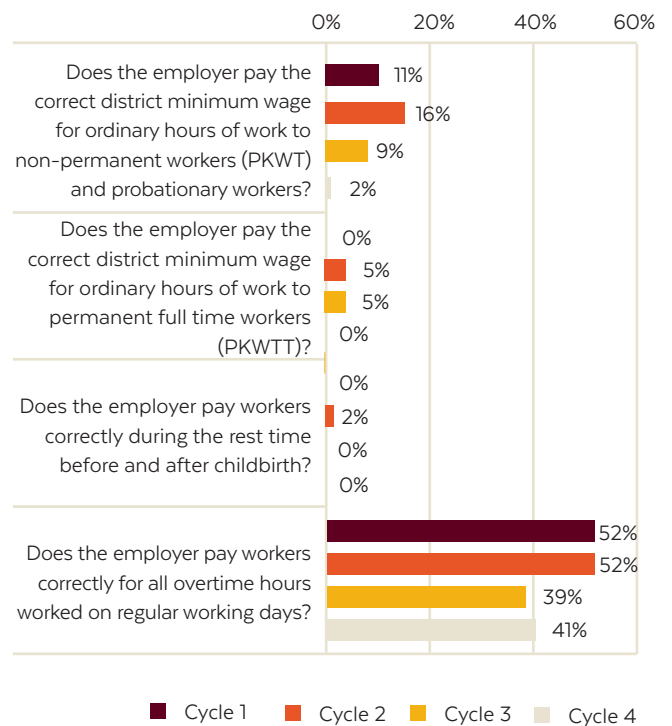
Fire detection and alarm systems and access to emergency exits are also issues that showed improving trends in non-compliance for sample factories, albeit less dramatically and consistently than the OSH Committee and Chemical storage issues. The share of factories out of compliance in the fire detection and alarm system question steadily decline over time, from 75 percent in the first cycle to 30 percent by the fourth.

The improvement rate of emergency exit access question is somewhat less marked. Non-compliance on emergency exit accessibility fell from 59 percent in the first cycle to 41 percent in the third cycle and rose marginally to 45 percent in the fourth cycle. The more modest decreases indicate that even factories that have been with Better Work for some time face

challenges adjusting their behaviour to meet compliance criteria. A lack of effective management systems could be responsible for the inability to continue the progress made after the third Cycle.

Trends in Public Reporting issues in the Compensation Cluster

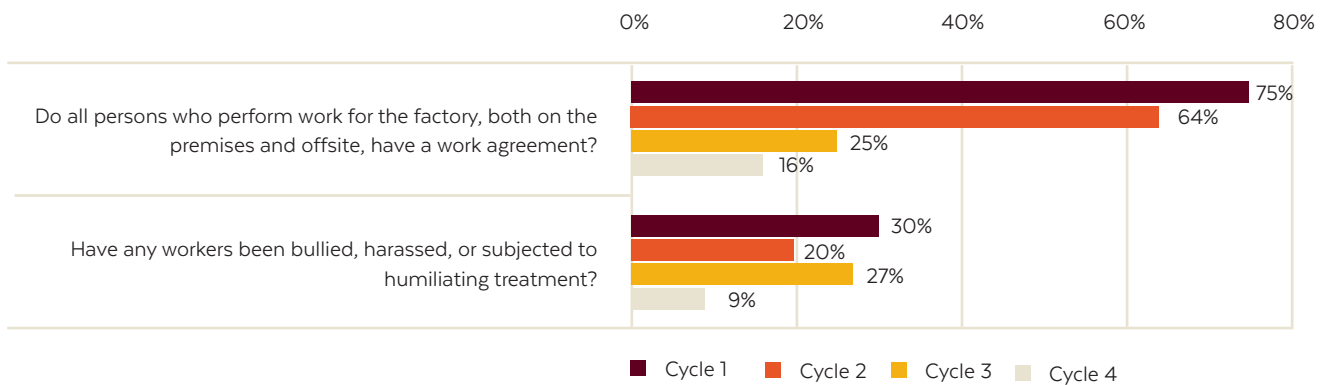
FIGURE 8: CHANGE IN THE NON-COMPLIANCE RATE FOR PUBLICLY REPORTED QUESTIONS IN THE COMPENSATION CLUSTER



Correct pay of overtime is an issue that persists even after four years of involvement with Better Work. However, other non-compliance questions in the Publicly Reported Compensation cluster decreased significantly or were eliminated completely after four Cycles. Correct pay for overtime hours, like excessive working hours, is complicated by the different sourcing pressures that factories receive from buyers. Better Work continues to emphasize the impact on workers of complex supply chains.

Trends in Public Reporting issues in the Contracts and Human Resources Cluster

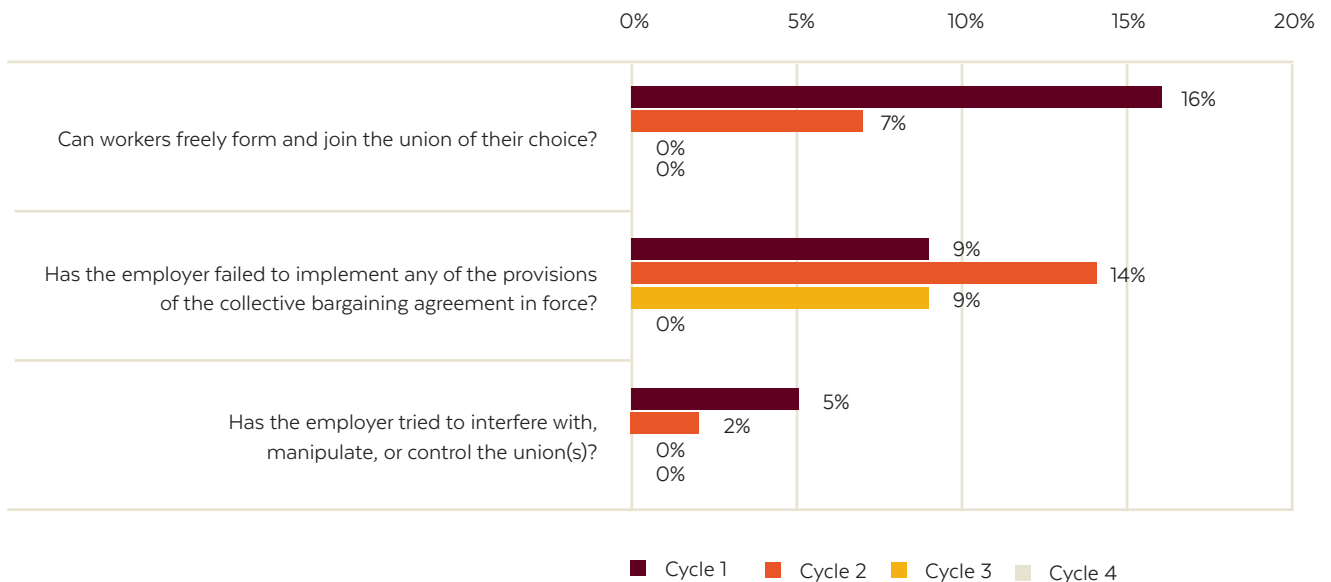
FIGURE 9: CHANGE IN THE NON-COMPLIANCE RATE FOR PUBLICLY REPORTED QUESTIONS IN THE CONTRACTS AND HUMAN RESOURCES CLUSTER (44 SAMPLE FACTORIES)



While there is still non-compliance in the two Publicly Reported questions in the Contracts and Human resources Cluster, there is a steady decrease from cycle one to four for the 44 Factories. By cycle four, the factories have improved immensely in providing all workers with work agreements. Bullying still remains an issue, although non-compliance rates improved from 40 percent in cycle one to 9 percent in cycle four for the sample factories.

