



## **RISKS ASSOCIATED WITH THE GLOBAL TREND OF NON-STANDARD EMPLOYMENT**

A case study on India.

**Report #88**

**SWED  
WATCH**

Swedwatch is an independent not-for-profit organisation that conducts in-depth research on the impacts of businesses on human rights and the environment. The aim of the organisation is to contribute towards reduced poverty and sustainable social and environmental development through research, encouraging best practice, knowledge-sharing and dialogue. Swedwatch has six member organisations: Afrikagrupperna, the Church of Sweden, Diakonia, Fair Action, Solidarity Sweden-Latin America and the Swedish Society for Nature Conservation.



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## Executive summary

The use of employment forms that do not provide full-time and permanent employment has increased globally. This reflects a trend whereby companies seek to focus on core activities and to quickly adapt to shifting demand. However, the trend risks having a negative impact on human rights associated with decent work, including fair and equal wages, decent living conditions, freedom of association and collective bargaining rights. It also risks the fulfilment of UN Sustainable Development Goal 8 on inclusive economic growth, employment and decent work for all.

The International Labour Organization (ILO) identifies non-standard forms of employment as associated with risks for workers, such as job and income insecurity, unfair wages and limited possibility to influence their working situation. This briefing reviews risks associated with non-standard forms of employment prominent in the Indian labour market. Workers interviewed in the study have voiced concerns regarding wage levels and wage growth, employment insecurity, fear of raising their voices and social divides at the workplace.

Although India has legislation aimed at protecting workers engaged in non-standard forms of employment, this study indicates that it may not be sufficient. For instance, several workers that are paid above legal minimum wage, claimed that their wages are not enough to live and build a family on.

The potential adverse impacts on workers require companies with non-standard forms of employment prevalent in their value chains to act responsibly in identifying, mitigating and managing these risks. This process of human rights due diligence (HRDD) is necessary for companies to respect human rights in accordance with the United Nations Guiding Principles on Business and Human Rights<sup>1</sup> (UNGPs). Continuous HRDD is especially important when companies are active in markets where the protection of workers' human rights is weak, or the implementation of legislation is poor.

In order to fulfil Sustainable Development Goal 8, it is imperative that potential negative effects of the use of non-standard employment be further reviewed and risks addressed. To tackle these challenges, that cross geographical borders as well as different industrial sectors, cooperation between private stakeholders, civil society and states is necessary.

## Recommendations

*To companies with non-standard employment prevalent in their value chains:*

- Ensure that human rights risks concerning workers in non-standard forms of employment are addressed as part of the company's human rights due diligence, in accordance with the UN Guiding Principles on Business and Human Rights. To effectively assess impacts and risks, local civil society organisations should be consulted.
- Ensure that all workers are aware of their labour rights, including grievance mechanisms and procedures. Ensure that workers within non-standard employment can exercise their right to freedom of association and collective bargaining without fear of reprisals.
- Ensure that workers in all forms of employment enjoy just and favourable conditions of work, in particular fair wages and equal remuneration, a decent living for themselves and their families, and safe and healthy working conditions, as set out in the International Covenant on Economic, Social and Cultural Rights.
- Engage in sector-wide multi-stakeholder dialogue and initiatives to form collective strategies in order to identify and effectively address shared challenges specific to non-standard employment.

*To governments:*

- Contribute to the fulfilment of SDG 8 on decent work and economic growth, through identifying and addressing challenges specific to non-standard employment. This should include multi-stakeholder dialogue with employer and worker representatives as well as civil society, ensuring participation of representatives for workers within non-standard employment.
- Identify and address gaps in legislation and policies, as well as in their implementation, related to the protection of workers in non-standard employment.

## Abbreviations & glossary

**Contract worker** - Works under contract for an employer, hired for a specific job, often at a specific rate of pay. Does not become a regular addition to the staff, not considered a permanent employee. Also referred to as agency worker.

**Fixed-term employment** - A contract in which a company or an enterprise hires an employee for a specific period of time.

**ILO** - International Labour Organization – U.N. agency that brings together governments, employers and workers of 187 member States, to set labour standards, develop policies and devise programmes promoting decent work for all.

**Human rights due diligence** - An ongoing risk management process that companies need to follow to identify, prevent, mitigate and account for how they address their adverse human rights impacts.

