

WORKER RIGHTS CONSORTIUM FACTORY ASSESSMENT

Natchi Apparel (India)

Findings, Recommendations and Corrective Actions



May 22, 2022



WORKER RIGHTS
CONSORTIUM

1990 K Street, NW, Suite 410
Washington DC 20006
(202) 387-4884 | www.workersrights.org

Table of Contents

I.	Introduction and Executive Summary	4
A.	Introduction.....	4
B.	Summary of Investigative Findings.....	5
1.	Gender-based Violence and Harassment.....	5
2.	Other Abusive Treatment, Social Control and Lack of Effective Mechanisms for Reporting and Redressing Gender-based Violence and Harassment.....	6
3.	Interference with Freedom of Association	7
C.	Recommendations for Corrective Action and Factory and Brand Response	8
1.	WRC Remedial Recommendations	8
D.	Factory and Brand Responses.....	10
1.	Negotiation and Signing of Binding Agreements to Establish Anti-Gender-based Violence and Harassment Program	10
2.	Compensation for Families of Deceased Workers	11
3.	Brand Support for Progress at Natchi, via Placement of Orders.....	12
4.	Other Natchi Customers.....	12
II.	Methodology	13
A.	Sources of Evidence	13
B.	Terms of Reference	14
III.	Findings	15
A.	Background to WRC Investigation.....	15
1.	January 2021 Murder of Natchi Woman Worker by Male Factory Supervisor	15
2.	Previous Reporting on Abusive Conditions for Workers in Eastman Exports Factories and the Tamil Nadu Garment Sector.....	16
B.	Findings of WRC Investigation.....	16
1.	Verbal Abuse, Corporal Punishment, Caste Discrimination, Social Control, and Restriction of Movement.....	16
2.	Gender-based Violence and Harassment.....	20
C.	Other Reported Murders of Women Employed at Factory	23
1.	Murder of Woman Worker by Her Company-Contracted Bus Driver.....	24
2.	Reported Murder of Unidentified Woman Worker inside the Factory.....	26

3. Implications of Findings concerning Other Worker Deaths	28
4. Conclusion	29
D. Natchi's Failure to Effectively Address Gender-based Violence and Harassment against Women Workers in the Factory.....	29
1. Background on Company-Led Mechanisms.....	29
2. Lack of Accountability for Gender-based Violence and Harassment	32
3. Misassignment of ICs to Police Women's Behavior and Enforce Gender Segregation.....	34
4. Failure to Provide Regular Training to Workforce on Sexual Harassment...	35
5. Violations of Freedom of Association: Establishment of Employer-dominated Union at Factory	36
E. Recommendations for Corrective Action	38
1. Recommendations to Address Gender-based Violence and Harassment	40
2. Recommendations to Address Freedom of Association	42
3. Brand Support for Progress at Natchi, via Placement of Orders.....	44
IV. Factory and Brand Response	44
A. Agreement between Eastman and Labor Stakeholders	45
1. Prohibited Conduct and Practices, and Required Remedial Measures	45
2. Anti-Gender-based Violence and Harassment Training and Workplace Monitoring	46
3. Reform of Internal Committees and Independent Investigation and Remediation of Grievances	46
B. Agreement between Labor Stakeholders and H&M.....	47
C. Engagement with Other Brands.....	47
D. Compensation for Families of Deceased Workers	48

I. Introduction and Executive Summary

A. Introduction

The following is a report on the findings and recommendations of the Worker Rights Consortium’s (“WRC”) investigation at Natchi Apparel (“Natchi”), a factory in Kaithian Kottai, Dindigul District, in Tamil Nadu state, in southern India, and related corrective actions. This document reviews the WRC’s findings of violations in the areas of gender-based violence and harassment¹ and freedom of association and the comprehensive agreements recently signed by stakeholders to eliminate these violations from the workplace. These agreements, analyzed in depth in the body of this report, are a vital advance for Natchi’s workforce and a rare and important example of legally binding corporate commitments to improve working conditions in the global apparel supply chain.

Natchi, which employed 3,000 workers at the time of the WRC’s inquiry, is owned and operated by Eastman Exports Global Clothing (P) Ltd. (“Eastman”). Natchi is currently supplying or has recently supplied several multinational brands, including H&M, Authentic Brands, Marks & Spencer, and Walmart.

After the Tamil Nadu Textile and Common Labour Union (TTCU), acting on behalf of Natchi employees and supported by the Asia Floor Wage Alliance (AFWA) and Global Labor Justice-International Labor Rights Forum (GLJ-ILRF), brought forward complaints alleging gender-based violence and harassment at the factory, the WRC agreed to conduct an investigation, at the joint request of labor and brand stakeholders. The investigation began in March 2021. The union’s complaint was precipitated by the murder of a young woman who was employed at Natchi, Jeyasre Kathiravel, by a male company supervisor, who is currently jailed awaiting trial for her killing.

Prior to the WRC initiating its investigation, the TTCU union, GLJ-ILRF and AFWA were already in discussions with Eastman and H&M regarding securing compensation for the worker’s family and regarding broader issues at Natchi. The main purpose of the WRC’s investigation was to assess labor practices at the factory regarding gender-based violence and harassment and, thereby, inform dialogue among the stakeholders concerning measures necessary to protect and empower women workers in order to prevent such abuses going forward. The WRC also received and investigated worker complaints that the company was interfering with freedom of association at the factory by setting up an employer-sponsored union (“company union”).

¹ “Gender-based violence and harassment” is used in this report to describe the range of unacceptable conduct described in ILO Convention 190 (Violence and Harassment): “[T]he term ‘violence and harassment’ in the world of work refers to a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment; ... the term ‘gender-based violence and harassment’ means violence and harassment directed at persons because of their sex or gender or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.”.

After completing its investigation, the WRC provided a draft report to the stakeholders and agreed to hold off on publication to allow for continued negotiations among the parties toward a binding agreement to protect workers at Natchi.

In April of 2022, Eastman, TTCU, AFWA, and GLJ-ILRF, along with H&M, announced the Dindigul Agreement to Eliminate Gender-Based Violence and Harassment, a groundbreaking set of agreements through which these parties jointly commit to work together from their supply chain role to eradicate discrimination based on gender, caste, or migration status; to increase transparency; and to develop a culture of mutual respect in the garment factory setting.

The agreements include a binding, three-year commitment by Eastman to establish a comprehensive program for worker training and empowerment, and for effective and impartial investigation and remediation of worker's complaints concerning gender-based violence and harassment and violations of associational rights; TTCU will play a central role in the governance and implementation of this program. Eastman's commitments are to be enforced by H&M as a mandatory condition of future business. H&M's own commitment to play this enforcement role, and to provide funding and (along with the labor stakeholders) oversight for this program, are made binding on the brand through its own arbitrable multiyear agreement signed with TTCU, AFWA, and GLJ-ILRF.

In a global garment industry in which gender-based violence and harassment are widespread, these agreements represent one of the only cases in which apparel corporations have made *binding* commitments to worker representatives that will protect the workforce from abuse. Given the prevalence of gender-based violence and harassment in the apparel supply chain, the most meaningful indicator of corporate responsibility is not whether this problem exists at a company, but whether the company and its buyers are pursuing bold and innovative means to address it. To their credit, H&M and Eastman, in partnership with worker representatives, are doing so.

B. Summary of Investigative Findings

The WRC found numerous practices and forms of conduct that existed at the Natchi factory in the months and years prior to the WRC's investigation that violated Indian law, international labor standards, and/or vendor codes of conduct, regarding gender-based violence and harassment, other forms of abusive treatment, and interference with freedom of association. These violations are summarized below and discussed in greater detail in the body of this report.

