
**WORKING CONDITIONS IN APPAREL INDUSTRY IN
NORTH INDIA: THE IMPACT OF SOCIAL
RESPONSIBILITY PROGRAMS**

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FOREWARD

“Foreign buyers have started to accomplish what we could not in 50 years. Under pressure from buyers, exporters have realized that unless they comply, they will not remain in business for too long. These compliance programs are implementing 90% of the provisions of Factories Act, which have been dodged by exporters in the past.”

- Statement by a Factory Act Inspector in New Delhi

India has become a hot sourcing destination for international apparel brands in the last 4 years. The coming of some large American and European buyers in the export market has entailed with it the advent of social compliance programs in the apparel export factories. All the compliance programs are aimed at ensuring legal compliance of the region and going beyond that for improving workers’ conditions in the export-oriented factories. The efforts of buyers are visible very strongly in the way exporters are taking up compliance. It has become a very serious business consideration for export houses. Pressure from buyers and consequently the fear of losing out business on issues of compliance is transforming the toughest traditional mindset in the industry. This is a new business challenge for an industry which till recently was unorganized and sporadic in nature. A comparison of what the factories looked like a few years back and their current state portrays a significant change social compliance has brought. Major disturbing issues like child labour, minimum wages and health and safety at the workplace have been tackled quite successfully. However, there are some grey areas in which implementation of the codes needs closer attention.

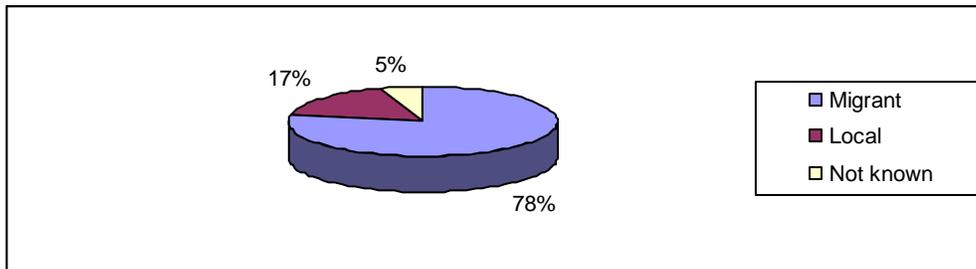
1. INTRODUCTION

The CSRWorld survey May 2002 was conducted in order to assess the impact of Social Compliance programs on workers in the apparel industry in North India. Workers from garment, leather, accessories and home-furnishing factories were asked questions on a range of labour issues like minimum wage, social security, overtime, freedom of association, abuse, discrimination and awareness regarding buyers’ compliance programs. The aim of this study is to investigate how compliance programs and codes of conduct of American and European retailers have impacted the state of workers’ rights. This research focuses on the changes brought on in the apparel industry due to buyers’ initiatives of managing their supply chains by auditing and monitoring the factories producing their merchandise.

2. EMPLOYMENT OVERVIEW

Contract Labour system

Apparel factory workers are mostly immigrants who come from the poverty-stricken states of Bihar, Uttar Pradesh and Orissa. Most of these workers get caught up in the contract labour system which is prevalent in India. Contract labour is known for exploitation of workers who