**Precarious work** - Employees with casual, temporary, indirect or zero-hours contracts. Lack of job security and generally lower salaries, limited social protection, and few, if any, benefits.

**Non-standard employment** - An umbrella term for different employment arrangements that deviate from standard employment.

**Private employment agency** - Provides (a) services for matching offers of and applications for employment; (b) services consisting of employing workers with a view to making them available to a third party; (c) other services relating to job seeking.

**SDGs** - The United Nations Sustainable Development Goals.

**Standard employment** - Work that is full time, permanent, as well as part of a subordinate and bilateral employment relationship. Also referred to as regular or permanent employment.

**UNGPs** - The United Nations Guiding Principles on Business and Human Rights.

**Vulnerable employment** - Employees less likely to have formal work arrangements, more likely to lack decent working conditions, adequate social security and effective representation by unions.

*Sources: ILO, Ungpreporting.org, IndustriALL, Business Dictionary, The Economic Times*

# 1. Introduction

In early 2017, the International Labour Organisation (ILO) stated that the progress on reducing decent work deficits had stalled, especially regarding the global economy's ability "to generate a sufficient number of jobs, improve the quality of work for those with a job, and ensure that the gains of growth are shared in an inclusive manner".<sup>2</sup>

The importance of overcoming these challenges is reflected in the United Nations Sustainable Development Goals (the SDGs) as part of the 2030 Agenda for Sustainable Development, which was adopted by world leaders in 2015. The Agenda's overarching goal is to eradicate poverty, protect the planet and ensure global prosperity. SDG 8 calls for "stakeholders globally to promote inclusive and sustainable economic growth, employment and decent work for all".<sup>3</sup>

Employment forms that do not provide full-time and permanent employment, such as temporary employment, part-time work and agency work, pose risks connected to fulfilment of SDG 8. Even though these types of non-standard forms of employment can have positive effects for companies, individuals and society, they are also accompanied by certain risks for the workers, such as insecurity, low wages and lack of possibility to exercise union rights.<sup>4</sup>

In 2015, around one quarter of workers worldwide were employed on a permanent contract, 13 per cent on temporary and fixed-term contracts, and the majority were working without any contract at all.<sup>5</sup> Almost half of all workers in emerging economies and four out of five in developing countries are still in vulnerable forms of employment, commonly typified by lacking formal work arrangements and decent working conditions.<sup>6</sup> Workers in these types of vulnerable employment are expected to increase by 11 million per year, primarily in Southern Asia and sub-Saharan Africa.<sup>7</sup>

With this report, Swedwatch wishes to highlight potential human rights risks concerning the use of non-standard labour, and provide a basis for discussion on how potential risks can be mitigated. India, the fastest growing market in the world, has been chosen as an example of the development. India is expected to house the largest workforce in the world by 2026<sup>8</sup>, and its labour market faces extensive challenges, primarily due to the vast majority of people being in informal employment. Moreover, India has witnessed a significant increase of the use of contract workers.<sup>9</sup>

## 2. Methodology

The purpose of this briefing is to examine potential human rights risks associated with the growing trend of multinational companies using non-standard employment forms. The phenomenon has been subject to debate in developed economies as well as developing and transitional economies. Non-standard employment forms can be found across different sectors around the world.

While the trend is a global phenomenon, this report is limited in scope to findings from a case study in India, in which Swedwatch conducted interviews with local management representatives, union representatives and 13 workers with different forms of employment. The interviews were carried out in Bangalore, India, in June 2017 after the Volvo Group provided Swedwatch with access to its factories. The testimonies have been put into a larger context and complemented by a desk study in order to describe the global as well as Indian development of non-standard employment and general risks associated with it. It should be noted that Volvo Group employs around 3 500 workers in India, and the number of workers interviewed for this study can therefore not be considered as a representative share of the workforce. After the field study, the findings were shared with representatives from the Volvo Group and comments have been incorporated into the report.

Several studies were referenced for this report in order to harness expertise on the global trend of non-standard employment as well as on the Indian labour market and national legislation. Important sources include the International Labour Organisation (ILO), the Indian Ministry of Labour and Employment and the global union IndustriALL. Swedwatch also consulted several other local union representatives, academic researchers and Indian labour lawyers. Swedwatch does not refer to respondents' names in this report.

