

MAKE FASHION TRAFFIK FREE PROTOCOL



The Make Fashion Traffik Free Protocol is a commitment to ensure the following criteria are adhered to by a retailer or fashion label's suppliers¹ with the intention of eliminating human trafficking within their business.

PROTOCOL

We, the undersigned parties commit to ending human trafficking within the cotton, textile and garment² production in our business and will work to ensure that human trafficking³ does not find its way into our products by ensuring:

1. Transparency

Within 6 months of signing this protocol we will announce a realistic yet ambitious 3-5 year timeline⁴ to trace and make public⁵ the suppliers in our chain of supply in all stages of the production of the garments we sell.

2. Contracts

We will require suppliers to introduce contracts, signed by themselves and each employee, which at a minimum ensure the following, even where this is above the minimum legal standards set by the country of operation.

- a) Freedom of movement of workers
- b) Payment of a living wage⁶
- c) Ensure compliance with minimum health and safety requirements⁷
- d) Eliminate discrimination
- e) Ensure the implementation of a functioning Grievance and Dispute Resolution Procedure
- f) Signed (explained and understood) and witnessed employment contracts between employers and employees that include the above.

3. Auditing

Allow unannounced auditing and offsite worker interviews by credible and independent auditors.

.....(Company name)

.....(date)

Please scan the signed protocol and email it to traffikfreefashion@stophetraffik.org

1 This includes suppliers, suppliers' subsidiaries, suppliers' affiliates and agents, contractors and sub-contractors.

2 Whilst our campaign currently is focussing on clothing labels, retailers and consumers of other products such as furniture may also join the protocol

3 According to the United Nations Human Trafficking involves recruitment through deception or coercion of those who are vulnerable for the purposes of exploitation. Trafficking in Persons Report 2012, USA Government Department of State, Country Narrative for India names the Sumangali Scheme as a form of human trafficking. www.state.gov/j/tip/rls/tiprpt/2012/.

4 The timeline may be staged over 3 - 5 years beginning with the cut-make-trim stage in the first year; followed by spinning, weaving and dyeing stage and finally the harvest of cotton stage of a garment's production with benchmarks which include details of the percentage of the supply chain traced in each year.

5 Initially at the request of STOP THE TRAFFIK who will provide information about suppliers covered under the protocol (but not the label or retailer) to local civil society and NGO groups

6 As defined by the SA8000 Standard section on remuneration www.sa-intl.org/_data/n_0001/resources/live/SA8000Remuneration.pdf A 'living wage' can be calculated through the Fair Wear Foundations tool 'FWF Wage Ladder' www.fairwear.org/563/wage-ladder/

7 See the Bangladesh Fire and Safety Accord www.bangladeshaccord.org

www.stophetraffik.org
[#fashionvictims](https://twitter.com/fashionvictims)

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The Make Fashion Traffik Free Protocol is a commitment to ensure the following criteria are adhered to by a retailer or fashion label's suppliers¹ with the intention of eliminating human trafficking within their business.

EXPLANATION OF EACH 'ASK' WITHIN THE PROTOCOL, WITH PARTICULAR REFERENCE TO THE SUMANGALI SCHEME

Detailed below is the rationale for the key aspects within the protocol. Where companies discover that factories from Tamil Nadu, India are in their supply chain, we specifically ask that they request these factories to end the practice of using the Sumangali Scheme. India has already established laws, precedents and practices which if adhered to will end the Sumangali Scheme and human trafficking in the textile industry.

1. Transparency

Companies must be able to trace their supply chain. Without this knowledge it is impossible for them to take responsibility for conditions for workers throughout every stage of production. This knowledge needs to extend from the cut, make, trim stage right back to the sourcing of the raw material. Only with this information can a company ensure that standards have been adhered to throughout the production of their product. By tracing and publishing a suppliers list a company demonstrates a real commitment to best practice and to being open and accountable about its supply chain.