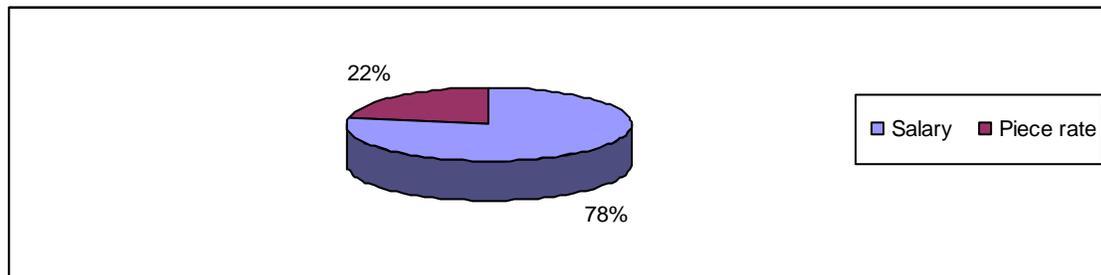


perform core activities but do not have permanent status. The contract labour is characterized by labour abuses like underpayment of wages, are denied of overtime rates and social security even though local labour law guarantees these rights. They usually have no proof of employment or any other documentation. In the apparel industry contract labour was the most typical form of employment. Contract labour was considered practically more cost effective and suitable for export factories as they could hire and fire the workers at will when the work is less or when certain workers are not required. The case remains the same in the industry but not where compliance has become an issue. Buyers (usually big retail firms) have been asking the factories for legal compliance. Contract labour was fine with the buyers but they demanded that the factory should have contractors' licenses; it should maintain proper records and documentation of all workers like attendance register, time card and logs. Compliance dictated that contract or direct, the factory was the principle employer of the worker and thereby directly responsible for the workers. So through these demands, the buyers have effectively finished the role of contractor in employment and management of labour force as the exporters started to realize that if they have to be accountable for their workforce in any case, it will be much better to take up the contract labourers on the factory roll itself rather than paying big amounts to the middleman (contractor). It was also difficult for the factories to fulfill the expectation of the buyer to have contractors license if the factory is using contract labour because the labour departments would not easily give a license to a factory where contract workers are used for core activities. The general practice of contract labour has

changed to direct employment by the factories as in many cases, more and more factories are in the process of eliminating contract labour.

Piece rate system

Due to poor productivity, piece rate system was popular in apparel industry. The idea of piece-rate worker was that they are ‘independent entrepreneur’ with free will and they can decide their wages by making a number of items. There was no documentation of piece-rate worker. It was such an informal system that piece-rate workers kept a count of number they produced and then got the wages without any record of it. As with contract labour, under compliance, exporters were held accountable to produce documentations, contribute Employee State Insurance (ESI) and Provident Fund (PF) on wages of piece rate workers and ensure minimum wages. Quality was another issue as some buyers contended that piece-rate workers produced low quality product as they are in a hurry to make as much number as possible in a given time. Therefore, factories with presence of big buyers have become reluctant to hire piece-rate workers and have started hiring workers on fixed wage and productivity-based incentive which guarantees minimum wages and makes documentation easier.



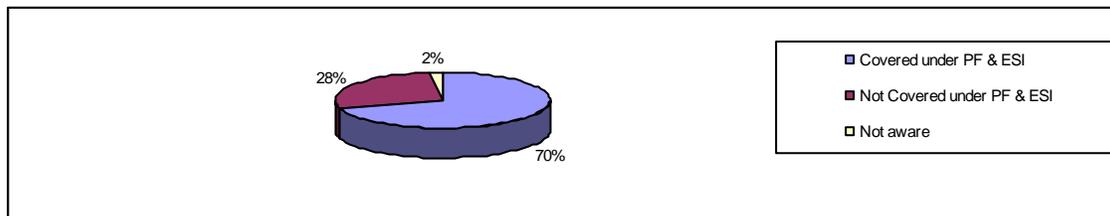
3. MINIMUM WAGES

Minimum wage is one of critical issues of compliance for the buyers. Therefore, this is one area apart from child labour, which has undergone major improvement. Nearly 78% of the workers surveyed in the export factories are on fixed wage. The legal minimum wage for unskilled workers is Rs.2133.16 (\$42 app.) per month and it is Rs.2693.16 (\$54) p.m. for highly skilled workers. Most skilled workers manage to earn above the minimum wage rate. The average salary of workers interviewed is Rs.3240 (\$64.80) p.m. 3-4 years back, unskilled workers were more than likely subjected to non-payment of minimum wage. Average wage payment to these workers was about 25% less than the legally mandated wage. However, the

current survey revealed that only 2% of workers interviewed were earning below the minimum wage limit. This is a huge improvement over the past. The only important area observed was lack of awareness in some workers about what is minimum wage and what category applies for them. One of the reasons for this is the high illiteracy rate (78%). The other reason is the complicated legal notification for minimum wages, which can be improved by prominently displaying the wage rates in factories for various job categories in local language.

4. SOCIAL SECURITY

Social security in factories includes Employee State Insurance (ESI) and Employee Provident Fund (PF). About four years back, ESI and PF were unheard of in the apparel factories. Contract labour, piece rate work alienated the idea of deducting and paying for workers' ESI and PF. However, there is positive shift now. According to workers' interviews, 70% are covered under ESI and PF, as is mandatory, 28% are not and 2 % are completely unaware of the terms. This is a major improvement over the past- the Pre-monitoring Era.