Swedwatch acknowledges that the circumstances highlighted in the study most likely apply to other multinational companies and sectors using non-standard forms of employment. Multi-stakeholder dialogue across geographic areas as well as different sectors is needed for the challenges to be further identified and addressed.



## 3. Background:

# The rise of non-standard employment

FACT

### What is non-standard employment?

According to the ILO, there is no official definition of non-standard employment. The term is often used to describe employment that falls outside “standard employment relationship”, understood as work that is full time, permanent, as well as part of a subordinate and bilateral employment relationship. The ILO identifies four types of non-standard employment:

- 1) Temporary employment: Workers are engaged only for a specific period of time. Includes fixed-termed, project- or task-based contracts as well as seasonal or casual work, including day labour.
- 2) Part-time and on-call work: Employment forms where normal hours of work are fewer than those of comparable full-time workers.
- 3) Temporary agency work and multi-party employment relationship: Workers are not directly employed by the company to which they provide their services. For example, when a worker is deployed and paid by a private employment agency, but the work is performed for the user firm.
- 4) Disguised employment relationships and dependent self-employment: Employments which are not formally part of an employment relationship. Workers do not benefit from the protection offered by labour law, including minimum wage rates, social security coverage and paid sick leave.

Source: <http://www.ilo.org/global/topics/non-standard-employment/lang--en/index.htm>

In the 1970's, several European countries deregulated their labour markets with the aim of increasing market flexibility and stimulating job growth, making it possible to use temporary labour also for jobs that are not necessarily temporary in nature. According to the ILO report “Non-standard employment around the world” (2016), around 40 per cent of companies in developing and transitional economies used temporary employment on a regular basis in 2010. In developed economies, the corresponding figure was 23 per cent.<sup>10</sup> The number of staffing agencies in the world was estimated to have reached 128,000 in 2012.<sup>11</sup>

The use of non-standard employment is often justified with fluctuations of demand, due to seasonal changes, changes in the business cycle, competition from other firms for market share, or external shocks. It is thereto often associated with lower labour costs.<sup>12</sup> Temporary employment is more extensively used in industries subject to volatile demand, and in smaller businesses that are less likely to have enough employees to meet temporary adjustment needs. It has been proven that the use of temporary workers helps companies to tackle challenges of volatile demand and macro-economic events.<sup>13</sup> The ILO, however, highlights other available solutions to



India, where many multinational companies operate, is expected to house the world's largest workforce by 2026. In the nation, the increase in hiring contract workers has been a phenomenon across sectors and industries during the past decades. (The factory in the photo is not related to the field study of this report).

meet these challenges, such as rescheduling the production and delivery of certain products and services to off-peak periods, or reducing working hours.<sup>14</sup>

The idea that enterprises should focus on its primary strengths and competences, i.e. core activities, prospered in management literature in the beginning of the 1990's. Although this model also has cost cutting effects, it was primarily a concern of focusing the company's efforts. As a result, sales per employee became a standard key indicator in shareholder reports. While many businesses only outsource non-core operations, others have come to rely on non-standard work arrangements for what are arguably core functions.<sup>15</sup>

Businesses often strive to have a balance between stability and flexibility in their workforce. At the same time as fluctuations call for flexibility, businesses need to ensure that they have a sufficient number of dedicated and knowledgeable staff that can handle the companies' core operations and ensure durability. This tends to create a primary and secondary workforce in the work place; one with stable, well-paid jobs, with chances of professional development, and one that is often lower paid, lower skilled, has fewer opportunities for training and advancement and is more easily replaced. To motivate and retain core workers, and limit recruitment costs, permanent workers can be paid higher-than-market wages.<sup>16</sup>

### 3.1 Non-standard employment in India

The rise of non-standard employment is also evident on the Indian labour market. According to the ILO, the proportion of informal workers in employment in India is over 90 per cent, partly because of the increase in the use of contract and other forms of casual labour.<sup>17</sup> The increase in hiring contract workers has been a phenomenon across sectors and industries. For instance, industries that relied relatively little on contract labour in the late 1990s depended heavily on it by 2011–2012 – this included the manufacturing sector where contract labour made up 34.7 per cent of the workforce.<sup>18</sup> Similarly, in 2014, it was estimated that 46 per cent of employees in the industrial sector were contract workers.<sup>19</sup>