1. Gender-based Violence and Harassment

The WRC's investigation of conditions and practices at Natchi prior to the agreements being reached found an environment of pervasive gender-based violence and harassment, including:

- Physical Sexual Harassment – unwelcome physical contact from male supervisors and coworkers;
- Verbal and Nonverbal Sexual Harassment – male managers, supervisors, and employees making comments about and staring at women's bodies and telling sexual jokes; and

- Sexual Propositions – male supervisors propositioning women workers at the workplace for sexual relationships, in circumstances that were coercive.

The WRC also investigated allegations that, in the past three years, two other women workers at Natchi, in addition to Jeyasre Kathiravel, were murdered in circumstances related to their employment. Based on the evidence gathered during our investigation, the WRC concluded that an incident had occurred where a local woman worker of Natchi had been murdered by a company-contracted bus driver and labor recruiter, who subsequently absconded. The WRC found that this second worker's violent death, which Eastman acknowledged, was an outcome of a relationship with the bus driver / labor recruiter that began in the course of her employment at Natchi, though it was unclear whether the relationship was consensual or coercive. The WRC also found that there was a high likelihood that a third female employee, who was a migrant worker from Odisha state, was murdered, in this case on the factory grounds, by an unknown perpetrator, although Eastman has continued to maintain that reports of a third fatal incident involving a woman worker from the factory are inaccurate.

It must be emphasized that the WRC did not find any evidence to indicate that Natchi management bears any direct responsibility for the deaths of these workers. These tragic incidents spoke, however, to the vital importance of comprehensive measures to change the culture at this factory with respect to gender-based violence and harassment and protect the rights and safety of the women who work there.

2. Other Abusive Treatment, Social Control and Lack of Effective Mechanisms for Reporting and Redressing Gender-based Violence and Harassment

The WRC's investigation further found that women workers' vulnerability to gender-based violence and harassment at Natchi was exacerbated by other coercive and abusive practices found in the factory. These practices included punishing workers for lateness or absence by forcing them to stand at the front of their production line, verbal abuse of women workers by supervisors, and caste discrimination, where workers from the lowest (*dalit*) castes were shunned by employees from higher castes.

The WRC found that women workers' ability to raise complaints concerning gender-based violence and harassment was also constrained by certain measures of social control maintained by the factory management. With respect to local workers, these included employment of so-called "field officers", who would routinely go to workers' homes and interact with their families, which caused workers to fear that if they raised complaints at the factory concerning sexual harassment, this would be reported back to their families rather than being handled confidentially. With respect to migrant workers, who are housed in company-contracted dormitories, these mechanisms of control included constant surveillance of and severe restrictions on these workers' movements.

Finally, the WRC found that the mechanisms then in place at Natchi for workers to bring complaints concerning gender-based violence and harassment were dysfunctional and had

comprehensively failed to provide women workers with an effective means to protect themselves. The reasons for the dysfunction of these mechanisms were as follows:

- Women workers at the factory lacked trust in these company-led mechanisms, with respect to the confidentiality of their complaints and protection from retaliation;
- These mechanisms failed to hold perpetrators accountable, in part because management retained discretion to determine for itself whether managers had engaged in gender-based violence and harassment and, if so, what penalty if any should be imposed;
- Management had misdirected the factory's Internal Complaints Committees, by tasking them with policing the conduct of women workers, and promoting gender segregation in the workplace, rather than investigating complaints of gender-based violence and harassment and ensuring accountability for perpetrators; and
- The workforce had not received regular training concerning gender-based violence and harassment in the workplace, despite a statutory requirement that this be provided.

3. Interference with Freedom of Association

The WRC found that, during the same timeframe it conducted the investigation of gender-based violence and harassment at the factory, Natchi managers had sponsored and directed the establishment of an employer-dominated trade union (“company union”) at the factory, in clear contravention of workers’ freedom of association rights. The company’s conduct in this regard violated ILO core international labor standards which explicitly prohibit such interference with workers’ ability to form and join unions of their own choosing.²

Although Eastman claimed that this “union” was established by workers, independently, on their own initiative,³ the WRC gathered clear and convincing evidence that company human resources managers had played active roles in the company union’s formation, by directing and coordinating the factory line leaders (forepersons) recruitment of workers to sign membership forms for the company union, and by providing other forms of sponsorship and favoritism to the company union inside the factory.

While the company continued to deny playing a role in the company union’s formation, its creation was clearly an attempt to undermine workers’ independent organizing efforts with the TTCU. However, subsequent to the formation of the company union, the WRC has not received reports that, other than by the fact of its existence (which is clearly illegitimate), it has interfered in workers’ associational activities.

² ILO Convention 98 (Right to Organise and Collective Bargaining) (defining as a violation of the rights protected under the convention “acts which are designed to promote the establishment of workers’ organisations under the domination of employers or to support workers’ organisations with the object of placing such organisations under the control of employers”), https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C098.

³ Email to WRC from Eastman Senior Vice-President Alagesan Senniappan, July 30, 2021 (on file with WRC).

C. Recommendations for Corrective Action and Factory and Brand Response

In view of the violations identified, the WRC recommended to all stakeholders the creation of a comprehensive, worker-led program of action, via binding agreements among Eastman, H&M, and worker representatives from TTCU and its international allies, to combat gender-based violence and harassment at the factory and protect workers' associational rights.

At the time the WRC made this recommendation, the labor stakeholders were already pursuing an agreement along these lines and had engaged H&M in initial discussions. Subsequent to the WRC sharing its findings and recommendations with the parties, these negotiations continued and intensified.

To their credit, both H&M and Eastman engaged in good faith dialogue and negotiation with TTCU, AFWA and GLJ-ILRF, resulting in the binding agreements discussed above and reviewed in greater depth later in this report. The agreements cover not only the Natchi facility but also a physically adjacent Eastman spinning mill that was not covered by the WRC's investigation.

The WRC views the commitments that Eastman and H&M have made to support the establishment and implementation of these measures and mechanisms as a credible and comprehensive response to the environment of gender-based violence and harassment at Natchi that the WRC found in our investigation.

Notably, these agreements build on the model for worker-driven anti-gender-based violence and harassment programs in global garment manufacturing developed in the Lesotho Worker Rights Watch program negotiated in 2019 by Lesotho unions and women's rights groups, the WRC, and other international allies with major jeans manufacturer Nien Hsing Textile, Levi's, Kontoor Brands, and The Children's Place – a program which, in turn, drew from the historic success in combating gender-based violence and harassment in the US agriculture sector of the Coalition of Immokalee Workers' Fair Food Program.

1. WRC Remedial Recommendations

In developing recommendations for corrective action to address gender-based violence and harassment at the company, the WRC was informed by:

- (a) The specific conditions and findings of the investigation, and the particular context in the Tamil Nadu garment sector of systemic caste prejudice and the added vulnerability of many Natchi employees as migrant workers;
- (b) The existing legal framework in India for addressing sexual harassment in the workplace (most notably, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act);
- (c) Recognition of the fact that the management responsible for the existence of a culture of sexual harassment and coercion in a workplace does not suddenly develop the will and capacity to eliminate the problem through its own managerial efforts;

(d) Longstanding experience with the generally inadequate approach of global brands to improving labor conditions at their contracted factories, via their existing auditing systems; and

(e) The promising track record, by contrast, of enforceable labor rights agreements between brands and organizations representing workers in their contracted supply chains, in particular, those that address workplace gender-based violence and harassment and, relatedly, empower women workers to exercise associational rights.

With respect to the latter point, these crucial precedents include the Lesotho agreements and the Fair Food Program, as noted above, and also the Accord on Fire and Building Safety in Bangladesh, which operates a complaint mechanism that provides for independent investigations and determination of remedies in cases of gender-based violence and harassment.