Trends in Public Reporting issues in the Freedom of Association and Collective Bargaining Cluster

FIGURE 10: CHANGE IN THE NON-COMPLIANCE RATE FOR PUBLICLY REPORTED QUESTIONS IN THE FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING CLUSTER

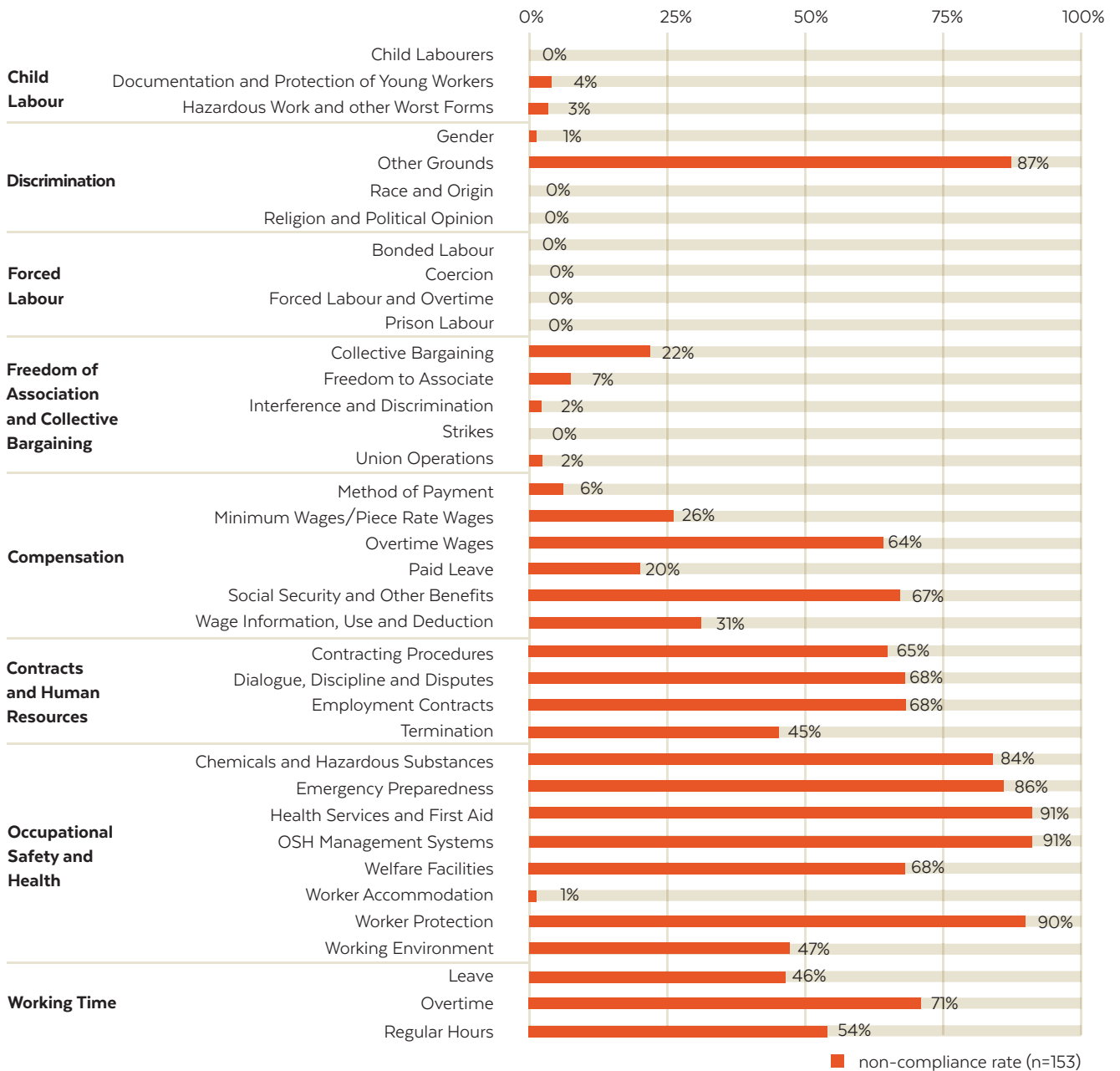


Non-compliance for the 44 factories steadily decreased until there was zero non-compliance in Publicly Reported issues under the Freedom of Assembly Cluster. The factories in the sample eliminated non-compliance in the FOA cluster after four years with Better Work, as shown in Figure 10.

2.3. OVERALL COMPLIANCE FINDINGS

In this section the report outlines in more detail the broader compliance situation within the reporting period. It contains analysis of the assessment findings in all relevant factories on core ILO and national standards.

FIGURE 11: NON-COMPLIANCE RATE BY COMPLIANCE POINT



DETAILED FINDINGS

Child Labour

There was no evidence of child labourers below 15 years of age in Better Work Indonesia factories. Sources of non-compliance in the Child Labour cluster include three factories (2 percent of factories) where workers under 18 years of age were found working with sewing machines, which is considered a hazardous activity as per Indonesia law. Also, in three factories (2 percent), workers under 18 years were found working overtime and there have been instances of inadequate documentation of workers under 18 years. All the factories that have non-compliance in the Child Labour cluster are either in the first or second cycle.

Better Work Indonesia notes several issues that are likely driving non-compliance on the Child Labour cluster including unreliable human resources and recruitment systems, and lack of awareness about the relevant regulations. 3 percent of factories were non-compliant with documentation requirements for workers under the age of 18 absent in work agreements, or the work agreements not meeting legal requirements. In addition, 3 percent of the factories in the sample did not have an adequate age verification system.

Labour shortages appear to be underpinning the use of young workers (below 18 years) in the sector. The government is currently reviewing the regulation establishing the types of activities deemed as hazardous to discern if workers between 15-18 years old could work with sewing machines provided comprehensive training to operate the machines is given. This is a much needed analysis considering the expansion of the garment industry to new areas such as Central Java where there are labour shortages and an abundance of under-aged workers (below 18). There are concerns that stringent regulation could curb employment of young workers (between 15-18 years) in the formal sector, where the likelihood of better protection being afforded is greater.

Additionally, the Ministry of Manpower is initiating a programme to bring 17,000 child labourers back to the education system, either through the formal education

system or vocational training. This initiative presents an opportunity for Better Work to collaborate with Ministry of Manpower, especially with the Ministry's internship and on-the-job training division.

Discrimination

Better Work Indonesia factories had no non-compliance in the Discrimination Cluster in respect of the Race and Origin, and Religion and Political Opinion compliance points. The sources of non-compliance in the Discrimination cluster include gender discrimination (1 percent of factories non-compliant) and discrimination based on Other Grounds (87 percent). The high rate of non-compliance in the latter is mostly due to the failure to fulfil national requirements concerning the hiring of workers with disabilities. In this reporting period, 87 percent of factories (133 of 153 factories) did not hire the required one person with disability for every 100 workers.