The discussion about working conditions for non-permanent workers is widespread in India. In February 2017, IndustriALL Global Union along with central trade unions in India organised a mass meeting in Chennai to protest against precarious work and demand equal pay for equal work. In a brief from the conference, IndustriALL stated that workers involved in precarious work usually work on par with permanent workers and are at times subjected to increased workload and longer working hours, are paid low wages and are denied medical, pension and social security benefits. Speakers at the conference expressed concern that, even though the law provides for the regularisation of workers after 480 days of service and restrictions on the recruitment of temporary workers to 10 per cent of the total workforce, the labour department has lost its capacity to implement the rule of law. They further claimed that the public sector itself refuses to pay equal wages for equal work, while the situation is much worse in the private sector.<sup>20</sup>

India has sought to address the use of contract workers through legislation. Whereas contract workers employed by the staffing agency are subject to standard labour law regulations, the complexity of the triangular nature of contract work has resulted in legislation especially targeted at clarifying the responsibility for contract labour. The Contract Labour (Regulation and Abolition) Act of 1970 stipulates what benefits must be provided to the contract workers, including payment of minimum wages and overtime. The Act gives local government authorities the right to prohibit employment of any contract labour based on considerations of conditions of work and benefits provided for contract labour. Other relevant factors, for example whether it is sufficient to employ considerable number of whole-time employees, should also be considered. Ordinarily, the use of contract labour is intended to be prohibited in “core activities” which are of a perennial nature.<sup>21</sup> While the Contract Labour Act is a law of the Indian central government, there is scope for Indian state governments to modify a number of its provisions so as to extend or limit the operation of the Act.<sup>22</sup>

The statutory norms in India to limit the use of non-standard work appear to have limited impact on labour market practices. Despite regulatory frameworks aimed at strengthening the protection of contract workers, there is yet little indication of acts to strengthen their collective rights, such as to facilitate organisation and bargaining beyond the direct employer.<sup>23</sup> While it is true that non-compliance with the law is a general problem that affects workers in all forms of employment, the ILO states that the problem appears to be worse for workers in non-standard forms of employ-

ment, due to their heightened vulnerabilities, foremost their lack of job security. In many cases, non-standard workers are reluctant to assert their legal rights to refuse to work overtime and/or to adequate compensation for doing so, or leave entitlements, for fear of losing their jobs.<sup>24</sup>

### 3.1.1 Swedish companies in India

India has for many years been an important market for multinational industrial companies and is one of Sweden's largest trading partners in Asia.<sup>25</sup> Currently, there are 160 Swedish companies established in the country, including ABB, Astra Zeneca, Ericsson, Atlas Copco, Sandvik, Volvo Trucks and Buses, and SKF.<sup>26</sup> The trend of growing numbers of workers with non-standards forms of employment within Swedish industries in Pune, India, were noted already in 2008 by Unionen in the report "Project at the Swedish industrial companies in the Indian state of Pune". At the time, Sandvik for example had 242 permanently employed workers and 180 contract workers in Pune, and SKF had 1,074 permanent employees and 400 contract workers.<sup>27</sup>

In a conference on temporary contract workers arranged by IndustriALL in Pune 2015, participants spoke of national and multinational companies hiring fewer permanent staff and using more workers with non-standard forms of employment. According to participants there were instances of companies dismissing permanent workers and rehiring temporary workers for the same work, but for a fraction of the salary. Almost all permanent workers that participated in the conference claimed to have colleagues doing the same work for much less salary (earning up to 80 per cent less). IndustriALL notes that "a wage that is possible to live on is a dream" for these workers, even if they have worked for years in the same job. According to IndustriALL workers can remain in non-standard employment up to 25 years, due to various arrangements including continuously renewed short-term contracts. These contract workers also experience lack of holidays and maternity leave and the overall situation affects their ability to get married as well as sending their children to school. If they try to join a union, they often end up losing their jobs.<sup>28</sup>

## 4. Case study: Non-standard employment in India

In order to explore experiences of stakeholders involved in non-standard forms of employment, Swedwatch in 2017 conducted interviews with local management representatives, union representatives and workers with different forms of employment at two of Volvo's factories in Bangalore. The findings from the interviews related to three main topics: job security, remuneration and ability to influence the working situation. These topics are reoccurring in literature and research on these forms of employment, both in India and elsewhere.