The WRC, therefore, recommended that Eastman management and brand representatives negotiate enforceable agreements to establish a program to prevent, remedy and monitor gender-based violence and harassment and ensure respect for freedom of association at Natchi and other Eastman factories, which would include: (1) training of workers on gender-based violence and harassment to be conducted with participation by the TTCU; (2) provisions ensuring workers are protected from retaliation for reporting and/or opposing gender-based violence and harassment, or engaging in other associational activities, and (3) creation of an independent body empowered to investigate complaints of gender-based violence and harassment and/or violations of freedom of association from workers and order disciplinary action against any manager found to have committed acts of sexual harassment or retaliation. The WRC also recommended that, since Natchi's "company union" had been established as a creation of the factory's management, the company ensure that it become inoperative and refrain from further interference in workers' associational activities. The specific recommendations that the WRC made with regard to all of these measures are discussed in detail in Section IV of this report.

Providing workers facing abuse with the protections to organize collectively and to bring both individual and group complaints to an expert independent body charged with protecting their safety and ensuring respect for their rights, is the only way to correct the imbalance of power that enabled an environment of pervasive and persistent gender-based violence and harassment at the Natchi factory. The WRC urged that, as part of these agreements, business with Eastman should be conditioned on the latter signing and implementing an agreement to cooperate with the anti-gender-based violence and harassment program to be established at its factories.

D. Factory and Brand Responses

1 Negotiation and Signing of Binding Agreements to Establish Anti-Gender-based Violence and Harassment Program

The agreements signed by Eastman and H&M with TTCU, AFWA, and GLJ-ILRF to establish and maintain an anti-gender-based violence and harassment program at Natchi and the adjacent Eastman spinning facility, are consistent with the WRC's recommendations.

The key elements in these agreements include:

- Incorporation of a definition of gender-based violence and harassment that is consistent with the one established under ILO Convention 190 (Violence and Harassment), and the one set forth by the Sexual Harassment of Women at Workplace Act, and which considers how the impact of gender-based violence and harassment may be affected by workers' caste, age, or migrant worker status;
- Based on both this definition and the requirements of Indian law, establishment of a list of practices and conduct that are recognized as prohibited in the workplace, as forms of gender-based violence and harassment, or retaliation for reporting or opposing them, as well as a set of agreed-upon remedies to be applied to address them;
- Prohibiting and requiring remedy for any form of retaliation against workers for opposing, reporting, or cooperating with the investigation of gender-based violence and harassment;
- Relatedly, protection for workers' rights to freedom of association, as established under ILO Conventions 87 (Freedom of Association and Protection of the Right to Organise) and 98 (Right to Organise and Collective Bargaining), including prohibition on interference with this right through employer sponsorship of a company union;
- Reform of the factory's statutory Internal Complaints Committees (ICs) so they can play an effective role in the anti-gender-based violence and harassment Program's activities, by ensuring that: the majority of the membership of the ICs will be comprised of women workers appointed by the TTCU; that the external member of the ICs will be jointly agreed upon by the TTCU and Eastman; and that implementation of the IC's recommendations for remediation of incidents of gender-based violence and harassment (which are to be based, in turn, on investigation of complaints and formulation of remedies by independent external assessors) will be a mandatory obligation of Eastman's management;
- Establishment of a joint oversight committee comprised of representatives of H&M (and other buyer brands if they become signatory to such agreements), the TTCU, AFWA and GLJ-ILRF—to supervise, monitor, and enforce Eastman's implementation of the

commitments in the agreement. This joint oversight committee will select a roster of independent external expert assessors who, on behalf of the reformed ICs, will investigate complaints of gender-based violence and harassment from workers, reach findings, and issue binding recommendations to the ICs and Eastman for remedies up to and including dismissal of managers, supervisors, or employees found to have committed gender-based violence and harassment; and

- Requiring training on gender-based violence and harassment on an ongoing basis, as well as regular peer education, for all Natchi employees (including migrant workers, new hires, supervisors, and management), at the factory and on company time, that:
 - Trains workers to identify, monitor for, and report gender-based violence and harassment on an ongoing basis, as well as to participate meaningfully in the process of developing remedies;
 - Recognizes the interrelationship between gender-based violence and harassment, systemic caste prejudice, workers' potential vulnerability due to age and/or migrant status, and denial of associational rights;
 - Is developed and delivered by the TTCU, as a union with experience and expertise with gender-based violence and harassment in the garment sector in Dindigul, Tamil Nadu; and
 - Also includes participation by Eastman and Natchi management;

Under the agreements that the stakeholders have signed, H&M has committed to require Eastman to cooperate with the TTCU, AFWA and GLJ-ILRF on the implementation of these measures, as a condition of future business relations between Eastman and H&M. Based on prior experience with comparable binding agreements reached among brands, employers and worker organizations to address labor rights violations, including gender-based violence and harassment, in brand supply chains, the WRC believes that these measures offer an effective and sustainable mechanism for protecting the rights, safety and welfare of, women workers at the Natchi Apparel factory.

2. Compensation for Families of Deceased Workers

The WRC has been informed by TTCU, AFWA and GLJ-ILRF that Eastman had reached an agreement with the family of Jeyasre Kathiravel on compensation for the death of their daughter, that has been negotiated with the support of the labor stakeholders in a non-coercive environment.

Going forward, the factory should also provide appropriate compensation to the families of the other two deceased women workers whose cases are discussed in this report, whose deaths were linked to gender-based violence occurring at or stemming from their place of employment – the local worker, Suguna, and, if she can be identified and her family contacted, the migrant worker from Odisha, whose body was reportedly found on the premises. Such compensation should be negotiated in a non-coercive fashion between the families of each worker and the company, with the right of each family to be represented by an external party of its choice being fully respected.

3. Brand Support for Progress at Natchi, via Placement of Orders

Throughout the period of the WRC's engagement in this case, the WRC has recommended that brands buying from Natchi maintain their orders and work to improve conditions at the facility. This is the obligation of any brand that produced at a factory where labor rights violations have occurred, and this obligation remains until and unless it is clear that the factory will not take steps to remedy violations and improve conditions. In this case, Natchi has agreed to take such steps, has done so by entering into binding agreements with worker organizations, and it is incumbent upon recent buyers from Natchi to provide orders to help sustain the factory and see the new anti-gender-based violence and harassment program through to fruition.

While H&M deserves credit for signing its agreement with the TTCU, AFWA, and GLJ-ILRF, it is important to note that, at present, H&M is not placing orders at Natchi. The *prospect* of renewed orders from H&M, and H&M's obligation under the agreement to condition future business on Natchi's fulfillment of its commitments, does create strong incentive for Natchi to comply. Ultimately, however, it is vital that H&M place orders again at Natchi (assuming the latter's continued compliance), because the long-term success of the program depends on the economic health of Natchi and of Eastman more broadly. For this reason, it is positive that H&M, in its agreement, explicitly commits to consider placing new orders in the future.

4. Other Natchi Customers

Authentic Brands, Walmart, and Marks and Spencer have all been substantial buyers from Natchi. Authentic Brands has sourced from the factory as recently as April of this year. It is unclear whether Walmart is sourcing from Natchi at present. Marks and Spencer is not currently buying from Natchi. Marks and Spencer claims that it ceased sourcing from Natchi in January of 2020; however, Marks and Spencer listed Natchi as a supplier, nine months later, in its own public supplier list, issued in October of 2020. In any case, the labor rights problems identified by the WRC at Natchi were long-standing and were present at the factory while Marks and Spencer was producing there. This is also true of Walmart.

Given their past and/or present patronage of Natchi, all of these buyers should (1) sign an agreement with TTCU, AFWA, and GLJ-ILRF comparable to the agreement H&M has signed, and (2) place orders at Natchi, going forward, and thereby support the process of change now underway at the facility (as long as Natchi complies with its commitments). If these brands, having profited from their relationship with Natchi prior to the existence of robust worker rights protections, do not support the facility as it puts these protections in place, this will belie their stated commitments to protecting the rights of women workers in their supply chains.