2. Written Contracts

- Freedom of movement of workers

Where the Sumangali scheme is in operation, most of the hostels young women are required to stay in are on the factory premises. All hostels restrict the movement of young women and girls in the Sumangali Scheme outside of the hostel and factory grounds. In some cases none of the workers could go out on their own, under any circumstances. These factories may have a temple on the premises and allow festivals to be celebrated there as well as a shop supposed to supply all the worker's needs. In others, workers can go out once a week in rotation and under supervision of a warden and in the company bus. This allows workers to leave the factory, under supervision about once a month.

Very few hostels are located outside the factory premises and those that are, are still well controlled by the factory management. The recent trend is for employers to deny ownership of hostels (which are located outside) and claim that they cannot take responsibility of happenings inside the hostel. Though employers try to establish that hostels are run by a

third party, there is often ample evidence to the contrary.

Hostels are not easily accessible to the parents of workers because of the distance. Even if they are able to undertake the journey and afford the cost of travel, parents are only permitted to visit their daughters once every three months. Even then they cannot talk freely.

Sumangali workers in hostels do not have the liberty to visit their home as and when they wish. Documented case studies reveal that girls are denied permission to go on leave for emergency situations such as their parents falling ill, death of a family member or during festival times.

The practice of requiring women and girls to be accommodated on the mill and factory site limits their freedom of movement, access by family members and can allow for abuse of work hours. Whilst still providing the culturally expected safety and protection for single women, appropriate freedom of movement by the women and freedom of access by their families is a human right.

The protocol asks that:

- (i) Within 2 years of agreeing to this protocol any onsite hostels will be closed. Women and girls to be accommodated in hostels registered with the Social Welfare Board².
- (ii) The supplier of accommodation will provide a certified counsellor or social worker on the staff of such hostels to attend to the physical and psycho-social needs of the women and cultural expectations of families concerning their single daughters.

- Payment of a living wage

According to the Indian Labour Bureau³, "The living wage, represented the wage which should enable the worker to provide for himself and his family not merely the basic essentials of food, clothing and shelter but a measure of comfort including education for children, protection against ill health, requirements of essential social needs and a measure of insurance against more important misfortunes including old age."

They go on to state that "a minimum wage must provide for not merely the bare sustenance of life, but for the preservation of the efficiency of the worker. For this purpose, the minimum wage must also provide for some measure of education, medical requirements and amenities."

The Make Fashion Traffik Free Protocol asks for the living wage to be paid. Currently the industry offers less than the minimum wage prescribed by the government. Since most of the mills employ young girls, ostensibly under "apprenticeships", they are not eligible for social security measures and their wage is less than a regular worker. They actually perform the role of a regular worker and do not receive the training an apprenticeship implies.

The wage structure for an apprentice in the garment sector is specified by the Tamil Nadu government⁴. Interviews with

¹ This includes suppliers, suppliers' subsidiaries, suppliers' affiliates and agents, contractors and sub-contractors.

² www.cswb.gov.in/index.asp?langid=1

³ http://labourbureau.nic.in/Min_Wages_Report_2011.pdf

⁴ Government of Tamil Nadu issued G.O.Ms.No.67, Labour and Employment Department, dated 08.08.2006 (for inclusion in Part I of

Sumangali workers reveal that they were not aware of the actual wage structure, though they were coached differently in advance of buyer visits and audits.

- Ensure compliance with minimum health and safety requirements

The International Labour Organisation's mandate for occupational safety and health dates from its very foundation: "And whereas conditions of labour exist involving such injustice hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled; and an improvement of those conditions is urgently required; as, for example, by the regulation of the hours of work including the establishment of a maximum working day and week ... the protection of the worker against sickness, disease and injury arising out of his employment ..."¹

Hazardous work conditions in clothing sector can be categorised as below:

- ▲ Hazards associated with the non-application of ergonomic principles, for example badly designed machinery, mechanical devices and tools used by workers, improper seating and workstation design, or poorly designed work practices.
- ▲ Chemical hazards, arising from liquids, solids, dusts, vapours and gases;
- ▲ Physical hazards, such as noise, vibration, unsatisfactory lighting, radiation and temperatures;
- ▲ Biological hazards, such as bacteria, viruses, infectious waste and infestations;
- ▲ Psychological hazards resulting from stress and strain.