Volvo Group (Volvo) has had operations in India for almost 20 years with production located mainly in Bangalore, where the company produces trucks, buses and

construction equipment in three factories in the outskirts of Bangalore. The group employs around 3,500 people in India.<sup>29</sup>

Similar to other industrial companies, the principle of “flexible workforce” is implemented in almost all of Volvo’s factories around the world and their factories in Bangalore are not an exception.<sup>30</sup> According to Volvo, the fluctuation in orders and production require a flexibility in the workforce – for example, orders placed for the production of buses can fluctuate substantially between 25 to 45 per month and the production of buses and trucks is initiated only when an order has been received.<sup>31</sup> Volvo also underlines that Indian labour legislation provides very limited possibilities to adapt the permanent workforce in case the demand for products decreases. The factories’ workforce is made up of permanent employees, fixed-term employees and contract workers, while areas such as security, maintenance, cleaning and food preparation are handled by outsourced companies.<sup>32</sup>

There are continuous fluctuations in numbers of employees and contract workers but at the time of Swedwatch’s visit to Volvo’s factories, the total share of contract and fixed-term workers in production was in total around 40 per cent at Volvo’s bus factory and 50 per cent at Volvo’s truck factory, according to figures provided by local management. In the bus factory, the majority of these were contract workers, whereas fixed-term employees were more common at the truck factory.<sup>33</sup>

According to Volvo, private employment agencies as well as service providers are required to follow the group’s Code of Conduct, which places demands on for example legal compliance and human rights.<sup>34</sup> Volvo representatives state that last year they, as part of an internal human rights due diligence pilot in India, looked into their service providers and private employment agencies, which resulted in a strengthened supplier audit process. The audits are scheduled periodically and will be extended to all of Volvo’s locations in India. Volvo states that the results of the audits have been carefully analysed and assessed as well as followed rigorously across all locations via an audit check-list.<sup>35</sup>

Several of the workers with non-standard employment interviewed said that they felt generally disadvantaged compared to permanent employees. Key areas of concern included their experience of job insecurity and wages. Due to fear of reprisals and lack of possibilities to become members of the factory unions, workers also stated that they experience minimum influence over their working situation. Furthermore, a few of them stated that non-standard workers are generally treated worse by their supervisors, have inferior benefits and perform more dangerous work. These experiences are mirrored by literature and research on non-standard employment both in India and globally.

## 4.1 Job security

The ILO states that workers engaged in non-standard employment in India experience little, if any, employment security.<sup>36</sup> The ILO further asserts that employment insecurity experienced by non-standard workers is generally associated with a



range of negative outcomes adversely affecting work satisfaction, psychological and mental well-being and overall life situation.<sup>37</sup>

Workers interviewed in this study expressed that they sense insecurity in their job situation and that the perceived risk that they will suddenly lose their jobs or placements puts them in a vulnerable situation, which in turn hinders them from expressing dissatisfaction with their working conditions. One contract worker, that had worked at the bus factory for three years, stated:

*"The workplace is divided in two completely different categories of workers. One with stable and permanent jobs, and one with insecure and temporary jobs, including us contract workers. We are a lower class of workers. Supervisors often aim their complaints at us and we cannot defend ourselves. We risk being kicked out, immediately."*

According to union representatives, companies can remove or replace contract workers and workers within the outsourced activities. The workers and union representatives assert that this is legally done with little or no notice. The workers may thereafter be provided with another job from their employer, if they are not specifically employed to work at Volvo.<sup>38</sup>

The union representatives interviewed expressed an understanding that some flexibility is needed in the production due to fluctuations in demand, but in their view workers carry too much of the business risk. To level the burden, they argue that 75 per cent of the workers at the factories should have permanent employment and 25 per cent various forms of temporary employment. Furthermore, the union chapters recommended that at least some of the outsourced operations should be handled by Volvo instead of contracted companies. Demands that the share of permanent employees should be increased were also expressed in a number of strikes between 2010 - 2013.<sup>39</sup>

According to the ILO, workers within non-standard employment, especially those in multi-party employment relationships and temporary workers, have a hard time transferring into regular employment. Even where non-standard employment functions as a stepping stone, non-standard workers have a significantly higher rate of transition into unemployment or inactivity – sometimes nearly tenfold – compared to standard workers.<sup>40</sup> There is little data available from India to which extent the non-permanent forms of employment are preferred by workers over permanent employment, and whether these forms of employment function as a stepping stone or a trap.<sup>41</sup> A qualitative study from 2014, based on interviews with temporary and contract workers in the automobile industry in Chennai, however, found that workers often get stuck in different forms of non-standard employment, despite preference for direct and permanent work.<sup>42</sup>