GLJ-ILRF has advised the WRC that it has recently asked these brands to sign an agreement, that Marks and Spencer has declined, on the basis of its claimed departure from the factory in 2020, and that responses from Authentic Brands and Walmart are pending, as of the date of this report's publication.⁴

⁴ With the exception of Marks and Spencer, these brands did not see the WRC's draft report prior to its finalization; the present report was provided to them at the time of publication.

II. Methodology

A. Sources of Evidence

The WRC conducted its investigation of gender-based violence and harassment and violations of freedom of association at Natchi between March and September 2021. The WRC's interviews with Natchi workers were primarily conducted by a team of four investigators from Tamil Nadu with expertise in gender-based violence and labor rights. The WRC's findings at Natchi are based on the following sources of evidence:

- Detailed confidential interviews, conducted away from factory premises, with 60 current and former Natchi workers. The majority of the workers whom the WRC interviewed had been in the company's employment for at least several years at the time they were interviewed. The WRC interviewed workers from a broad range of the factories' operations, including its packing, cutting, tailoring, sewing, ironing, and cleaning departments;
- Interviews and written communications with Natchi managers, including interviews with the factory's human resources and compliance managers, vice-president for operations, department heads ("in-charge" managers), and frontline supervisors;
- A physical inspection of the Natchi plant, including the dormitories owned by Eastman and operated by a third-party vendor to the company;
- Review of relevant factory records and documentation, including internal labor regulations, company policies, grievance handling procedures, Internal Complaints Committee (IC) records, and personnel files; and
- Review of relevant government documents, police reports, and hospital records.

It is important to note that the WRC investigators who interviewed Natchi workers reported detecting very high levels of fear and (apparently related) reticence among many of the workers with whom they spoke. Gender-based violence and harassment is a subject that garment workers in India, among other places, are often more reticent to discuss than others; however, even bearing this context in mind, the WRC investigators found many workers to be unusually reluctant to discuss the topic and disclose information. The level of fear that the WRC encountered among workers related to discussing the issue of gender-based violence and harassment underscores the need for robust training, representation, and complaint-handling mechanisms that can empower women workers to report incidents of harassment and abuse without fear of retaliation or other repercussions, as well as the need, generally, to ensure protection for freedom of association as a crucial enabling right in this regard.

B. Terms of Reference

The WRC assessed Natchi's labor practices and working conditions as they relate to gender-based violence and harassment against the company's obligations under Indian labor law and regulations, international labor standards, and vendor codes of conduct. These terms of reference include:

- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013;
- The Industrial Disputes Act, 1947;
- The Factories Act, 1948;
- Conventions of the International Labour Organization (ILO) that India has ratified or is otherwise obligated to respect;⁵
- ILO Convention 190 (Violence and Harassment), which entered into force in 2021 and, though it has not yet been ratified by India, is highly relevant to this report; and
- The H&M vendor code of conduct⁶.

⁵ India has ratified 47 Conventions of the ILO, including six of the ILO's eight "Fundamental Conventions." Among the ILO's "Fundamental Conventions," India has ratified Conventions 29 (Forced Labour), 105 (Abolition of Forced Labour), 138 (Minimum Age), 182 (Worst Forms of Child Labour), 100 (Equal Remuneration), and 111 (Discrimination (Employment and Occupation)). The two "Fundamental Conventions" India has yet to ratify are Conventions 87 ("Freedom of Association and Protection of the Right to Organise"), 98 (Right to Organise and Collective Bargaining). However, the 1998 ILO Declaration of Fundamental Principles and Rights at Work ("ILO Declaration") obligates all ILO member states, including India, to respect and promote these Fundamental Conventions, regardless of whether or not a state has ratified them. ILO Declaration, Art. 2 (June 18, 1998), available at: <http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang-en/index.htm>.

⁶ H&M, *Sustainability Commitment, H&M Business Partner*, January 2016, https://hmgroup.com/wp-content/uploads/2020/10/Business-Partner-Sustainability-Commitment_en.pdf.

III. Findings⁷

A. Background to WRC Investigation

1. January 2021 Murder of Natchi Woman Worker by Male Factory Supervisor

According to police reports, on January 5, 2021, the murdered body of a Natchi woman worker, Jeyasre Kathiravel, was found in a field near her home in Kaithian Kottai, Tamil Nadu, where she lived with her mother and father. According to her family, on January 2, 2021, Jeyasre, who was 20 years old, left for the factory in the morning and never returned.

After an investigation into Jeyasre's death, local police arrested a male supervisor at Natchi named Thangadurai, who confessed to killing her. He has been formally charged with Jeyasre's abduction and murder. Subsequent to her death, Jeyasre's family reported that she had repeatedly complained to them, in the weeks and months before, of being "tortured" at work by persistent sexual harassment.

According to witnesses interviewed by the WRC, on the night of January 30, 2021, at least five managers from the factory, accompanied by a large group of men, arrived at the home of Jeyasre's family, uninvited and unannounced. These managers aggressively pressed Jeyasre's mother to accept a check for INR 500,000 (USD 6,707) as a "humanitarian" measure, in full settlement of any potential claims against the factory. According to members of Jeyasre's family and representatives of the TTCU who were present, the behavior of the managers and the larger group of men involved shouting and other acts of intimidation. After media coverage of this incident in *The Guardian*,⁸ and international protests led by the TTCU, AFWA, and GLJ-ILRF, Natchi, and its parent company, Eastman, informed stakeholders that they would suspend their "outreach" to Jeyasre's family.

Although the WRC gathered witness testimony concerning Natchi management's response to Jeyasre's murder, the circumstances of the killing, itself, were not within the scope of our investigation. However, the fact that a male Natchi supervisor murdered a woman worker over whom he had authority, whom he, reportedly, had previously sexually harassed at the workplace, linked this incident, unavoidably, to the then-existing environment of gender-based violence and harassment at the factory, that is discussed in detail in this report. The WRC viewed company managers' efforts, at the time, to pressure the murder victim's family members to accept a quick, cheap, and quiet settlement, as reflective of this same workplace environment.

As noted, the WRC has since been informed by TTCU, AFWA and GLJ-ILRF that, subsequent to the WRC's investigation, Eastman reached a confidential monetary settlement with Jeyasre's family

⁷ The scope of the WRC's investigation of Natchi Apparel for this report was limited to gender-based violence and harassment at the factory, conditions that contribute to these abuses, and the company's existing mechanisms to address them. The fact that this report does not discuss violations in any other areas of the factory's labor practices should in no way be construed as an affirmation of the factory's overall compliance with relevant labor standards with respect to its practices in those areas.

⁸ Annie Kelly, "Worker at H&M supply factory was killed after months of harassment, claims family," *The Guardian*, February 1, 2021, <https://www.theguardian.com/global-development/2021/feb/01/worker-at-hm-supply-factory-was-killed-after-months-of-harassment-claims-family>.

that was negotiated and agreed upon by both parties in a voluntary and noncoercive manner. While such compensation can never truly remedy the loss of a family member, the fact that Eastman has now reached an agreement on such compensation in a manner that is noncoercive and respectful is indicative of a more responsible approach on the company's part.

2. Previous Reporting on Abusive Conditions for Workers in Eastman Exports Factories and the Tamil Nadu Garment Sector

Even before the death of Jeyasre Kathiravel, the pervasiveness and severity of human and labor rights abuses against the primarily female workforce in garment factories and spinning mills in Tamil Nadu (including, but by no means limited to Natchi and other Eastman facilities), had been the subject of extensive investigation and research by international observers. Between 2016 and 2019 a US-based nonprofit that investigates global supply chains, Transparentem, conducted an investigation that found indications of forced labor, child labor, illegal adolescent labor, and safety hazards for workers at several spinning mills and garment factories in Tamil Nadu, including, but again, not limited to, ones operated by Eastman Exports.