The health and safety of Sumangali workers is always at risk. Field observations reveal that when they are sick, workers only receive first aid and then they are expected to continue working without any rest. When too ill to work, former Sumangali Scheme workers reported that a full month was added to their contract for every sick day they took. The cost for first aid (such as bandages and Paracetamol) is deducted, at costs much higher than the actual cost, from their allowances or lump sum payment.

Long work hours and the heavy work load have led to Sumangali workers experiencing leg pain, irregular menstruation, headaches, abdominal pain and fatigue. Former Sumangali workers report that they later faced problems related to pregnancy including frequent miscarriages. In most mills, workers are required to wear face masks and ear plugs only during inspections, and even then without any education about the need for the personal protective equipment.

the Schedule to the Minimum Wages Act, 1948, of the employment in 'Textile Mills'), The Tamil Nadu Labour and Employment Department issued G.O.Ms.No.137 dated 22.06.2007 (directing 17 District collector to monitor through monitoring committees) and a draft notification in G.O. (2D) No. 26, Labour and Employment (J1) Department dated 16.05.2008, proposing to fix minimum rate of wages payable to the Apprentices engaged in the employment in Textile Mills at Rs.110/- per day, apart from Dearness Allowance specified in the Explanation to Notification.

1 Preamble to the Constitution of the International Labour Organization www.ilo.org/public/english/bureau/leg/download/constitution.pdf

Insufficient training is given for those operating machinery even though the Factories Act requires that some tasks should only be undertaken by trained adults². The Act also requires that no more than 8 hours of standing work should be undertaken and where it is required, suitable places for sitting rest provided. Not only are these provisions not made, young women and girls are regularly required to work in excess of 12 hours without adequate breaks.

The Factories Act³, requires that in every factory where a hazardous process takes place, or where hazardous substances are used or handled, a Safety Committee should be established.

The Protocol asks that:

- (i) Personal Protective Equipment is to be provided and its use enforced
- (ii) A trained nurse or First Aid qualified person is to be appointed on the staff of each mill to provide first aid
- (iii) Due to the particularly hazardous conditions of working in spinning, weaving and dyeing mills, the mill will ensure voluntary 6 monthly health check-ups, by a medical practitioner or hospital, are made available to workers with the normal patient-to-doctor confidentiality
- (iv) Health and Safety education is provided on safe work practices, health and hygiene to the managers and employees on site.
- (v) Building health and safety to meet the standard of the Bangladesh Fire and Safety Accord⁴

- Eliminate discrimination

According to the ILO Convention on the Worst Forms of Child Labour⁵, workers under 18 who perform work that is likely to harm their "health, safety or morals" can be defined as the worst forms of Child Labour. Working under the Sumangali Scheme is harmful to the health, safety and morals of the workers. Considering the number of workers aged between 14 and 18, the scale of the "Worst Forms of Child Labour" problem is alarming.

There is no law to define the age of a "child" in India. The Juvenile Justice (Care and Protection of Children) Act, 2000⁶ says "juvenile" or "child" means a person who has not completed their eighteenth year. In The Factories Act 1948, "child" means a person who has not completed their fourteenth year. "Adolescent" has been interpreted as a person who has completed their fifteenth year of age but has not completed eighteenth year. "Young person" is a person who has completed their fourteenth year and has not completed their eighteenth year. Employees use these discrepancies and differences in state and national laws to evade compliance with any law.