Volvo states that the company offers work to people with lower skills in many markets in order to increase their experience and skill set, and therefore also their employability for Volvo and for the overall labour market. These jobs are often offered with a fixed-term contract. Furthermore, they state that contract workers



The increase of non-standard employment is a global trend. In September 2017, a court in Tokyo, Japan, ordered an employer to pay three contract workers about 900,000 Yen (around 6,700 EUR) over 'unreasonable' differences in staff entitlements, as the workers are doing the same jobs as regular employees.

normally are employed by their respective agency, and therein benefit from secure employment. Volvo highlights that the company follows the practice that prevails among similar industrial companies in India and that increasing the share of permanent employees could undermine competitiveness in the market and flexibility regarding fluctuating order-numbers.

## 4.2 Wages and benefits

According to the ILO, temporary employment forms usually mean lower wages for the worker.<sup>43</sup> Fixed-term workers and temporary agency workers have also been found to be more likely to work unpaid overtime, often in anticipation of a renewal of their contract.<sup>44</sup> Furthermore, workers in non-standard employment frequently have inadequate employment-based social security coverage, either due to legal limitations or because low earnings and short employment time can result in insufficient results.<sup>45</sup>

Recent figures on wage differences are lacking, but in 2006, the wage difference between casual/contract and permanent workers in India was estimated to 45,5 per cent.<sup>46</sup> In a study from the Indian state Karnataka from 2009, it was shown

that contract workers not only received lower wages than their directly employed counterparts, many also earned wages below the statutory minimum and lacked appropriate wage increases, allowances, bonuses and overtime payments.<sup>47</sup> It has been concluded that the statutory provision requiring payment of the same or similar wages to contract workers as paid to regular workers “remains on paper in the absence of clarity regarding its enforcement”.<sup>48</sup>

In 2016, the Supreme Court of India clarified that, since India has ratified the UN International Covenant on Economic, Social and Cultural Rights, the principle of ‘equal pay for equal work’ must be followed and therefore temporary workers are entitled to the same wage as regular employees when performing the same type of work. The court stated that the law “constitutes a clear and unambiguous right and is vested in every employee – whether engaged on regular or temporary basis” and that “any act, of paying less wages, as compared to others similarly situated, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.”<sup>49</sup>

It is the duty of the principal employer, defined in Contract Labour (Regulation and Abolition) Law as “the owner or occupier of the factory”<sup>50</sup>, to ensure compliance by the contractors, including that wages are paid. If the contractor fails to make pay wages in full or on time, the principal employer is liable to remunerations and may also recover the same from the contractor.<sup>51</sup>

During Swedwatch’s interviews with workers and unions from Volvo factories in Bangalore, the issue of wages was also brought up. According to union and management representatives, all workers at the factory premises earned legal minimum wage or above (the minimum wages depend on type of employment and skill level). Whereas regular employees started at a somewhat higher salary and have a significant wage increase, workers within fixed-term employment contract workers started at a somewhat lower salary and normally lacked wage growth.<sup>52</sup> Permanent employees’ salaries ranged from around the equivalent of EUR 210\* to 660 a month, depending on role and years of experience, with an average salary of EUR 400 – 460. At the bus factory, for example, employees that have worked at the company between 1-3 years earned on average EUR 330 a month, and employees that have worked more than three years at the company earned from around EUR 435 and above. Fixed-term and contract workers on average earned around approximately EUR 160 – 200 a month, and workers within outsourced activities on average earned around EUR 140 – 165 a month.<sup>53</sup> However, it should be noted that fixed-term employees normally leave the company when the contracts expire within two years, if not offered a permanent job at Volvo. Volvo sets the wages for the fixed-term workers, whereas the respective contracted agency and service provider set the wages for the outsourced and contract workers.<sup>54</sup>

According to Volvo, the main reason for the relatively lower wages for non-standard workers compared to regular workers, is the type of work performed, including skill

\* In December 2017, one Indian Rupee was equivalent to 0.013 EUR



level and experience. Volvo states that fixed-term and contract workers at its factories generally perform work of less complexity, normally support tasks, and that their skill level is lower than the permanent employees', which is reflected in their wages since compensation is based on the complexity of the work, skill levels and years of relevant work experience.<sup>55</sup> According to the union representatives, fixed-term workers may perform the same kind of work in core-activities as some of the permanent employees, whereas the complexity of the contract workers vary.