The report shows that, with the exception of one case of gender based discrimination and the wider issue of disability, no other cases or instances of discrimination were found. This is an area of concern for Better Work Indonesia. The lack of non-compliance findings does not always indicate that there is no underlying issue. Recent results from Better Work's impact assessment¹⁹ show high levels of concern by workers around sexual harassment issues. Due to the sensitivity of the issue, cultural setting and the nature of assessment and advisory work, cases of sexual harassment are extremely difficult to determine. Victims often do not want to speak out. Collaboration with local authorities, civil society and trade unions is crucial as well as an emphasis on awareness raising and capacity building around the issue.

GENDER

One factory required a pregnancy test or the use of contraceptive as a condition of employment. This is the first time Better Work Indonesia has found evidence of a pregnancy test being requested in the last two periods of past annual reports (April 2013 - March 2014 and June 2014 - July 2015).

Case study 1. Pregnancy Test

This issue was found in a factory that was newly registered to the programme. As soon as the advisory service was launched in the factory, the issue of discrimination against women has been prioritized. International buyers were also involved in the advisory process to accelerate improvement. Based on recent reports on the improvement process in the factory, the issue has been rectified. It has also been reported that the factory has revised and implemented an improved recruitment policy. Worker's representatives in the bipartite committee (LKS Bipartit) have confirmed that pregnancy tests are no longer part of the factory's recruitment process.

WORKERS WITH DISABILITIES

Twenty factories out of 153 factories do comply with the disability hiring quota. This is an encouraging development, showing that improvement in this area can be accomplished.

However, 87 percent of factories, or 133 factories were unable to meet the 1 percent quota for hiring people with disabilities. This is an ongoing and persistent issue with factories. Factory managers report that despite their efforts, there are no people with disabilities applying for the vacant and advertised positions. In the consultation of the finding with the Indonesian Employers' Association (APINDO), there are also issues with guaranteeing the safety of disabled workers (including emergency responses). This challenge is relatively higher for factories that are expanding to new industrial regions. Moreover, Better Work Indonesia also identified that newly registered factories are not likely to have knowledge and awareness about the disability quota provision.

Better Work Indonesia has worked and will continue working collaboratively with stakeholders, relevant government and non-profit agencies to increase factories' awareness on employing people with disability, while also enhancing the quality of skills of people with disabilities.

Forced Labour

In this reporting period, there were no instances of non-compliance in the Forced Labour cluster. None of the assessed factories were found restricting workers' movement, denying workers access to their personal documents or using bonded/prison labour.

Freedom of Association and Collective Bargaining

Indonesia ratified ILO Conventions No 87 and 98 on Freedom of Association and Collective Bargaining in 1999. This provides a legal framework for, among others, workers and employers to organize and establish a collective bargaining agreement. Despite the well-structured regulations providing protection of rights to organize and bargain collectively in the workplace, there are still issues with workers' rights to establish and run a union or with the implementation of collective bargaining agreements.

Current compliance data shows that workers have had issues in organizing in at least 5 percent of factories. This is yet another area where underreporting of issues may be occurring due to the difficulty in obtaining conclusive and incontestable proof of non-compliance. The lack of findings concerning Interference and Union Discrimination is also cause for concern as Better Work Indonesia is, at times, faced with these types of allegations. In addition to investing further on Better Work Indonesia staff investigative skills on such issues, there has been an effort in connecting with national and local level unions. Workplace Cooperation training is part of the regular training offered to factories.

The quality of Collective Bargaining Agreements (CBAs) is another challenging issue. 18 percent of factories have CBAs with provisions less favourable to workers than the prevailing law and regulations.

FREEDOM TO ASSOCIATE

5 percent of factories (8 factories) do not allow workers to form and freely join the union of their choice. In many cases, workers became union members without filling out the necessary registration form,

or had not formally expressed their intention to be a member of union. This is often due to a lack of understanding about the freedom of association, as well as some confusion in regard to basic administration requirements for registering as a union member. It was also found that workers are not always aware that they have a right to decide whether or not they want to join a union. In other cases, workers were not aware if they had been registered as union member. Also, in at least two factories, management asked their workers to join an existing union. This sometimes happened with an intention of management to help the union.

The latest reporting showed that in all but one of the above findings, corrective action have been taken and the issues resolved.

UNION OPERATIONS

2 percent of factories (3 factories) refused to deduct union dues from workers' wages or did not allow unions to collect dues directly from their members.

INTERFERENCE AND DISCRIMINATION

In those factories where non-compliance was found members of management were involved in the activities of unions or were acting as officials of the unions, which are violations of Indonesian national laws. This type of noncompliance was found in 2 percent of factories in this reporting period. Lack of understanding of the relevant Indonesian law may have been responsible for the lapses. Never the less, the findings constitute the types of intervention, manipulation or control of unions prohibited in the relevant ILO Conventions.

COLLECTIVE BARGAINING

There are 54 of 153 reporting factories with a collective bargaining agreement (CBA) in place over the reporting period. 18 percent factories of these

have collective bargaining agreements (CBA) with some provisions less favourable to workers than the prevailing law and regulations. These include issues such as factories failing to provide workers with already agreed-benefits or compensation (for instance, bonus or allowance); or provisions establishing the non-payment of overtime for work on public holiday or weekly rest days because of work-off-day substitution. Another common issue found is a provision stipulating that an employer can terminate workers who have allegedly conducted criminal offences or acts without waiting for legal proceedings to be finalized (i.e. a court decision). Several factories were not aware that the law had been changed recently on this. Some CBAs are also not being updated whenever there are newly issued laws or regulations.

7 percent of factories do not provide a copy of the CBA to their workers. Another 7 percent do not fully implement the CBA. Some factories reported that CBAs were not implemented because of "financial difficulties" (for example, in the case where CBA sets the agreement that the management will provide an excursion programme for workers), and a lack of consistency of unions themselves to monitor the implementation of their own CBA. Overall, collective bargaining is only being used in about a third of the factories under review and some of these are in contradiction to obligations stated in national law. The overall low number of CBAs may be partly justified by the perceived high standards in labour law in the country by employers. Also recent wage increases which seem to leave little space for bargaining and negotiation in this area. Problems with the number and quality of CBAs may also be attributed to the lack of capacity by workers and employers to negotiate around working conditions. Better Work Indonesia is aware that there have been efforts for multi-employer CBAs to be concluded in areas like Subang. A number of Better Work Indonesia factories are enrolled in an ILO project on building capacity to negotiate evidence based CBAs.

TABLE 2. IN FOCUS TABLE: COLLECTIVE BARGAINING

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
If there is a collective bargaining agreement, are the provisions at least as favourable for workers as the law?	28	18%
Does the employer inform workers about the contents of the collective bargaining agreement, and provide workers the text of the agreement?	11	7%
Has the employer failed to implement any of the provisions of the collective bargaining agreement in force?	10	7%

Compensation

The highest non-compliance rates in the Compensation cluster are concentrated around Social Security and Other Benefits (67 percent of factories non-compliant) and Overtime Wages (64 percent non-compliant factories).

METHOD OF PAYMENT

In this reporting period, 6 percent of factories were non-compliant for delayed salary payments. Four out of five factories delayed payment of resigning workers' last salary; while the other five factories delayed payments due to financial difficulties. Enterprises require that resigning workers return the factory's property before the payment of final wages. Enterprises implement this practice in order to encourage workers to follow a proper process for resignation.