Transparentem shared its findings with H&M and other international brands sourcing from Eastman. In response to Transparentem's findings, these brands commissioned a private report, by the UK-based for-profit consulting firm Impactt, that also found factory conditions and practices that were indicators of forced labor and child labor – and that factory managers had sought to conceal through coaching of workers to provide misinformation and falsifying company records. However, neither of these investigations looked specifically at the issue of gender-based violence and harassment.⁹

B. Findings of WRC Investigation

1. Verbal Abuse, Corporal Punishment, Caste Discrimination, Social Control, and Restriction of Movement

The WRC found that the vulnerability of women workers at Natchi to the forms of gender-based violence and harassment described in this report was exacerbated by a general environment for workers at the factory that was verbally, physically, and socially abusive, coercive, and restrictive. Such conditions make individual women workers more vulnerable to gender-based violence and harassment, and they also restrict and undermine workers' exercise of their associational rights, thereby depriving them of the ability to act collectively to resist and oppose such harassment and abuse.

⁹ Neither report has yet been publicly released.

a. Verbal Abuse

Nearly every Natchi worker interviewed by the WRC reported that they had personally experienced or witnessed verbally abusive conduct by supervisors toward employees. Workers described their supervisors yelling at, ridiculing, and abusively scolding them for such infractions as working too slowly. Nearly every worker also told the WRC that whenever they failed to complete their production targets, their supervisors verbally abused them, calling them degrading names such as “donkey”, “idiot”, “buffalo”, and “dog”. Workers also consistently reported that supervisors insulted them or their coworkers with such epithets as “Don’t you have any brains?” and “Why the fuck do you come to work?”.

Many women workers told the WRC that they felt that they and their female colleagues were targeted for this form of abuse by the factory’s supervisors for reasons related to their gender, including their marital status. One worker stated she believed she was verbally abused because she is divorced and “cannot afford to dress stylishly” (due to not being supported by a husband). Similarly, another woman believed she was targeted for abuse because she does not live with her husband. Other workers told the WRC that they believed their supervisors abused them simply because they were single or “because I’m a woman”. Employees also said that the factory’s migrant workers are particularly subject to such abuse from supervisors.

Such verbally abusive treatment of workers violates the vendor codes of conduct of Eastman’s buyer brands.¹⁰ Moreover, to the extent workers were targeted for such abuse for reasons related to their gender or migrant status, such treatment additionally violates the prohibition on such discrimination under the company’s own policy,¹¹ brand codes of conduct,¹² as well as Indian law¹³ and international labor standards.¹⁴

b. Corporal Punishment

Workers consistently reported that when employees returned to work late from lunch or from an unapproved absence, supervisors punished employees by forcing them to stand at the front of their production line, in view of other workers, for extended periods of time. The periods ranged from 15 minutes to three hours. The only conceivable intent of this form of sanction would be to humiliate the punished workers and motivating the workers witnessing this humiliation to refrain from doing

¹⁰ “No employee shall be subject to humiliating or corporal punishment or subject to physical, sexual, psychological or verbal harassment or abuse.” H&M, *Sustainability Commitment*, 1B (Discrimination, Diversity and Equality).

¹¹ “Our managers and seniors will have a close supervision to ensure that their subordinates in their respective work areas are not subject to any sort of discrimination.” Natchi Apparel (P) Ltd, *Anti Discrimination Policy*, on file with the WRC.

¹² “No employee shall be discriminated against in employment or occupation on the grounds of sex, race, colour, age, pregnancy, sexual orientation, religion, political opinion, nationality, ethnic origin, disease or disability.” H&M, *Sustainability Commitment*.

¹³ Interstate Migrant Workman (Regulation of Employment and Conditions of Service) Central Rules, 1980, Sec. 11(2) (vii).

¹⁴ ILO Convention 111 (Discrimination (Employment and Occupation)).

anything to anger their supervisors. Practices of corporal punishment such as this violate the codes of conduct of H&M and other brands.¹⁵

c. Caste Discrimination

Many women workers, when asked why they felt that they were targeted for verbal or other abuse by their supervisors, replied that they thought it was because they (the workers) were from one of the scheduled (i.e., lowest or *dalit*) castes. Workers' perception of being subjected to caste discrimination by company supervisors also reflected these employees' experience with the company's tolerance for, and failure to act against, instances of caste prejudice by other employees.

Women workers who are from scheduled castes also described employees from higher castes, particularly male workers with such status, going out of their way to avoid being near them or talking to them. For example, one worker told the WRC that "other workers ask you for your caste and once they find out you are [in a] scheduled caste, they stop talking to you or sitting next to you." When asked how this treatment made workers from scheduled castes feel, this employee stated, "nothing can be done; you just have to stand away from them and do your work."

Workers consistently reported that despite complaints from employees from scheduled castes about such shunning, company managers did nothing to address or eliminate the problem of caste prejudice in the workplace. One worker stated, "even if you complain, [the managers] don't do anything; they just say that it's a personal problem that we have to handle ourselves."

Such a dismissive response by management ignores the fact that, under Indian law, collective shunning on account of a person's background in the scheduled (*dalit*) caste is not simply a private matter but, instead, has been defined to constitute a form of illegal "social boycott" that is subject to criminal penalties.¹⁶ A workplace environment where such illegal acts of prejudice are tolerated by company managers, and where those targeted for such illegal conduct are told that it is "their problem" to handle, violates the prohibition on discrimination under brand codes of conduct.¹⁷

d. Social Control

The WRC found that one tool through which Natchi maintained control over its young women workers was its use of personnel who gather and relay information about workers between the factory and the nearby communities where workers live. For this purpose, the company employed people it refers to as "field officers", whose job involved visiting workers' homes and interacting with their families, particularly in cases where an employee has been absent from work. In addition,

¹⁵ "No employee shall be subject to humiliating or corporal punishment or subject to physical, sexual, psychological or verbal harassment or abuse." H&M, *Sustainability Commitment*.

¹⁶ Indian Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989, Section 2(eb) defines "social boycott" to include, "abstain[ing] from social relations that one would maintain with other person[s] or ... isolat[ing] him from others".

¹⁷ "No employee shall be discriminated against in employment or occupation on the grounds of sex, race, colour, age, pregnancy, sexual orientation, religion, political opinion, nationality, ethnic origin, disease or disability." H&M, *Sustainability Commitment*, 4.1.5.

according to consistent worker testimony, the bus drivers that Natchi contracts to drive workers between their communities and the factory also acted as recruiters for, and representatives of, the company in the areas where workers live.

Almost every worker interviewed in this investigation expressed the belief that if they raised a complaint at the factory concerning gender-based violence and harassment, even through channels that are ostensibly confidential, one of Natchi's field officers or bus drivers would report it back to their families and others in their community. It is important to understand the economic and social context: many of these young women's families depend substantially on their factory incomes. Workers feared their family would view the making of a complaint—or joining with other workers to protest conditions—as putting the family's livelihood at risk. The political and social reality in Tamil Nadu (as in many other places) is that women who complain of sexual harassment and abuse often suffer more negative consequences than their abusers. Under these circumstances, it is eminently rational for workers to feel watched, coerced, and intimidated by Natchi's version of community outreach, as virtually all these workers reported they did.

These mechanisms of social coercion—*especially in conjunction with the absence of a grievance mechanism that workers trust to be both confidential and effective*—perpetuated an environment in which most workers are unable to take action to protect themselves from gender-based violence and harassment, either individually or collectively. To the extent that such mechanisms were used by the company to deter workers from organizing together to combat such abuses, they violated the prohibitions on restrictions of freedom of association under Indian law,¹⁸ international labor standards,¹⁹ and brand codes of conduct.²⁰

e. Restriction of Movement and Surveillance

The reports that were shared with Natchi's buyers by the research nonprofit, Transparentem, and the brands' consultant, Impactt, outlined the special vulnerability of the factory's migrant workers to abuse and mistreatment. According to these reports, migrant workers, many of whom are young (and at times have been underaged) women from marginalized castes, live in a dormitory operated by a vendor to the company. The dormitory authorities subject these workers to extensive restrictions on their freedom of movement, as well as near-constant surveillance of their activities. Such restrictions on workers' freedom of movement violate brand codes of conduct.²¹

The WRC's methodology for worker interviews requires that they be conducted in locations outside of the employer's control, under circumstances that make workers comfortable and that make it hard for management to determine who is being interviewed—thereby protecting confidentiality and

¹⁸ Indian Industrial Disputes Act, 1947, 5th Sched. prohibits “unfair labour practices”, and defines them to include “interfer[ing] with, restrain[ing] from, or coerc[ing], workmen in the exercise of their right to organise ... or to engage in concerted activities for the purposes of ... mutual aid or protection”.