*"It's of crucial significance if one is permanently employed or belongs to the contracted labour. Even if we do exactly the same work, the terms are very different. Those of us who are contract employed have much lower wages and worse benefits. We're also treated worse by the management. The division of the workforce also undermines the togetherness of the workers. We're pitted against one another."*

/Contract worker, has worked at the truck factory for three years

Representatives for Volvo Group stress that they see the minimum wage as a fundamental premise of decent work, and that the company globally respects the principle of equal compensation for equal work.<sup>56</sup> Furthermore Volvo states that the company follows national legislation as minimum level and in several areas are above the minimum standard, for example the company pays above the minimum wage, and temporary- and contract workers also get access to benefits that the companies' regular employees have, for example the canteen or transport.<sup>57</sup>

Despite being paid minimum wages or above, several workers interviewed expressed that it is difficult to live and build a family on current wages. A contract worker, who had worked at the bus factory for six years, stated:

*"It is hard to make ends meet. We, the temporary employees, have a far more insecure position than the permanently employed. Our salary is half of the permanent employees'. I rent a room for 5000 rupees a month, then I need some medical care and have to pay for transportation. After that, I don't have much to live on. To have a chance to ever get married, I have to get a permanent job. Otherwise, it will be hard."*

FACT

### **Fair wage and equal remuneration**

According to Article 23 of the UN Universal Declaration of Human Rights (1948), every worker shall have the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity. Article 7 of the International Covenant on Economic, Social and Cultural Rights (1976) states that all signatory states must recognise the right of every worker to enjoy just and favourable conditions of work, in particular fair wages and equal remuneration for work of equal value.

### 4.3 Unionisation and social divide

The increased prevalence of non-standard work in India has led to greater segmentation of the workforce, with negative effects on both freedom of association and collective bargaining rights, such as significantly eroded bargaining power.<sup>58</sup> According to a study carried out by ILO, workers in non-standard forms of employment find it difficult to form unions or associations due to job insecurity, segmentation and fragmentation, employer's force, and absence of pre-existing collective organisations in their district.<sup>59</sup> The workers might lack rights or awareness of their rights and access to legal support, and contract workers might not know who to assert these rights to. As a result, non-standard workers generally have a lower rate of unionisation.<sup>60</sup>

Workers within non-standard employment in India can face resistance to unionisation both among permanent employees and management at their workplaces.<sup>61</sup> Hostility from permanent workers engaged in the same establishment has been identified as a factor hindering non-standard employees from forming unions or engaging in collective bargaining. The permanent employees might not consider the workers within non-standard employment as their colleagues or fear that an increase in the non-standard workers' wages would negatively affect their wages. In some cases, non-standard workers have in fact been prevented by local unions to become union members.<sup>62</sup> A 2011 study furthermore showed that suspending or dismissing non-standard workers is a common employer strategy to discourage unionisation.<sup>63</sup> According to local union representatives interviewed for this report, as well as other studies, it is usually not possible for fixed-term employees, contract workers and outsourced labour to join unions.<sup>64</sup> IndustriALL especially highlights contract workers' situation: "For workers in triangular employment relationships, bargaining is nigh on impossible. The user company where they work controls their working conditions, yet the agency or sub-contractor is their legally recognised employer, even though it has no actual control over their work."<sup>65</sup>

India has not ratified ILO Convention 87 on freedom of association and protection of the right to organise or Convention 98 on the right to organise unions and reach collective agreements.<sup>66</sup> However, article 19 of the Fundamental Rights of India guarantees all citizens, i.e. including workers with non-standard employment, the fundamental right to form associations or unions.<sup>67</sup> The Supreme Court of India has held that the right guaranteed in Article 19(1)(c) also includes the right to join an association or union.<sup>68</sup> Union organisations must be registered by the authorities, and approved by the employer. Only thereafter is a local collective agreement between the union and the employer possible.<sup>69</sup> Management interference with union membership can be considered a breach of the fundamental right to join an association, and also counted as unfair labour practice according to the Industrial Disputes Act.<sup>70</sup>