OVERTIME WAGES

Within the Overtime Wages compliance point, 37

percent of factories are non-compliant with payment for overtime on public holidays and weekly rest days. Issues found in this compliance point are mostly due to misclassification of overtime exempted workers, flat overtime premium for public holiday work, improperly documented weekly rest day work, or shift arrangements that do not take public holidays into account. The latter mostly happens in respect of security guards. With regard to this finding, workers' full understanding of their contract before signing needs to be improved.

Half of the factories are non-compliant with paying workers accurately for working overtime on regular working days. Reasons for this include incorrect use of "all-in contracts", flat rate payment for night overtime and erroneous calculation of wage components.

All-In Workers

Overtime wage issues often occurred when factories wrongly classify workers such as cutting operators, sample operators, production administrators or security guards as "all-in workers"²⁰. On the surface, all-in workers' salary is higher than production-level workers; nonetheless, as they work long hours or for long shifts (up to 12 hours per day for security guards), these workers received less than production workers who are eligible for overtime payment. As they are exempted from overtime payment, all-in workers are also not paid overtime premiums when working on public holidays or weekly rest days.

Another issue with overtime payment compliance is additional unpaid working time. Situations occur when workers begin work 15–60 minutes before the start of regular hours, during lunch breaks or after the regular hours have finished. These are periods of time used for either training or "staff meetings". There is a small percentage of inaccurate payroll records cases when payment of unrecorded overtime could not be verified or when paid separately it is done in cash and usually in a lesser amount than what is regulated.

24 percent of factories do not provide meals and drinks of at least 1400 calories to workers working overtime for three hours or more. Contributing factors to this include workers requesting to substitute overtime meals and drink with cash so they can take it home or buy food and drink of their choice from the street vendors. Very often remote factories lack a reliable caterer, or there is possible opposition from local communities who have businesses selling street foods and drink outside the factory premises.

TABLE 3. IN FOCUS TABLE: OVERTIME WAGES

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the employer pay workers correctly for all overtime hours worked on public holidays and weekly rest days?	56	37%
Does the employer pay workers correctly for all overtime hours worked on regular working days?	76	50%
Does the employer provide meals and drinks of at least 1,400 calories to workers working overtime for 3 hours or more?	36	24%

MINIMUM WAGES/PIECE RATE WAGES

16 percent of factories do not pay workers with 12 months or more of service more than the basic minimum wage. They are only paid the prevailing minimum wage which is contrary to the law. The reason for this non-compliance is mostly due to payroll systems that only allow factories to make wage adjustments at one point in time (for instance every January) or factories that lack awareness about wage design and payment structure.

Additionally, 11 percent of factories do not pay the cor-

rect district or city minimum wage to non-permanent workers (PKWT) and probationary workers. Basic wage rounding down systems, inaccurate wage structuring, lack of payment for newly hired workers during orientation or induction days, improper minimum wage postponement or inaccurate daily wage divisor factor for casual workers leads to non-compliance in these two compliance points.

TABLE 4. IN FOCUS TABLE: MINIMUM WAGES/PIECE RATE WAGES

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the employer pay higher than district minimum wage for ordinary hours of work to permanent (PKWTT) and non-permanent workers (PKWT) who have worked for more than 1 year?	24	16%
Does the employer pay the correct district minimum wage for ordinary hours of work to non-permanent workers (PKWT) and probationary workers?	17	11%
Does the employer pay the correct district minimum wage for ordinary hours of work to permanent full-time workers (PKWTT)?	6	4%

PAID LEAVE

7 percent of factories were found non-compliant for failing to pay workers when they are absent from work due to illness. BWI found that workers had provided "doctor's certificates" of their illness and yet management refused to pay the workers, as required by Indonesian law. In 10 factories (7 percent), employers did not pay workers correctly during work stoppages

that usually occur because of low production volume. A lesser rate of non-compliance is found in 5 percent of factories that do not pay workers correctly during the rest time before and after childbirth.

SOCIAL SECURITY AND OTHER BENEFITS

Most non-compliance in the Social Security and Other Benefits compliance point relate to cases of failing to provide a complete social security (BPJS Ketenagakerjaan) package or register workers with the health care fund (BPJS Kesehatan). This affects more than half of the factories (56 percent). In addition, 20 percent of factories collected workers' contribution for social insurance (BJPS Ketenagakerjaan) and health care funds (BPJS Kesehatan), but did not forward it to the relevant agency. Cases of miscalculation of the rate, based on minimum wage instead of workers' actual monthly wage, were also identified.

Compliance with social security (BPJS Ketenagakerjaan) and health care fund (BPJS Kesehatan) regulations continue to be challenging. There have been issues with this since the government officially launched pension security as part of the social security package on 1 July 2015. Lack of socialization, the perception about the processes complexity, the unwilling participation of both employers and workers or ineffective enforcement may contribute to this non-compliance.

Employer and workers' awareness and willingness to participate with BPJS Kesehatan is likely higher than that for BPJS pension security contributions. However, administrative complexity such as transfer from self-registered funds to employer-registered funds, the intersection between central and regional government health care initiatives or sluggish inter-agency cooperation regarding health care benefits recipients (Penerima Bantuan Iuran) seems to discourage employers from providing all workers with health care protection.

Despite these challenges and high non-compliance rates, factories in the Better Work Indonesia programme are gradually coming to terms with their obligations. The non-compliance rate has gone down steadily compared to the previous reporting period (from 78 percent non-compliant to 67 percent).

Another noteworthy non-compliance in this area concerns issues surrounding the non-payment of the religious holiday allowance, which affects 10 percent of factories.

TABLE 5. IN FOCUS TABLE: SOCIAL SECURITY AND OTHER BENEFITS

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the employer pay the required contributions for social insurance (BPJS Ketenagakerjaan) and health care funds (BPJS Kesehatan) to BPJS?	86	56%
Does the employer collect and forward all workers' contributions for social insurance (BPJS Ketenagakerjaan) and health care funds (BPJS Kesehatan)?	30	20%
Does the employer pay workers the religious holiday allowance?	16	10%

WAGE INFORMATION, USE AND DEDUCTION

23 percent of factories were non-compliant with keeping one accurate payroll record. Non-compliant factories maintain separate records recording overtime payments or pay overtime or wage off the payroll system, usually in cash. This issue also occurs with casual workers, who only work for short periods of time and commonly outside of the payroll system.

Another issue found in the Wage Information, Use and Deduction compliance point is unauthorized deductions from wages (12 percent of factories were non-compliant). The deductions are either unregulated in Company Regulations or CBA (disciplinary fines), made without workers' written consent (often for loans and union dues) or made outside the payroll system.

TABLE 6. IN FOCUS TABLE: WAGE INFORMATION, USE AND DEDUCTION

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the employer keep only one accurate payroll record/ book?	35	23%
Has the employer made any unauthorized deductions from wages?	18	12%

Contracts and Human Resources

The non-compliance rates in the Compensation Contracts and Human Resources Cluster are 68 percent for Dialogue, Discipline, and Dispute and Employment Contracts; 65 percent for Contracting Procedures; and 45 percent for Termination.

CONTRACTING PROCEDURES

In this reporting period, half of the factories (50 percent) did not comply with limits on the use of non-permanent work agreements for a specified period (PKWT). This includes duration and number of renewals limits.

The use of non-permanent contracts (PKWT) in the industry is a controversial one. There are different interpretations and practices on the eligibility and use of such contracts in the garment export oriented sector. There are also asymmetries between local governments' stances on the legality of such contracts. Better Work Indonesia is organizing a dialogue between government (central and local level), factories and international brands around this issue that will hopefully bring some clarity and consistency to this practice.