What is clear is that when a girl receives an education to the end of her 12th school year her prospects for the future change dramatically. UNSECO reports the multiple benefits of girls' education⁷ as follows:

2 The Factories Act, 1948 www.ilo.org/dyn/natlex/docs/WEBT-EXT/32063/64873/E87IND01.htm Chapters III, IV and V

3 The Factories Act, 1948 www.ilo.org/dyn/natlex/docs/WEBT-EXT/32063/64873/E87IND01.htm Chapter IV A; Sec.41G.

4 www.bangladeshaccord.org

5 www.ilo.org/ipecc/facts/WorstFormsofChildLabour/lang--en/index.htm

6 <http://wcd.nic.in/childprot/jjactamedment.pdf>

7 www.unesco.org/education/wef/en-press/press-kit_wome.shtm

- ▲ Increased family incomes
- ▲ Later marriages
- ▲ Reduced fertility rates
- ▲ Reduced infant and maternal mortality rates
- ▲ Better nourished and healthier children and families
- ▲ Greater opportunities and life choices for women (including better chances to protect themselves against HIV/AIDS)

Because of the contradictory definitions in determining the age of a worker, it is proposed that the most recent definition (the Juvenile Justice Act 2000) and the definition most likely to provide long term future benefits for girls and their communities and nation be used.

Emphasis must be given to their education and manufacturing units should develop a policy to ensure no girls under 18 years are recruited. A child remediation policy should be in place in the case of any child found in the factory. Such a policy should facilitate the child entering a regular school and management should bear the cost. A well-defined child labour policy must be developed and its effective implementation monitored.

A woman's future options are greatly reduced if she has not completed school; the risk of her being exploited or abused decreases as her education level increases. At the same time it can be difficult for a young married women to obtain employment as she is considered likely to fall pregnant.

The protocol asks that:

- (i) All full-time employees will be over the age of 18 as proven by a birth certificate, age certificate and/or year 12 education certification¹
- (ii) Employees will not be discriminated against on the basis of their marital status

- Ensure the implementation of a functioning Grievance and Dispute Resolution Procedure

This will enable the young women and girls to redress any issues within the work environment without the fear of risking their job. It will create a system whereby all employees, including managers and supervisors are accountable for their behaviour.

The Industrial Employment Central Rules² provide clear guidelines concerning factories not tolerating any misconduct including sexual harassment which includes unwelcome sexually determined behavior (whether directly or by implication):

- ▲ physical contact or advances
- ▲ demand or request for sexual favours
- ▲ sexually coloured remarks
- ▲ showing pornography or
- ▲ any other unwelcome physical, verbal or nonverbal conduct of a sexual nature

Repeated incidents of sexual harassment reported by women workign under the Sumangali Scheme shows poor implementation of these laws and insufficient preventive and corrective measures by management.

1 The Juvenile Justice (Care and Protection of Children) Act, 2000 says "juvenile" or "child" means a person who has not completed their eighteenth year.

2 Industrial Employment (Standing Orders), Central Rules 1946 - Schedule I(14)(31) http://pblabour.gov.in/pdf/acts_rules/industrial_employment_standing_orders_rules.pdf

In addition, case law provides for the Vishaka Guidelines on the rights of female persons employed in the factory to be displayed. These indicate appropriate work conditions in respect to work, leisure, health and hygiene for women³.

The Industrial Disputes Act requires that every industrial establishment employing twenty or more staff shall have at least one "Grievance Redressal Committee"⁴. The Industrial Employment Central Rules⁵ require a "Misconduct Complaints Committee" for disciplinary action in the case of sexual harassment. In most instances such committees, although required by law, only exist on paper and do not function. In the instances where they do exist they are appointed and controlled by management rather than by employees and have no effectiveness.

The protocol asks that each supplier be expected to establish a grievance procedure for workers and third parties to report concerns about safety and workplace conditions to both factory management and to signatory companies. The grievance procedure must establish a dispute resolution mechanism which is accessible to workers as well as third parties including NGOs. Such a process must be on public display in the local languages of the employees.