¹⁹ ILO Convention 98 (Right to Organise and Collective Bargaining).

²⁰ H&M, *Sustainability Commitment*, 1.F (Freedom of Association and Collective Bargaining).

²¹ H&M, *Sustainability Commitment*, requires that “[t]he employee's freedom of movement is not restricted”.

minimizing the risk of retaliation. Because the living and working conditions of Natchi's migrant employees were such that it was not possible to gather testimony from these workers in a setting where such assurance could be provided, the WRC did not interview workers from this group as part of its investigation.

The very fact, however, that independent labor rights researchers and advocates were not able to meet with these workers in locations away from the company's control and surveillance was a clear indicator of these young women's vulnerability to abusive treatment. It also demonstrated that the restrictions placed on these workers by Natchi's management prevented them from exercising associational rights that Indian law,²² international labor standards,²³ and brand codes of conduct²⁴ require the company to respect.

2. Gender-based Violence and Harassment

Worker testimony indicated that gender-based violence and harassment, including sexual harassment, was widespread at Natchi. In total, more than one-third of the workers whom the WRC interviewed for this investigation reported that they had personally suffered or directly witnessed incidents of gender-based violence and harassment.

Women workers described to the WRC an atmosphere of *acceptance* by company managers of gender-based violence and harassment and a lack of accountability for those who perpetrated abuse, with women facing harassment not only from supervisors and managers but also from male coworkers.

Witnesses reported that this abuse was seldom reported to management, citing their own and other workers' distrust of the company's complaint redress mechanisms, which, workers report, have often failed to bring any consequences for harassers or any improvement in conditions.

As discussed later in this report, Natchi management told the WRC that in the year that preceded the WRC's investigation it had not taken any disciplinary action against a manager, supervisor, or employee in response to any complaint from women workers of gender-based violence and harassment.²⁵ This is a notable admission, especially given that, as discussed below, the nongovernmental organization Social Awareness and Voluntary Education (SAVE), which is the

²² Indian Industrial Disputes Act, 1947, 5th Sched. prohibits "unfair labour practices" and defines these to include "interfer[ing] with, restrain[ing] from, or coerc[ing], workmen in the exercise of their right to organise ... or to engage in concerted activities for the purposes of ... mutual aid or protection".

²³ ILO Convention 98 (Right to Organise and Collective Bargaining).

²⁴ H&M, *Sustainability Commitment*, 1.F (Freedom of Association and Collective Bargaining).

²⁵ During the WRC's investigation, Natchi claimed to the WRC that it had not taken any disciplinary action against any manager, supervisor, or worker at the factory in the previous 12 months, for *any* reason. This broad claim seems somewhat implausible given that the factory employs over 3,000 workers and appears to be an attempt by the company to provide some excuse for why the company had not disciplined anyone for gender-based violence and harassment, specifically.

external advisor to the company's statutory Internal Complaints Committees (ICs), claimed that, during the same period, these committees had recommended such discipline in at least seven cases.²⁶

According to company records and interviews with Natchi management, however, since late 2020, three company managers have resigned from Natchi after being the subject of complaints from workers concerning sexual misconduct that the company received via a "Hotline Grievance Redressal System" operated by Impactt. These resignations were further confirmation that serious incidents of gender-based violence and harassment were occurring at Natchi. While the resignations of these managers also indicated that, at least in these cases, there was some degree of accountability for perpetrators of gender-based violence and harassment, they also clarified the inadequacies of the company's approach at the time. The company's ICs, which are statutorily mandated to investigate such complaints from workers, were not made aware of these complaints, and the managers in question, not having been formally disciplined for their misconduct, were left in the position to secure jobs with other employers where they have authority over women workers.

The range of gendered or sex-based abusive behaviors that women workers reported experiencing and witnessing at the factory is detailed in the subsections below.

a. Physical Sexual Harassment

Women workers reported to the WRC having experienced unwelcome physical contact from male supervisors and coworkers, as well as witnessing other women workers being subjected to the same misbehavior. Male supervisors and employees reportedly took advantage of situations where women workers were more vulnerable to and less able to resist such misconduct.

For example, one woman worker told the WRC that, when she needed a company mechanic to repair the machine she operates, the mechanic would take advantage of the situation to touch her body. The same worker reported that "when there [wa]s a fire drill [in the factory and everyone has] to rush out, male [supervisors and employees] use[d] this [situation] to touch and pinch [women workers' bodies]". Another woman worker testified that when there was a power outage in the factory (a not infrequent occurrence) male employees would take advantage of the situation to grab women, pinch their bodies, or kiss them.

Another woman worker said that, in some areas of the factory, male company managers also had a practice of touching women workers. This worker told the WRC, "The tailoring department has it [the] worst, [as] there the [male] managers ... stand next to the girls and brush their [the managers'] arms against the girls. The [male managers] use the excuse that the girl is working slowly or making mistakes, but the [women workers] know why the [male managers] were doing it."

²⁶ The WRC's interviews with seven employee members of the ICs, however, did not support this claim. All but one of these employees said they had not received *any* complaints from workers during their service on the IC. The sole IC employee who reported receiving a complaint from a worker as an IC member told the WRC that it had not resulted in a recommendation of discipline.

Another woman worker said that physical sexual harassment of this type was particularly pervasive among male employees working on the factory's evening (i.e., second) shift. This worker stated at the time, "It [sexual harassment] is very common at Natchi. Men try to grab any opportunity to harass women sexually, especially [on] the second shift."

Women workers told the WRC that these forms of harassment caused them to feel emotional depression and, in some cases, made them want to leave the factory if they could locate alternative employment.

b. Verbal Sexual Harassment

Workers reported to the WRC that it was common for male managers, supervisors, and employees to make lewd comments about women's bodies and clothing and traffic in sexually explicit jokes. One worker stated that supervisors constantly made vulgar sexual comments about what women workers were wearing and how parts of a woman's body moved while she walked.

Another worker described how her former supervisor would call across the production floor to tell her that he had been staring at her eyes and that they were very beautiful. The worker said about this conduct, "You have to sit in silence and take it." Other workers who experienced similar behavior from their supervisors also reported that the latter faced no consequences for this conduct.

c. Non-verbal Sexual Harassment

Many women workers said that male managers, supervisors, and employees stared in an obvious manner at women's bodies, including their breasts, and that this made them feel deeply uncomfortable. Workers reported feeling powerless to stop this behavior.

One woman worker stated that when she visited the factory storeroom to get thread for her work, male employees in the storeroom would stare pointedly at her breasts. The same worker said that male employees in the factory's packing section also stared at women workers' bodies in a similar way. The worker told the WRC that she had complained to the factory's "welfare officer" about this problem, but no action had been taken in response to her complaint.

d. Coercive Sexual Propositions

Several women workers interviewed by the WRC reported specific incidents of male supervisors or coworkers sexually propositioning women workers and doing so in ways that were coercive. As discussed below, two women testified to experiencing such abuse themselves.

Verbal Abuse for Resisting Sexual Proposition from Supervisor

One woman worker told the WRC that her male supervisor would regularly put his hand on hers and, when she pulled away, claim the contact was an accident. The woman worker understood these repeated acts to be a solicitation of sexual contact.