Another noteworthy issue concerns subcontracting workers and the use of outsourced workers. 15 per-

cent of factories do not comply with requirements concerning sub-contracted workers at the workplace. Most of the factories use outsourcing companies to supply security guards or cleaners. Better Work found that outsourced workers are not guaranteed the same benefits as direct workers.

They are either not provided with social insurance and health care, paid below the minimum wage, not considered as eligible for any statutory paid leave or time-off, or their weekly regular working time is beyond 40 hours. Additionally, 12 percent of factories do not comply with the law and regulation on subcontracting. Most of these factories do not have adequate subcontracting or outsourcing agreements, or the agreements are not registered with the local Manpower Office.

One striking non-compliance, affecting one factory in the sample, was the imposition of recruitment fees.

Case study 2. Recruitment Fees

Since the start of Better Work Indonesia in 2011, there have been very few instances of recruitment fee non-compliance. In this case, a supervisor demanded payment, ranging between IDR 200,000 to 500,000, from her/his direct subordinate in exchange for a promotion to permanent status. After the assessment, facilitated by a Better Work Indonesia Advisor, the factory worked to improve the non-compliance by conducting a further investigation on the case and creating an improvement plan. The improvement plan included a sanction to the supervisor, training to all supervisors on prohibition to demand fees for promotion/recruitment, establishment of a policy on whistle blower protection and a clear procedure on promotions and recruitment. In subsequent follow-up action it was determined that this issue had been resolved.

TABLE 7. IN FOCUS TABLE: CONTRACTING PROCEDURES

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
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)?	77	50%
Does the employer comply with requirements concerning sub-contracted workers at the workplace?	24	16%
Does the employer comply with the law and regulations on subcontracting part of its work to another enterprise?	19	12%
Do workers pay any recruitment fees?	1	1%

EMPLOYMENT CONTRACTS

33 percent of factories do not have work agreements for all workers (both onsite and offsite employees). Non-compliance in the Employment Contracts compliance point are quite significant because outsourced (mostly security guard and cleaners) and subcontracted workers are included in the equation.

Other non-compliance in this section is related to work agreements. 20 percent of factories do not specify key terms of conditions of employment in work agreements including working time, wages or payment method. Workers in 19 percent of factories do not receive work agreements in Bahasa. Work agreements in 16 percent of factories do not comply with company regulations, the collective bargaining agreement, or other prevailing laws and regulations. The company regulations and

collective bargaining agreements must be endorsed by the local Manpower Office, to make sure that they are in accordance with national regulations. Better Work and the Ministry of Manpower are collaborating to follow up with these problems in local Manpower offices.

TABLE 8. IN FOCUS TABLE: EMPLOYMENT CONTRACTS

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Do the company regulations comply with legal requirements as stipulated in the labour law and regulations?	59	39%
Do all persons who perform work for the factory, both on the premises and offsite, have a work agreement?	50	33%
Do the work agreements specify the terms and conditions of employment?	31	20%
Does the employer give a copy of the work agreement in Bahasa to workers?	29	19%
Do the work agreements comply with company regulations, the collective labour agreement, and prevailing laws and regulations?	25	16%

DIALOGUE, DISCIPLINE AND DISPUTES

Half of the factories in the sample do not have a functioning bipartite cooperation institution (LKS Bipartit). An LKS Bipartit is considered functioning if it is established and registered with the local Manpower Office, and if the membership composition reflects the equal representation of management and workers (or unions) as per the statutory requirements (appointment for management and union; election for worker representatives). Additionally, a functioning LKS Bipartit should conduct regular meetings and submit reports of its activities to the local Manpower Office. Non-compliant factories are failing to fulfil at least one of these criteria. Despite this, Better Work Indonesia continues working with such committees during the improvement process while at the same time supporting the fulfilment of the administrative, representation and operational challenges that sometimes underpin the functioning of such committees.

In 42 percent of factories (64 factories), established or practice disciplinary measures do not comply with legal requirements. These cover mostly situations of undefined or wrongly defined violations (e.g., a factory imposing disciplinary action on a worker who is absent due to illness), unjustified disciplinary action and inconsistent implementation of disciplinary measures.

Workers in 10 percent of factories reported being bullied, harassed, or subjected to humiliating treatment. Practices such as publicly scolding and shouting at workers because they do not achieve production targets, pinching workers’ arms when they are deemed to be making a mistake or imposing corporal punishment, such as ordering workers to stand for hours at either designated or other place in the production area in front of all workers, are examples of situations that are unfortunately found in these factories. Of the sixteen factories that had issues with bullying, ten were in their first two years

with Better Work.²¹ Better Work Indonesia continues working hard to prevent such practices. Harassment prevention training is part of our regular offer of training to factories.

TABLE 9. IN FOCUS TABLE: DIALOGUE, DISCIPLINE AND DISPUTES

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the factory have a functioning bipartite cooperation institution?	77	50%
Do the disciplinary measures comply with legal requirements?	64	42%
Have any workers been bullied, harassed, or subjected to humiliating treatment?	16	10%

TERMINATION

Management in 32 percent of factories did not compensate workers for unused paid annual leave and

other legal resignation benefits such as detachment money (an amount determined by either a company regulation or CBA to be paid when workers resign or see their contracts terminated).

Employers in 20 factories (13 percent) terminated workers without following legal procedure, for instance, without the required two summons notices (in writing).

In the case of nineteen factories (12 percent), requirements regarding severance pay and reward for service due to resignation or termination were not followed. Out of 19 factories, six did not pay severance in the amount stipulated in labour law, mainly due to workers passing away. The rest of the factories that were found non-compliant did not pay detachment money (uang pisah) to resigning workers as stipulated in Company Regulations or CBA.

TABLE 10. IN FOCUS TABLE: TERMINATION

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the employer compensate workers for unused paid annual leave and other legally required termination/resignation benefits?	49	32%
Does the employer only terminate workers for valid reasons?	20	13%
Does the employer comply with requirements regarding severance pay and reward for service?	19	12%

Occupational Safety and Health

The Occupational Safety and Health (OSH) cluster is the largest in the Better Work assessment, covering a diverse array of questions across eight compliance point groupings, including emergency preparedness, chemicals and hazardous substances, OSH management systems, and Health Services and First Aid. It is partly due to this broad scope that the OSH clus-

ter has the largest concentration of noncompliance findings, both in this report and historically. However, it also reflects the complexities of the production environment in the garment sector, together with its component risks, as well as the wide scope of the law with regard to OSH provisions in Indonesia.

A substantial amount of factories still struggle with chemical safety data sheets or do not properly store chemicals or hazardous substances. The existence of functioning eye-wash facilities is also a challenge in almost half of the factories under report.

TABLE 11. IN FOCUS TABLE: CHEMICALS AND HAZARDOUS SUBSTANCES

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the employer have chemical safety data sheets for the hazardous chemicals used in the workplace, and are the chemicals properly labelled?	104	68%
Are chemicals and hazardous substances properly stored?	70	46%
Does the employer provide adequate washing facilities and cleansing materials in the event of exposure to hazardous chemicals?	62	41%
Has the employer appointed a Chemical Officer?	41	27%
Does the employer keep an inventory of chemicals and hazardous substances used in the workplace?	40	26%
Has the employer trained all workers who work with chemicals and hazardous substances?	9	6%

Around half of the factories still struggle with clearly marked and unobstructed, unblocked or unlocked emergency exits. Better Work did not find a single case where all emergency exits available in a factory were inaccessible, typically this happens in respect of some areas (or some exits) in factories. Outdated layout evacuation maps or fading emergency evacuation markings are also a contributor to non-compliance.