The benefits of the state-run ESI are: Sickness Benefit, Maternity Benefit, Injury/accident during employment, Disablement Benefit, Dependent's Benefit and Compensation for Death. Although, the coverage of ESI has expanded hugely in the past few years, the awareness level of benefits of ESI and PF among the workers is low as many workers were unable to describe the benefits. This lack of awareness also results in the workers having a negative attitude towards the deductions as they get lesser cash in hand. 32% said they would prefer money in hand rather than contributing towards ESI and PF coverage.

Although 78% workers said that they are covered under ESI and PF, to cross check their answers, it was asked whether they have their ESI card and PF account number and whether they know how much is deducted from their wages or if they get any pay slip showing the deductions. One revealing insight was that many workers despite having ESI card do not visit the ESI dispensaries due to lack of knowledge. Again, this is a crucial area of attention. The best way to tackle this problem is to set out very successful examples of workers who have

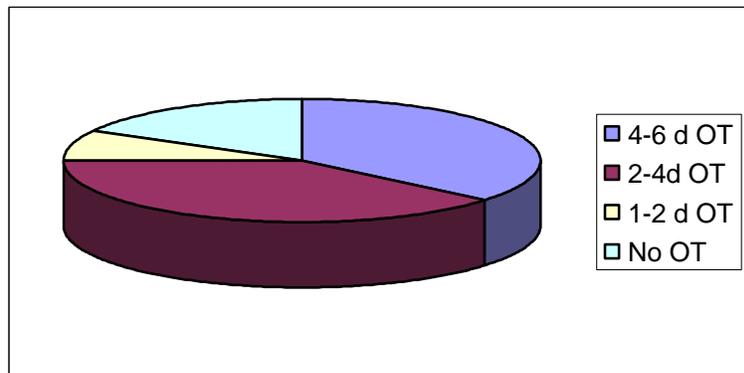
benefited from the state insurance in front of other workers since word of mouth is the most effective way of communication and knowledge within workers.

5. OVERTIME AND LEAVE

There are two important issues in overtime in North Indian apparel factories- OT premium and duration of overtime.

OT Premium and Duration

Overtime is a completely different issue for workers in north India as compared to any other place in the world. Workers here want to work overtime in order to enhance their income as much as possible. Also, since most of the workers are migrants, they do not have a family to go back to in their dorms. Another incentive to work overtime or on Sundays is that the factories generally provide them with food and snacks during overtime. This goes well with workers who want to avoid cooking for themselves. Indian law specifies that a worker shall not perform more than 48 hours of work in a given week. Any duration above 48 hours will be compensated with double (OT Premium) the normal wage rate. Although, our data indicates that OT premium is common in the apparel factories where big brands are made, the legal OT premium rate has started acting as a discouragement since it is the highest in the world. 68% workers said that the overtime is voluntary and they can refuse if they wish. 76% said that they would prefer moderate OT (2-3 hours a day) on regular basis to generate more income.



32% workers said that they occasionally work on Sundays. 74% said they get paid for Sunday work while 26% said they get a day off in lieu of Sunday work. 41% workers said they look forward to working on Sundays as it increases their income.

Most retailers have been trying to enforce OT regulations including payment of OT premium. The positive impact of compliance is that since exporters have to pay double the wage rate for overtime under compliance standards, they have started trying to control OT hours. Therefore, the average OT duration has gone down in the industry. However, this does not offset the need of work in this area, which should be in the form of control of OT and payment of premium.

Paid Leave

All the workers who are on factory roll and who have worked for 240 days already for the factory are eligible for annual leave with wages. Such workers should have one paid leave for every 20 days of work. However, only 26% workers said they get paid leave. High incidence of employee turnover deprives them of paid leave. Migratory workers have their own problems, as they need to go back to their native places twice in a year during sowing and harvesting seasons for long spells causing a break in their factory employment. This disqualifies them for paid leave. However, the story is quite different about medical leave. Under the law, medical leave is linked with ESI. A worker covered under ESI is automatically entitled to paid medical leave. The ESI cover takes care of the wage during medical leave. Employers don't have to pay for this period. Therefore, the more organized the employment is getting in the apparel industry the more will be number of workers getting paid leave.