- ▲ Complaints about working conditions may be raised with labour rights NGO's without retaliation.
- ▲ Workers will be made aware of the grievance processes available to them
- ▲ Complaints may be submitted anonymously by workers and also by third party organisations.
- ▲ There will be no retaliation for workers who submit a complaint about their working conditions, even where that complaint is ultimately unsuccessful.

- Signed (explained and understood) and witnessed written employment contracts between employers and employees that include the above conditions.

For most Sumangali workers, a normal shift in a factory or mill is 12 hours long. Sumangali workers reported in SAVE's field study that they have to work throughout the day and continue for another 4 hours of overtime after 8.00 pm. SAVE's research discovered that workers were not aware of the legal limit on shift hours. Workers are not given a formal induction or training about their roles, responsibilities, eligibilities and entitlements. During peak seasons, garment workers had to work for more than 16 hours a day, 7 days a week. Although labour laws in India prohibit excessive work hours, these limits are rarely a reality for Sumangali workers.

The Factories Act⁶ states that no one should be required to work on a Sunday, yet Sunday is a working day for most girls accommodated in hostels.

A written contract of employment is essential for both workers and their families to have a complete understanding of the

3 www.iitb.ac.in/WomensCell/data/Vishaka-Guidelines.pdf

4 The Industrial Disputes Act, 1947 http://pblabour.gov.in/pdf/acts_rules/industrial_disputes_act_1947.pdf

5 The Industrial Employment (Standing Orders) Central Rules, 1946 SCHEDULE - I MODEL STANDING ORDERS Section 14 http://pblabour.gov.in/pdf/acts_rules/industrial_employment_standing_orders_rules.pdf

6 The Factories Act, 1948 www.ilo.org/dyn/natlex/docs/WEBTEXT/32063/64873/E87IND01.htm Chap. VI, Sect. 52

position they are recruited for. This provides the workers with a legal document enabling them to have a full understanding of both their rights and responsibilities within a role. It will also help prevent inappropriate employment, such as of those who are not old enough to be legally employed.

Each contracted employee should be issued with a passbook with a passport size photograph clearly detailing the conditions of employment in the language understood by the employee¹. Both employers and employees are required to contribute to Employees State Insurance². Former workers are not having any objective evidence to prove that they were covered under ESI.

1 The Inter-State Migrant Workmen (Regulation Of Employment And Conditions Of Service) 1979, Section 12 (b) http://hrylabour.gov.in/docs/labourActpdfdocs/Inter_State_Migrant_Act.pdf

2 The Employees' State Insurance Act 1948; www.ilo.org/dyn/travail/docs/687/Employees%20State%20Insurance%20Act%201948.pdf The Employees State Insurance (Central) Rules 1950; <http://nekkanti.in/pdfs/EMPLOYEES%20STATE%20INSURANCE%20%28GENERAL%29%20REGULATIONS,%201950.pdf> The employer should contribute 4.75% of the wages payable and the employee should contribute 1.75% of his wages to the Corporation.

CASE STUDY

Sumangali worker in Tirupur

Name of the victim: Ms. P. Age: 13 years

Ms. P. is 13 years old. She stopped her studies when she was in 5th Standard (around year 4) because it was felt that she wasn't showing any interest in school. She has three younger sisters none of whom are attending school.

Both of her parents work as coolies in the fields. If they are given work each day they can provide food and water for their family. However, there are some days when no work is available. On these days the family is hungry. Some weeks the family will only eat two or three times. This is the case for other families in their village. In their home there are no basic facilities, not even running water. The shared amenities are some distance away.

Ms. P.'s mother has looked for a more reliable job but the agents (recruiters) say that there is no work for married women, only for girls under the age of 16. This forced Ms. P to work in the factory at Tirupur.

Ms. P. says that she would prefer to study and is eager to learn. Ms. P.'s mother said that the village needs more information on human trafficking and the associated risks.