Half of the factories do not have a fire management team or there is no certified fire safety expert on the team, as required by national law. 43 percent had not installed fire detection devices such as smoke detectors, or the number of installed smoke detectors was insufficient.

TABLE 12. IN FOCUS TABLE: EMERGENCY PREPAREDNESS

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Are emergency exits and escape routes clearly marked and posted in the workplace?	78	51%
Has the employer appointed and trained a fire management team?	76	50%
Does the workplace have a fire detection and alarm system?	66	43%
Are the emergency exits accessible, unobstructed and unlocked during working hours, including overtime?	65	42%
Does the workplace have adequate fire-fighting equipment?	45	29%
Are flammable materials safely stored?	34	22%

Top issues on the Health Services and First Aid cluster concern difficulties providing workers with annual and special medical checks and insufficient number of readily accessible first aid boxes. Indonesia OSH law is very prescriptive on not only the number of boxes required (as per the total workforce) but also the number of required items (21) contained in the boxes. In most cases factories were non-compliant on both these issues.

TABLE 13. IN FOCUS TABLE: HEALTH SERVICES AND FIRST AID

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the employer provide workers with pre-assignment, annual and special medical checks when required?	104	68%
Has the employer ensured that there are a sufficient number of readily accessible first aid boxes/ supplies in the workplace?	95	62%
Does the workplace have adequate trained first aid officers?	72	47%
Does the employer provide adequate first-aid facilities?	40	26%
Does the employer provide required medical services?	38	25%
Does the employer comply with requirements on HIV/AIDS?	22	14%

44 percent of factories (68 factories) do not have an OSH Committee or they have one but it is not functioning. Issues with functioning of OSH Committees typically concern lack of regular meetings or proper membership. National requirements dictate that the

committee should be led by top management and a certified OSH expert – the latter being one the main reasons why the committees are not properly functioning. In certain geographical areas, there are difficulties in finding qualified and certified OSH experts.

TABLE 14. IN FOCUS TABLE: OSH MANAGEMENT SYSTEMS

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the factory have an OSH Committee?	68	44%
Has the employer performed initial and regular reviews of occupational safety and health issues in the factory?	44	29%
Does the employer record and report work-related accidents and diseases to the Local Manpower Office?	37	24%

Additionally, in relation to efforts to monitor the safety of the building, it was found that 78 percent of factories (119 factories) did not maintain the Certificate of Proper Function of Building (Sertifikat Laik Fungsi Bangunan Gedung or SLF-BG in Bahasa Indonesia). The root-cause of this high percentage of non-compliance on SLF-BG includes the absence of regional regulations on SLF-BG. In these situations, Better Work Indonesia continues working with factories to develop an internal system to check building safety. Advocacy efforts have also been put in place for the appropriate local legislation to be passed.

While 34 percent of factories (52 factories) trained workers on the importance of using personal protective equipment (PPE), they did not oblige workers to use the provided PPE. Additionally, 32 percent of factories (49 factories) did not provide workers with some or all of the necessary PPE.

TABLE 15. IN FOCUS TABLE: WORKER PROTECTION

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the employer comply with ergonomic requirements?	80	52%
Are all workers trained and obliged to use the personal protective equipment that is provided?	52	34%
Does the employer provide workers with all necessary personal protective clothing and equipment?	49	32%
Are electrical wires, switches and plugs properly installed, grounded, and maintained?	40	26%
Do the operators/ technicians/ officers responsible for machinery/ equipment/ installations/ lifting equipment have the required license?	40	26%
Are proper guards installed and maintained on all dangerous moving parts of machines and equipment?	38	25%
Are all workers trained and obliged to use machines and equipment safely?	24	16%

The reasons behind non-compliance in this area are varied. Lack of a culture of safety and care lies behind issues such as the non-availability of chemical safety sheets or the non-use of PPE equipment. Sometimes lack of systems comes into play, such as in the case of fading emergency exit marks. And finally, cost and financial considerations are an impediment to compliance as, for example, is the case with medical check-ups.

Better Work has been working intensely in improving factories' compliance in this area. This includes organizing general OSH expert and fire safety expert training, and conducting chemical safety and building safety seminars. Better Work is also working with relevant government agencies and local government on persistent OSH issues. Moreover, the programme is building its capacity and targeting its advisory work on OSH management systems with the aim of providing improved and holistic advice to the factories on these issues.

Working Time

Noncompliance in the working time cluster is heavily concentrated in the area of overtime, which remains widespread not just in Better Work factories but across the industry at large.

Excessive working time, and particularly the regular breach of legal overtime limits, remains a perennial problem for the industry and something that is unlikely to change for the foreseeable future. Notwithstanding recent modest declines in non-compliance observed in Better Work factories, enterprises across the industry continue to face a range of barriers to compliance in this area, not all of which are in their control. Specifically, while a lot of businesses are in theory capable of reducing overtime reliance through improvements to production planning and productivity (assuming the right knowledge, support and resources are available), they have far less control over the sourcing practices of buyers in the supply chain, which for many remain the single biggest source of working time pressure.

OVERTIME

65 percent of factories had issues with complying with overtime limits. Workers in 11 percent of factories did not have written instructions on overtime. Non-compliance in this point does not necessarily mean that workers were working overtime involuntarily. However, non-compliance of involuntary overtime was found in two factories (1 percent) because managers imposed disciplinary sanction if workers refused overtime.

TABLE 16. IN FOCUS TABLE: OVERTIME

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Is overtime limited to 3 hours per day, 14 hours per week?	100	65%
Does the employer prepare written instructions on overtime?	17	11%

Half of the factories are non-compliant in keeping accurate records of hours worked. Multiple records increase the risk of erroneous payments to workers.

TABLE 17. IN FOCUS TABLE: REGULAR HOURS

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
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)?	41	27%
Do the attendance records reflect the hours actually worked?	77	50%

Conclusions

The data in this report demonstrates that Better Work Indonesia's core services provided to enterprises contribute to measurable improvement in compliance with national labour law and ILO Core Labour Standards. Despite this, the overall high rate of non-compliance in the OSH, Compensation, Contracts and Human Resources and Working Time clusters are a stark reminder of the work still to be done. Some improvements appear less entrenched and may reflect endemic issues in the sector.

It is encouraging to note that on the key issues identified for future public reporting that factories enrolled with Better Work for at least four cycles have seen consistent improvement even on those issues considered endemic and difficult to solve, such as OSH non-compliance.

Persistent non-compliance issues require collaborative support and action from all respective parties: the individual factory, stakeholders, and international brands. The support and action may come in the form of technical advice, awareness and capacity building that could include thematic campaigns, focus group discussions, training or seminars. Nonetheless, deeply embedded issues such as excessive working hours are unlikely to improve without reassessing current sourcing practices in global garment supply chains. As legislation plays a key role in achieving compliance, Better Work Indonesia is working closely with the government to ensure the rendering of BWI services is in harmony with regulatory objectives and that the challenges and views of the sector are taken into account when legislations is discussed or re-designed. BWI also recognizes the important role of other stakeholders, such as trade unions, employer associations, and international brands, and that collaboration with the government is necessary to improve compliance in the garment

industry. Better Work Indonesia will focus on persistent and high-rate non-compliance issues, gathering the necessary support to drive behavioural change.