6. FREEDOM OF ASSOCIATION

State of Unionism in the industry

Unions are almost non-existent in the apparel industry. 98% workers said that there are no unions in their area. So, effectively none of the workers belonged to any trade union. Although the buyers lay emphasis on a platform for worker to create a balance of power in the factory, the mechanism of industrial relations is absent in the industry due to several factors.

Reasons

There are no simple reasons for the absence of unions in the apparel industry. The scenario of industrial relations in the whole India is very complex and it becomes all the more difficult for workers to organize when most of them are immigrants from other states.

Industrial relations is marked with thorough antagonism between the two parties or with

alleged corruption among the union leaders. Workers do not like to be caught up in union activities as they do not consider it fruitful and think that it might be of negative consequences for them. Additionally, there seems to be a loss of faith also in unions and their effectiveness in championing workers' rights. With improvements in the working conditions and labour-wage issues due to compliance, workers also do not feel the need to join a union.

Surprisingly, when asked, "what specific improvements they would like to see in the factory", majority of workers interviewed could not come up with any suggestion.

7. DISCRIMINATION

Seemingly, there is no apparent ground of discrimination in the apparel factories in employment. Discrimination is a serious issue in the west. Therefore, buyers are very attentive to the issues of discrimination and having diversity in their organizations. In our survey, 98% workers did not report any form of discrimination. At one instance the only thing mentioned was favoritism in giving overtime to the preferred workers. 94% workers said they never faced or witnessed physical abuse in the factory.

8. WORKERS' KNOWLEDGE ABOUT BUYERS

No codes of conduct or social compliance program can be effective without workers awareness and training. This is the biggest problem area in the export factories. Although buyers' intentions and spirit cannot be challenged given the fact that 47% of workers have been interviewed at least once in the audits conducted by buyers, 93% are unaware of the details of compliance programs and the specific issues. 89% workers interviewed could not recall a brand name they made clothes for. Illiteracy may have contributed to this low awareness as all labels are in a foreign language.

9. MAIN FINDINGS AND RECOMMENDATIONS

- Retailers compliance programs have made a significant positive impact in terms of child labour, minimum wages, discrimination and health & safety.
- Social Security including health insurance has witnessed progressive improvement due to continued pressure from retailers' compliance auditors.
- Due to compliance programs, more and more factory owners are doing away with

contractors.

- Although significant gains have been made, there is scope for further improvement on the issues of social security, stability of employment, OT and Freedom of Association.
- As in the zero tolerance area like child labour, there should be more stringent criteria for the above stated improvements areas. The audit techniques have to be refined more in order to check and cross check the information obtained from the exporters, managers, supervisors and even the workers.
- Wherever possible the buyers should discourage use of contract labour system in their factories. This system is the root cause of many of the discussed weak areas of compliance.
- A stable, productive and confident workforce can only be maintained by providing the workers with an equal platform to voice their concern and to have consultative mechanism at the workplace. Some retailers have been strongly recommending Suggestion Boxes in the factory. Other retailers should also encourage this.
- The best approach to make improvements in these areas is to transform the present workplace relations by broadening the mindset of exporters and by empowering the worker through education and awareness. A worker who is aware of his/her rights is hard to exploit. This is where the key to effective implementation of Social Compliance lies.

APPENDIX-I

Survey Methodology

Objective

The aim of this survey is to research the impact (on workers) of Codes of Conducts and Compliance Programs of American and European retailers in their supply chains in North India.

Scope

This study is focused on apparel factory workers in North India, working in export factories. The survey was limited to the following issues: minimum wage, social security, overtime, general health & safety, freedom of association, discrimination and awareness regarding the buyers' compliance programs.

Methodology

Sample

The sample was chosen from industrial clusters. The 5 prime industrial clusters in North India are: Okhla, Noida, Gurgaon, Faridabad, Ludhiana and Naraina. The survey was conducted in four of these 6 clusters, namely, Okhla, Faridabad, Gurgaon and Noida. The target group was the export oriented apparel industry, which includes garment, leather, accessories and home furnishings factories producing for big American and European brands. Workers were randomly selected from apparel factories in these four areas. In all, 300 workers were interviewed.

Then, a few government labor officials were contacted to have their view of how compliance with the local labor law has undergone a change in the last couple of years after most retailers started their code of conduct implementation.