When she rejected the supervisor's advances, the supervisor began subjecting her to retaliatory harassment and sexually related verbal abuse. For example, the worker related that when she asked the male supervisor for approval to take leave from work, the supervisor replied, "Your husband is not with you, [so] who have you invited [to your home]? Is this your usual practice?" The worker, who is married, understood the supervisor to be asking if she was requesting leave in order to have extramarital sex, suggesting that this was something she regularly did. When the worker did not respond to the supervisor's comments, the supervisor added, "Shall I send someone for you?" The worker interpreted this statement to mean that the supervisor was offering (or threatening) to send someone to her home to have sex with her.

Being repeatedly subjected by her supervisor to these demeaning comments caused the woman worker to feel depressed and angry, but she also felt unable to take any action in response. The worker told the WRC that she never told anyone at the factory about this harassment, both because she was unaware of where to report such the abusive treatment and because she assumed the factory management would not believe her and would side with her supervisor. As a result, this woman decided to resign from her job at the factory.

Repeated Sexual Propositions from Company Mechanic

Another woman worker reported being repeatedly propositioned by one of the factory's mechanics, who, on numerous occasions, asked for her phone number and requested that she meet him outside of the factory. As discussed, women workers at the factory, who are primarily production workers, rely on the factory's mechanics, who are men, to maintain the machines the women workers operate, creating a distinct imbalance of power between such employees.

Garment factory managers also rely on such mechanics to keep the factory's machines in working order, which can tend to lead managers to favor mechanics when they are the subject of complaints from other workers. Not surprisingly, then, the woman worker who was continuously propositioned for sex by the male mechanic did not report these incidents to the factory management and, she stated, eventually left her job at the factory rather than continue to suffer abuse.

C. Other Reported Murders of Women Employed at Factory

The TTCU alleged, in its complaint to the WRC, that *other* women workers at the factory, in addition to Jeyasre Kathiravel, had been murdered in the last three years under circumstances related to their employment at the factory. The WRC investigated the TTCU's allegations as part of the inquiry. The WRC gathered and reviewed testimony from workers and supervisors with relevant knowledge,

testimony from the family of a murdered worker, statements from Natchi management on the allegations, hospital records, and other evidence.

Based on this evidence, the WRC concluded that, in addition to the murder of Jeyasre, one additional murder of a woman worker, related to her employment, is virtually certain to have occurred and that a third murder is very likely to have occurred on factory premises.²⁷ However, and very importantly, the WRC found no evidence to suggest that Natchi management bears *any direct culpability* for the three violent deaths of workers discussed here.

Nevertheless, the WRC concluded that these deaths could not be separated from an environment of gender-based violence and harassment that existed at the factory at the time, and that already has been discussed in this section, and the company's general failure to properly address this issue prior to the WRC's investigation.

1. Murder of Woman Worker by Her Company-Contracted Bus Driver

S. Suguna was a young woman who was employed by Natchi as a sewing machine operator between December 2016 and May 2019. The WRC gathered evidence concerning her death from other Natchi employees, the worker's family, Natchi management, and relevant hospital and government documents.

Like many Natchi workers, Suguna traveled between the factory and the village where she lived via bus service provided by the company, through a contractor called Saravana Bhava Travels. According to workers, the drivers of these buses also serve as labor recruiters for the factory and as de facto representatives of factory management in the communities where workers live.

Suguna and the driver of the bus on which she regularly traveled to work, a man named Vel Murugan, met on his bus and entered into a relationship while she was employed by Natchi and while he was employed by Natchi's transport provider. Suguna's family asserted this relationship was coerced.

One evening in early May 2019 Suguna failed to return home after work. Her father went to the factory and met with the company managers to enquire about Suguna's whereabouts. The factory

²⁷ In the case of the death of a local woman worker who was in a relationship with a company-contracted bus driver, the WRC describes her as having been murdered, since Natchi, itself, referred to her death as such in written communications with the WRC, and there is substantial additional evidence to support this determination. The WRC refers to the company-contracted bus driver as the "apparent" perpetrator of this murder because the worker's family members testified to the WRC that the deceased worker's body bore marks that indicated domestic violence, and, unless her death was a suicide, there is no indication of any other person as having been responsible. However, with respect to the testimony that the WRC received regarding a migrant woman worker having been killed on the factory premises, the WRC describes this as a "reported murder", since only a single worker interviewed by the WRC provided firsthand testimony as to this incident (although this testimony was highly detailed and supported by secondhand testimony from several other workers), and the company denied the incident had occurred entirely (although the company's explanation for the workers' testimony to the contrary was unconvincing).

managers told Suguna's father that she had left the factory at the end of her regular shift. Suguna later returned home, but, thereafter, her family did not allow her to go to work at the factory.

On May 16, 2019, Suguna went missing from her family's home. While her family did not see her leave home, neighbors confirmed that Suguna was seen leaving the village with the company-contracted bus driver, Vel Murugan. On May 26, 2019, Suguna's parents filed a complaint with local police, charging Vel Murugan with abducting her. According to Natchi management, shortly thereafter Suguna and Vel Murugan were married; whether Suguna entered the marriage voluntarily or as a result of coercion by the bus driver is unknown.

Two months after her disappearance, Suguna's family were called by police, who asked them to come to the local hospital to identify a body fitting their daughter's description. On reaching the hospital, the family was shown the body, which they identified as that of their daughter. Hospital records reviewed by the WRC show that Suguna died there.

The hospital authorities told the family that Suguna arrived at the hospital in a state of extreme physical distress and died shortly thereafter. The authorities reported that Suguna had been brought to the hospital by the company-contracted bus driver, Vel Murugan, who subsequently disappeared and whose whereabouts are still unknown.

A doctor who treated Suguna informed the family that the cause of Suguna's death was poisoning. A police report reviewed by the WRC corroborates that she was killed by poison. The family reports that Suguna's body also bore wounds that looked clearly to be the product of cigarette burns, indicating that Suguna was subjected to domestic violence at some point prior to her death.

Although Suguna's family, for their own reasons, chose not to pursue a criminal complaint, they are certain that Suguna was murdered by Vel Murugan. This is also the understanding of many Natchi employees and members of the broader community. Natchi management, itself, advised the WRC that Suguna was murdered, though the management did not name a perpetrator. Based on the available evidence, the WRC considers it virtually certain that Suguna died violently at the hands of Vel Murugan, an employee of Natchi's transport contractor.

Subsequent to filing their complaint with the police concerning her alleged abduction, but prior to the discovery of Suguna's body, her parents report that they went to Natchi to make inquiries with factory management regarding the whereabouts of their daughter and of the company-contracted bus driver, Vel Murugan. They report that factory managers told them that the company could not help them, since their daughter's disappearance occurred outside the factory premises.

Natchi management described Suguna's death to the WRC as in "no way connected with the workplace", on the grounds that "the entire episode of [the] relationship [between the worker and the company-contracted bus driver] was outside the factory premises and after their resignation from the factory..." The latter assertion, however, was incorrect, as the evidence clearly shows that the relationship began while both were employed by Natchi and its transport company.

Natchi management's statements about this incident also revealed a misunderstanding of employers' responsibilities under Indian law and international labor standards. ILO standards place workers'

travel between their homes and workplaces, especially when it involves employer-arranged transportation, squarely within the “world of work” wherein employers *must* take responsibility for protecting their employees from gender-based violence and harassment.²⁸ The Indian Sexual Harassment of Women at Workplace Act similarly defines the “workplace” at which employers are required to prevent sexual harassment to include “any place visited by the employee arising out of or during the course of employment *including transportation by the employer* for undertaking such journey”²⁹ (emphasis added).