In response to persistent non-compliance, numerous regulatory and practical recommendations have been discussed with relevant stakeholders. Recommendations include: revisiting labour law; further promoting the functioning of bipartite committees (LKS Bipartit); worker and union empowerment; labour regulation training for factory management; workshops with international buyers on specific topics; and establishing escalation mechanisms to the government for specific zero tolerance issues. Better Work will continue working on policy recommendations while examining other alternative solutions that fit the needs of both individual factories and factories as a target group.

PUBLIC REPORTING

The introduction of factory-level public reporting is a significant change to Better Work Indonesia in 2017 and is expected to improve compliance at the enterprise level and the international reputation of the sector. From January 2017, factories that have been assessed at least twice are subject to public reporting. Factory non-compliance status on 26 vetted issues is available via the Better Work's Transparency portal. The public reporting data will be continuously updated, as new assessment reports are finalized. Experience with public reporting in Better Factories Cambodia has shown that this approach increases compliance efforts in factories, and makes the industry more competitive. Better Work Indonesia is committed to ensuring a smooth transition to public reporting in the industry.

Annexes

ANNEX A: FACTORIES COVERED IN THIS REPORT

FACTORY NAME	CYCLE		
PT Busanaremaja Agracipta (Klodran)	1	PT Jiale Indonesia Garment	1
PT Istana Garmindo Jaya	1	PT II Jin Sun Garment	1
PT Asia Penta Garment	1	PT YH Star Dua	1
PT Tyfountex Indonesia	1	PT Kido Jaya II	1
PT Busana Indah Global	1	PT Inti Sukses Garmindo	1
PT Pancaprima Ekabrothers	1	PT Sam Kyung Jaya Busana	1
PT Minu Garment Sukses	1	PT Formosa Bag Indonesia	1
PT Handsome	1	PT G-Texpia International	2
PT Mulia Cemerlang Abadi (Sukabumi)	1	PT Sansan Saudaratex Jaya (Bandung)	2
PT Starcam Apparel Indonesia	1	PT Greentex Indonesia Utama (Bandung)	2
PT Anugerah Abadi Bersama	1	PT Muara Griya Lestari	2
PT Fotexco Busana International (Bogor)	1	PT Busana Prima Global	2
PT Mod Indo	1	PT Notos	2
PT Hyun Dong Indonesia	1	PT Sumber Bintang Rejeki (Semarang)	2
PT Inko Prima Idaman Apparel	1	PT Tupai Adyamas Indonesia	2
PT Pan Brothers Tbk (Tangerang)	1	PT Dada Indonesia	2
PT Pan Brothers Tbk (Boyolali)	1	PT Gistex Garmen Indonesia (Majalengka)	2
PT Arindo Garmentama (Wates)	1	PT Sandang Mutiara Cemerlang	2
PT Leaders World	1	PT SJ Mode Indonesia	2
PT Jusindo Sumberprakarsa	1	PT Dewhirst Menswear	2
PT PPF Indonesia	1	PT Sam Kyung Jaya Garments	2
PT Matahari Sentosa Jaya (Accessories Division)	1	PT Crevis Tex Jaya	2
PT Kwanglim YH Indah	1	PT Morich Indo Fashion (Unit 2)	2
PT Hansae Indonesia Utama (6,6A)	1	PT Star Camtex	2
PT Dayup Indo	1	PT Tainan Enterprises Indonesia	2
PT SNG Garmindo	1	PT Sandang Asia Maju Abadi	2
PT World Star Garment Indonesia	1	PT Golden Flower	2
PT Great Apparel Indonesia	1	PT Hyupseung Garment Indonesia	2
PT Liebra Permana (Wonogiri)	1	PT GA Indonesia	2
PT Dragon Forever	1	PT Good Guys Indonesia	2
PT Samwon Busana Indonesia (Jepara)	1	PT Sari Warna Asli Textile Industry (Surakarta)	2
PT Seyang Activewear	1	PT YB Apparel Jaya	2
PT CCH Indonesia	1	PT Gistex Garmen Indonesia (Bandung)	2
PT Dongsung Mulsan Indonesia	1	PT Buma Apparel Industry	2
PT Seyang Indonesia	1	PT Solo Kawistara Garmindo	2
PT Nesia Pan Pacific Knit	1	PT Pan Rama Vista Garment	2
PT Woori Sukses Apparel	1	PT Pantjatunggal Knitting Mill	2
		PT Ganada Makmur Jaya	2

PT Marel Sukses Pratama	2	PT Koin Baju Global	4
PT Busanaremaja Agracipta (Singosaren)	2	PT HS Apparel	4
PT Solve it	2	PT Leetex Garment Indonesia	4
PT Sri Rejeki Isman Tbk	2	PT Victory Apparel Semarang	4
PT Globalindo Intimates	2	PT Vision Land Semarang	4
PT Inwoo S&B Indonesia	3	PT TA Global Indonesia	4
PT Pan Pacific Jakarta Cabang Semarang	3	PT Yongjin Javasuka Garment I	4
PT Poong In Indonesia	3	PT Ungaran Sari Garments (Pringapus)	4
PT Yongjin Javasuka Garment II	3	PT ING International	4
PT Pertiwi Indo Mas	3	PT Woon Indonesia	4
PT Gunung Salak Sukabumi	3	PT Ungaran Sari Garments (Diponegoro)	4
PT Doosan Sinar Sukabumi	3	PT Tiga Kyung Seung Garmen	4
PT Trinunggal Komara	3	PT Dong-A Decal	4
PT Masterindo Jaya Abadi	3	PT Semarang Garment	4
PT Woo Shin Garment Indonesia	3	PT SAI Apparel Industries	4
PT Trisula Garmindo Manufacturing	3	PT Samwon Busana Indonesia	4
PT Noble Indonesia	3	PT Hesed Indonesia	4
PT Fokus Garmindo	3	PT Doosan Jaya Sukabumi	4
PT Jaya Asri Garmindo	3	PT Cipta Dwi Busana	4
PT Hari Mau Indah	3	PT Pinnacle Apparels	4
PT Kahatex	3	PT Ungaran Sari Garments (Congol)	4
PT Holi Karya Sakti	3	PT Tiga Gunung Internasional	4
PT Hop Lun Indonesia	3	PT Sandrafine Garment	5
PT Cartini Lingerie Indonesia	3	PT Hansae Karawang Indonesia	5
PT JS Jakarta	3	PT Dream Sentosa Indonesia	5
PT Doosan Dunia Busana	3	PT Hansoll-Hyun	5
PT Leading Garment Industries	3	PT Taitat Putra Rejeki	5
PT Shinwon Ebenezer	3	PT Hansae Indonesia Utama	5
PT Daese Garmin	3	PT Citra Abadi Sejati (Cileungsi)	5
PT Ameya Livingstyle Indonesia	3	PT Kukdong International	5
PT Sgwicus Indonesia	3	PT Kahoindah Citragarment	5
PT Muara Krakatau	3	PT Mulia Cemerlang Abadi (Tangerang)	5
PT Pan Asia Jaya Abadi	3	PT Citra Abadi Sejati (Bogor)	5
PT Fajar Tunggal Nasional	3	Avery Dennison Group (Paxar Indonesia,Pacific Label Indonesia,Avery Dennison Packaging Indonesia)	5
PT Daenong Global	4	PT Mitra Garindo Perkasa	5
PT C-Site Texpia	4	PT Pan Pacific Nesia	5
PT Inkosindo Sukses	4	PT Dream Wear	6
PT Daehan Global (Cibinong)	4	PT Greentex Indonesia Utama (Jakarta)	6
PT Willbes Global	4		
PT Daehan Global (Sukabumi)	4		

ANNEX B: LIST OF PARTICIPATING BUYERS

Abercrombie & Fitch

American Eagle Outfitters, Inc.