Questionnaire

Questionnaire is one of the most important part of the actual design of the survey. This questionnaire is for interviewers' use only as most of the workers cannot read and write even in the local language. Although the respondents will not be using the questionnaire themselves, it is designed to be unambiguous and clear regarding what the question is for and it is intended to interpret it. In construction of the questionnaire, we have tried that all the presuppositions are out. Care has been taken regarding question type and the wording of the questions.

Interviews

Interviews were conducted away from the workplace (outside factories and workers' residential areas) in order to ensure that workers' answers are not influenced. Workers can talk more freely in an informal setting as in the work place elements of power and control maybe present. Structured interviews were carried out with the aid of the questionnaire in workers' native languages, as many of them are immigrants from different states.

Definitions of important terms

Apparel Industry

Apparel Industry includes factories contracted by American and European retailers to make merchandise. The merchandise broadly includes garments, leather, accessories and home furnishings. India exports \$4 billion worth of apparel to the US and Europe every year. Almost 60 percent of this is exported from factories based in North India.

Worker

Worker means a person employed directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not, in any manufacturing process or in cleaning any part of the machinery or premises used for manufacturing process, or in any other kind of work incidental to, or connected with the manufacturing process or the subject of the manufacturing process.

QUESTIONNAIRE

Survey of Working Conditions in the Apparel Industry in North India

Factory Name (optional):

Location of the factory:

Location of residence:

Migrant/Local Resident

Family size of the worker:

Age of the worker:

Other source of income of the worker's family (if any):

Job Category: unskilled skilled semi-skill.

Employment status: Factory roll Through contractor

Minimum Wages

Q.1 What is the legal minimum wage for your category?

Q.2 Are you getting the minimum wage?

Q.3 Is the minimum wage sufficient for you and your family?

Social Security

Q.4 What is 'Provident fund (PF)' and 'Employee State Insurance (ESI)'?

Q.5 Are you covered under PF and ESI?

Q.6 Which ESI dispensary you visit?

Q.7 What are the benefits of PF and ESI?

Overtime

Q. How often do you work overtime?

Q. Can you refuse working overtime without any fear of punishment?

Q. What wage do you get for overtime?

Q. Do you work on Sunday?

Q. How many days of paid leave do you get in a year?

Freedom of Association and Collective Bargaining

Q. Is there any union/s in your factory?

Q. Are you a member of any trade union?

Q. If no, why?

Q. If no union is existing, then what are the likely reasons for it?

Abuse

Q. Have you ever been verbally or physically abused by the supervisor/contractor/manager/owner?

Discrimination

Q. Have you ever felt that you are less favoured or others are more favoured by the supervisor?

Q. If so, what do you think is the ground of discrimination?

Other

Q. Can you name any brands you make?

- Q. Have you ever been interviewed before by an auditor/buyer?
- Q. Are you familiar with the compliance programme of buyers which are aimed at improving workers' conditions?
- Q. According to you, in which area does your factory need improvement?
- Q. If you are fired, what will you do?

APPENDIX-II

SUMMARIES OF MAJOR INDIAN LABOUR LAWS

Child Labor (Prohibition and Regulation) Act, 1986

Objective

An Act to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments.

Application/ Scope and Coverage

To every establishment employing child labor

Minimum legal age for employment:

Having completed 14 years.

Main Provisions

Prohibition of employment of children in certain occupations and processes

Regulation of conditions of work of children

Penalties

Records to be maintained

Certificate of age of each worker employed in an establishment by recognized Medical authority.

Name and Date of Birth of every child who is employed in an establishment

Working hours of the child

Intervals of rest for which the child is entitled

Job description of the child

Contract Labor (Regulation and Abolition) Act, 1970

Objective

An Act to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith

Application/ Scope and Coverage

To every establishment which employs 20 or more contract workers. It shall not apply to establishments in which work only of an intermittent or casual nature is performed.

To every contractor who employs 20 or more workmen

Main Provisions

Registration of Establishments Employing Contract Labor

Licensing of Contractors

Welfare and Health of Contract labor

Penalties

Eligibility

Employment of 20 or more contract workers in an establishment, not performing work of intermittent nature.