Contract and fixed-term workers at the visited Volvo factories in Bangalore were at the time of the field study not part of the local unions or covered by the collective bargaining agreements in the factories. The workers interviewed were neither part of other unions or covered by other collective bargaining agreements.<sup>71</sup> The reason for the non-standard workers' lack of unionisation is however unclear. According

to Volvo group's Code of Conduct, as well as Indian legislation, the non-standard workforce "has the right to join the union, and an equal right to refrain from doing so".<sup>72</sup>

Several workers interviewed expressed that they do not dare to speak up about neither working conditions nor union rights, due to fear of losing their jobs or placements at Volvo. A contract worker, that had worked in production at the bus factory for eight years, stated:

*"The insecurity is the worst. We can lose our jobs effective immediately. This leads us to never dare protest or object to anything. We aren't allowed to be in the union either, even if the union members listen to what we have to say."*

In the interviews, the union representatives and management provided differing information on which groups can join the local unions. According to the union representatives, only permanent employees can become members, whereas management at the truck factory claimed that fixed-term employees also can join the local unions. The union representatives argued that non-standard employees should be able to either join the existing union or form one or more union chapters of their own. They furthermore stated that management at the bus factory has made it clear that it will stop negotiating and no longer approve the union chapter if it starts organising contract workers. Volvo however states that the local management is following Indian law, and that "it should be neutral in its approach towards voluntarily formed unions, as stipulated by Indian legislation". Furthermore, Volvo believes that collective bargaining for contract workers should take place with their employer, i.e. the private employment agency.<sup>73</sup>

Workers and union representatives interviewed claimed that the different conditions for permanent workers and workers with non-standard employment create a social divide at the workplace.

## 5. Conclusions

The rise and widespread use of non-standard forms of employment has raised questions regarding impacts on working conditions and rights of workers across the world. While these forms of employment can offer flexibility to companies and provide workers with access to labour markets, they are often associated with workers experiencing job insecurity, low wages, lack of wage growth, limited access to social protection schemes or training and career advancement.

The potential adverse impacts on workers require companies to act responsibly in identifying, mitigating and managing such risks in order to maximise the positive impacts of their business operations. This process of human rights due diligence (HRDD) is therefore necessary for companies to respect human rights in accordance with the United Nations Guiding Principles on Business and Human Rights<sup>74</sup>, as well as to secure the fulfilment of the Sustainable Development Goals.

The UNGPs further assert that it is the state's duty to protect its citizens' human rights which in relation to non-standard employment highlights the importance of adequate legislation. And while certain countries may have regulations to this effect, the active implementation of such legislation is of equal importance in order to ensure that workers in non-standard employment forms can truly enjoy the same protection as other workers. However, the risks associated with non-standard forms of employment, especially in markets where the legal protection of labour rights is weak or not enforced, puts extra pressure on companies using a business model which includes a flexible workforce. In order to comply with the UNGPs, companies need to respect human rights in all of their operations, independently of states' abilities or willingness to fulfil their own human rights obligations.

To this end, Swedwatch finds it promising that Volvo last year, as part of their internal human rights due diligence pilot in India, looked into their service providers and private employment agencies, which resulted in a strengthened supplier audit process. The audits aim to ensure compliance to the statutory requirements and the Volvo Group Code of Conduct. If analysed and assessed correctly, and followed up rigorously, the audits will provide the company with valuable information regarding deviances that need to be addressed.

The experience of unequal wage levels and wage growth, employment insecurity and low possibilities to unionisation – as expressed by workers in this study – might pose risks to the fulfilment of SDG 8, inclusive and sustainable economic growth, and decent work for all. In order to tackle these challenges, that cross geographical borders as well as different industrial sectors, cooperation between private stakeholders, civil society and states is necessary.

As an example, companies should interact with local organisations that advocate for workers' human rights in order to establish a genuine perspective of the overall situation for workers within the company's operations. Specific focus should be placed on potential wage inequality and how this contributes to segregation in places of employment, and also in the society as a whole. Statutory minimum wages are not guaranteed to cover the basic needs and rights of employees.

Through dialogue with civil society organisations, companies also increase their knowledge regarding challenges faced by workers outside of their workplace. In that context, information can be obtained that explain how their working conditions impact their lives. Provided with such crucial insights, companies can engage in sector wide multi-stakeholder dialogue and initiatives, and in such way act together with increased leverage for positive change and for the protection of all workers' rights – no matter their form of employment.

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