Ann Taylor

Asics

Cole's, Australia

Debenhams

Dick's Sporting Goods Ltd.

Esprit

Fast Retailing Co., Ltd

Gap Inc.

Global Brands Group

H & M Hennes & Mauritz AB

Inditex

J.Crew

John Lewis PLC

Kate Spade & Company

Levi Strauss & Co.

Li & Fung

Marks & Spencer

New Balance Athletic Shoe, Inc. (NBAS)

NIKE, Inc.

Patagonia, Inc.

Pentland Brands Limited

Primark Stores Ltd.

Puma SE

PVH / Phillips-Van Heusen Corporation

Recreational Equipment Inc. (REI)

Ryohin Keikaku Co.,Ltd. (Muji)

Talbots, Inc.

Target

The Children's Place

The William Carter Company

zLabels

ANNEX C: METHODOLOGY AND LIMITATIONS

Factory assessments

Better Work conducts factory assessments to monitor compliance with core international labour standards and national labour law. Assessment reports highlight non-compliance findings, which are then used to help factories identify areas in need of improvement. Collecting and reporting these data over time helps factories demonstrate their commitment to improving working conditions.

Better Work organizes reporting into eight clusters. The first four clusters comprise the core labour standards –

Child Labour, Discrimination, Forced Labour, and Freedom of Association and Collective Bargaining. These standards protect the fundamental rights at work under the ILO's 8 Core International Labour Conventions,²² and International Labour Standards are used as a baseline for compliance in these four clusters. The remaining clusters – Compensation, Contracts and Human Resources, Occupational Safety and Health, and Working Time – fall under Working Conditions. The compliance points for these areas incorporate differences in national legislation depending on the country of operation.

CORE LABOUR STANDARDS

01

CHILD LABOUR

Child Labourers
Unconditional Worst Forms
Hazardous Work
Documentation and Protection of Young Workers

02

DISCRIMINATION

Race and Origin
Religion and Political Opinion
Gender
Other Grounds

03

FORCED LABOUR

Coercion
Bonded Labour
Forced Labour and Overtime
Prison Labour

04

FOA and COLLECTIVE BARGAINING

Union Operations
Freedom to Associate
Interference & Discrimination
Collective Bargaining
Strikes

WORKING CONDITIONS

05

COMPENSATION

Minimum wages
Overtime wages
Hazardous Work
Premium Pay
Method of Payment
Wage Information, Use & Deduction
Paid Leave
Social Security and Other Benefits

06

CONTRACTS and HUMAN RESOURCES

Employment Contracts
Contracting Procedures
Termination
Dialogue, Discipline and Disputes

07

OCCUPATIONAL HEALTH AND SAFETY (OSH)

OSH Management Systems
Chemicals and Hazardous Substances
Worker Protection
Working Environment
Health Services & First Aid
Welfare Facilities
Worker Accommodation
Emergency Preparedness

08

WORKING TIME

Regular Hours
Overtime
Leave

Better Work establishes a benchmark based on international standards and good practices in areas where national laws do not cover or sufficiently address an issue regarding working conditions. The eight clusters are then divided into cluster points (CP), and each CP includes several questions, which may vary by country

Calculating Non-Compliance

Better Work calculates non-compliance rates for each factory and reports them in individual factory reports. The non-compliance rate in this annual report is reported for each Compliance Point (CP), and a CP is reported as non-compliant if one or more of its compliance questions show evidence of non-compliance. In annual reports, Better Work uses the average compliance rates across all participating factories within the reporting period. For instance, an average non-compliance rate of 100 percent under a question indicates that all participating factories had violations in that area.²³

LIMITATIONS

Limitations of Better Work Assessment

Detailed factory assessment reports are based solely on what is observed, investigated and analysed during assessment visits. Before the reports become official, factories are given five working days to provide feedback and clarifications, which in some cases impacts the language in the final report. Certain issues remain difficult to assess and verify independently. For instance, sexual harassment or trade union issues are difficult to identify during a factory assessment visit. There are considered sensitive issues that are likely underreported. The low literacy level of a large percentage of workers can also affect the integrity of documentation related to workers' consent for overtime work, storing of personal documents, disciplinary procedures and employment rights. To overcome such limitations to some extent, information provided by workers and management is cross checked through representative interview samples and various documents maintained at the factory

END NOTES

- 1** 1 According to Better Work's Progress and Potential: How Better work improving garment workers' lives and boosting factory competitiveness, nearly 9 out of 10 managers indicate that sourcing pressures present a significant business challenge.
- 2** Source: OECD Report 2016, Indonesia Labour Market Data
- 3** Source: BPS (2015) National accounts, Badan Pusat Statistik, Jakarta
- 4** Source: BPS (2015) National accounts, Badan Pusat Statistik, Jakarta
Comment: According 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 definitions (medium 50 to 250 workers and small 10 to 50 employees).
- 5** Data as of 19 June 2015: 233.125 female workers and 46.878 male workers.
- 6** Source: WTO report 2015
- 7** Source: BPS (2016-17) National accounts, Badan Pusat Statistik, Jakarta
- 8** Source: Emerging Market Direct, Indonesia's Textile and Garment Industry Profile (2015)
- 9** Source: Ministry of Industry 2015
- 10** Source: Indonesia Textile, Fact Sheets of Indonesia Textile Association, update March, 27, 2017
- 11** Source: BPS (2015) National accounts, Badan Pusat Statistik, Jakarta
- 12** Source: BPS (2014) National accounts, Badan Pusat Statistik, Jakarta
- 13** Source: Emerging Market Direct, Indonesia's Textile and Garment Industry Profile (2015)
- 14** Source: Ministry of Industry 2016
- 15** Better Work Indonesia PAC is composed by: Ministry of Manpower and other key Ministries such as Industry and Trade, the Indonesian Employers' Association and Textile Association (APINDO/ API) and the 4 most representative federations in the sector (FSPTSK-KSPSI, SPN-KSPI, GARTEKS-KSBSI)
- 16** Freedom of Association and Collective Bargaining.
- 17** Occupational Safety and Health.
- 18** Not all 153 factories will have their public reporting data uploaded in the transparency portal - only those with at least two assessments and with their last assessment occurring in the first half of 2017 will be eligible.
- 19** <http://betterwork.org/blog/portfolio/impact-assessment/>
- 20** "All-in workers" are those with thinking, planning, implementing and controlling responsibilities. These workers are not paid overtime as their functions are considered to be strategic to the management of an enterprise and their compensation package takes this into account. Better Work Indonesia considers that only supervisors and beyond can be considered as "all-in workers".
- 21** Six of the sixteen factories were in Cycle One and four other factories were in Cycle Two.
- 22** ILO Labour Conventions 29, 87, 98, 105, 100, 111, 138 and 183.
- 23** The limitations of this method of calculating non-compliance are discussed under Annex C.



International
Labour
Organization



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