Records to be maintained

Registration for the Principal employer to employ contract workers
Contractors License to supply contract workers in an establishment.
Name and address of all contract workers
Job description of contract workers
Wages register
Workers timesheet

When to Consult and Refer

While employing contract workers in an establishment

Employees' Provident Fund and Miscellaneous Provisions Act, 1952

Objectives

An Act to provide for the institution of provident fund, pension fund and deposit linked insurance fund for employees in factories and other establishments for the future of the industrial worker after he retires or for his dependents in the case of his early death

Applicability/ Scope and Coverage

Any establishment employing not less than twenty workers or class of such establishments that the central government may specify, in this behalf, by notification.

Main Provisions

- Employees' Provident Fund Scheme
- Contributory Provident Fund
- Employees' Pension Scheme
- Deposit linked insurance
- Interest payable by employer
- Recovery of money from employer and contractors
- Penalties

Eligibility

All employees employed in an establishment, whose salary is not exceeding Rs. 6,500/- per month.

Accounts/ Records to be maintained

- Copy of the Challans for the PF Deduction of each employee
- Wages Register
- Nomination Form

Employees' State Insurance Act, 1948

Objective

- An act to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto
- To provide for Health & Medical coverage and Cash benefits to the employees.

Applicability/ Scope and Coverage

- Any establishment where ten or more person are employed on wages
- All the employees employed in any establishment

Eligibility

- All employees employed in an establishment.
- Employees drawing wages not exceeding Rs.6500/- per month

Main Provisions

- Registration of Factories and establishments
- Finance and audit
- Contribution towards ESI
- Benefits of ESI
- Employers Contribution
- Adjudication of Disputes and Claims
- Penalties

Benefits

- Sickness Benefit
- Maternity Benefit
- Injury/accident during employment
- Disablement Benefit
- Dependent's Benefit
- Compensation for Death

Records/ Returns to be maintained

- ESI card
- Copy of ESI Challans
- Nomination form
- Salary/ Wage register
- Annual and Half yearly returns

Factories Act, 1948

Objectives

- An Act to consolidate and amend the law regulating the labour in factory
- To ensure adequate safety measures and to promote the health and welfare of the workers employed in factories.
- To prevent haphazard growth of factories through the provisions related to the approval of plans before the creation of a factory.

Application/ Scope and coverage

- Applicable to all factories in which ten or more persons are employed using power or twenty or more workers without using power, on any day of the preceding 12 months.

- Applicable to all workers.

Main provisions

- Compulsory approval, licensing and registration of factories.
- Health & Safety measures.
- Welfare of the workers.
- Working hours.
- Employment of young persons.
- Annual leave with wages.
- Hazardous processes.
- Penalties.
- Obligations and Rights of employees.

Records to be maintained

- Factory License
- Health records or medical records of the persons engaged in hazardous processes
- Workers time sheet and attendance
- Payment of overtime premium records
- Injury Register
- Inspection register
- Personnel files of each worker including
 - Age proof
 - Application form -Appointment letter -Photograph of the worker -Fitness certificate -Job description
 - Annual return/ Half yearly returns.

When to consult and refer

- On starting a factory.
- Throughout the life of the factory.

Minimum Wages Act, 1948

Objective

An Act to provide for fixing minimum rates of wages in certain employments

Application/ Scope and coverage

Applicable to all employees engaged to do any work, skilled or unskilled, manual or clerical, in a scheduled employment, including out-workers.

Eligibility

To all the workers employed in an establishment

Main provisions

- Fixation of minimum wage of employees.
- Procedure for fixing and revising minimum wages.
- Fixation of working hours of the workers on a normal working day.
- Obligation of employees.
- Rights of workers.

Accounts/ Records to be maintained

- Employee records containing their name and address
- Job description of the employee

- Wages register stating the rate of wages paid to them and the receipt by the workers.

When to consult and refer

- At the time of fixation of salary of new
- At the time of appraisals for existing employees.

APPENDIX -III

CSRWorld INFORMATION

CSRWorld is a pioneer organization in India, promoting Corporate Social Responsibility (CSR). The organization specializes in social compliance audit and monitoring, Labor law resources, training and education, CSR communications, research & advocacy. CSRWorld is also engaging in partnerships with NGOs and other similar organizations in community projects, workers' training and social accountability projects. Headquartered in New Delhi, CSRWorld is promoted and managed by experienced professionals.