The secondary role of bus drivers as labor recruiters and village representatives for Natchi further establishes management’s responsibility to protect the women who ride its buses—in particular, its responsibility to address the risks inherent in the quasi-supervisory role, and consequent power over workers, that it confers on these individuals. The fact that the drivers’ interactions with workers take place outside the factory, unsupervised by the factory management, underscores the need for the management to ensure that bus drivers are properly instructed and monitored concerning their conduct with the employees they transport.

2. Reported Murder of Unidentified Woman Worker inside the Factory

Multiple Natchi employees interviewed by the WRC testified that a young woman migrant worker from the state of Odisha was found murdered on factory premises in 2018 or early 2019. The workers who provided testimony to the WRC concerning this incident included a firsthand witness: an employee who reports that she assisted company supervisors, and the sister of the murdered worker, in searching the factory grounds for the worker on the night that her body was found. Several other workers told the WRC, independently of each other, that they learned of the worker’s murder at the time it occurred. Multiple factory supervisors who were interviewed by the WRC also testified to having knowledge of the murder. Several workers who reported awareness of the event stated their belief that the murder victim was raped, although none of these possessed firsthand knowledge in this regard.

The firsthand witness provided the following account to the WRC: One evening, during her shift, a migrant worker she knew casually approached her. The migrant worker told the witness that the former’s sister was missing. The witness and the migrant worker went to their line supervisor, and to the missing worker’s line supervisor, and the two workers and two supervisors then commenced an informal search of the factory premises for the missing woman.

Approximately one hour later, one of the supervisors discovered the dead body of the missing woman in a shipping container that was being kept in a vacant area within the factory grounds. The supervisor barred the witness and the dead woman’s sister from entering the shipping container to view the body, stating that the body bore the marks of a violent death and that the two should be shielded from the sight.

²⁸ “This Convention applies to violence and harassment in the world of work occurring in the course of, linked with or arising out of work: ... [including] when commuting to and from work.” ILO Convention 190 (Violence and Harassment), Article 3.

²⁹ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, Section 2(o)(v).

Later that evening, managers ordered all of the shift's workers to assemble. A human resource official told the assembled workers that they must not talk to anyone about whatever they might have heard about an incident at the factory that evening. The manager said that if the incident were publicized, the factory would likely be shut down, and everyone would lose their jobs. After that evening, the witness never saw the sister of the murdered worker in the factory again.

The WRC's interviewers found the worker who was a firsthand witness to the search for the migrant worker's body highly credible. Her account was detailed and did not vary through multiple retellings. Several other workers interviewed independently by the WRC, all of whom had been employed at Natchi in the relevant time frame, testified to possessing contemporaneous knowledge of the murder, having learned about it from other workers within hours or days of its reported occurrence. These workers corroborated significant details of the account of the firsthand witness, including the fact that the murdered worker was from Odisha, that she had a sister also employed at the factory, and that the sister was not seen at the factory after the murder. Multiple factory supervisors interviewed by the WRC also testified that they are aware that such a murder happened on factory premises.

When asked by the WRC, Natchi management denied that such incident occurred. Management claimed that anyone reporting knowledge of a murder at Natchi must actually be referring to the murder of the local woman worker, S. Suguna, discussed above. However, the testimonies that the WRC received concerning a murder on factory premises included details that clearly differentiate it from the murder of Suguna. Among these are the location where the worker reportedly died (on factory premises as opposed to a nearby hospital); the murdered worker's geographic origin (a migrant worker from Odisha as opposed to a member of a local Tamil household); the manner of death (violent assault versus poisoning); and the identity of the assailant (unknown as opposed to a named employee of the bus company contracted by the factory). For these reasons, the WRC finds it implausible, as Natchi asserts, that workers and supervisors reporting knowledge of the murder of a migrant worker on the factory premises were actually recalling Suguna's murder.

Several witnesses described the allegedly murdered worker and her sister as migrants from Odisha state, but none of the witnesses knew their names. Witnesses could not supply the exact date of the incident; some placed it in 2018, some in early 2019. These missing details are reasons for doubt, and they preclude a definitive conclusion that this reported murder occurred.

At the same time, given the large size of the workforce, high rates of turnover, a factory atmosphere that discourages communication among workers, and large language barriers between migrant and local workers, it is plausible that the name of the victim would not have been known to the witnesses the WRC interviewed. It is also common for witnesses to differ in their estimation of the date of a past event. Against these factual gaps, we must weigh the firsthand testimony of a credible witness that she helped locate the body of a worker found murdered and the testimony of multiple *supervisors*, as well as workers, that they had contemporaneous knowledge of the incident.

Considering all available evidence, while the WRC cannot state definitively that this third murder took place, we consider it very likely that a third woman employee was murdered, on factory grounds, in either 2018 or early 2019.

3. Implications of Findings concerning Other Worker Deaths

To reiterate, there is nothing in the testimony the WRC received to suggest that Natchi management bears *any direct culpability* for the three violent deaths of workers discussed in this report. However, Indian law makes clear an employer's general duty to promote a safe work environment for all employees, by reducing the hazards to workers that are present in the workplace.³⁰ Moreover, the country's Sexual Harassment of Women at Workplace Act explicitly states that employers have the duty to "provide [women workers with] a safe working environment at the workplace which shall include safety from the persons [with whom they are] coming into contact at the workplace."³¹

At the time when these incidents occurred, Natchi management had permitted an environment to develop in the factory where male managers, supervisors, and employees were able to engage in sexual harassment without being held accountable, and where women workers felt unable to protect themselves from such abuse. Such circumstances increase the risk to women workers that they will encounter more extreme, and even fatal, expressions of gender-based violence.

Multiple murders of women workers, in just three years, in a total factory workforce of 3,000 employees, certainly indicate a heightened risk of lethal violence for women employees. This amounted to a murder rate of 22 or 33 per 100,000 (depending on whether one includes in this calculation the reported murder of the unidentified migrant worker, in addition to the murders of Jeyasre Kathiravel and S. Suguna). This rate was either 10 or 15 times greater than the reported annual murder rate in Tamil Nadu state, which, as of 2019, was 2.12 per 100,000.³² In other words, among a population of 3,000 workers in Tamil Nadu, one would expect, statistically, to see one murder every sixteen years. Among this factory's employees, there were two or three murders over three years.

The virtual certainty that at least two women employees of Natchi were murdered by men working for the company in supervisory or quasi-supervisory roles, and the strong likelihood that a third woman worker was murdered on factory premises, in the WRC's view, could not be separated from

³⁰ E.g., "Every occupier shall ensure, so far as is reasonably practicable, the health, safety and welfare of all workers while they are at work in the factory." India Factories Act, 1948, Section 7.A.

³¹ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 19 (Duties of Employers).

³² In 2019 Tamil Nadu had a population of 82.45 million. "Tamil Nadu Population 2011–2021," Census 2011, accessed July 29, 2021, <https://www.census2011.co.in/census/state/tamil+nadu.html>. The number of murders recorded in Tamil Nadu in 2019 was 1,745; and Ministry of Home Affairs, National Crime Records Bureau, Crime in India – 2019, Table 1C.2, accessed July 29, 2021, https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Table%201C.2.pdf.

an environment of gender-based violence and harassment that existed at the factory at the time. Moreover, Natchi management's response to these murders, including its insistence that the killing of two women workers by men who carry out its managerial functions had nothing to do with the company, and its managers inappropriate conduct toward a murder victim's family were further evidence of a deeply flawed approach, at the time, to an issue where the implications for the safety of workers could not be more severe.

4. Conclusion

The pervasive gender-based violence and harassment described by women workers at Natchi, particularly as it was coupled, as discussed in greater detail below, with lack of an adequate response to this abuse by the factory management, violated both brands' supplier codes of conduct³³ and Indian law. Indian law specifically prohibits the forms of sexual harassment that women workers at Natchi reported, including unwanted physical contact and advances, demands or requests for sexual favors, sexually explicit remarks, and any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature.³⁴ Indian law requires employers to act to prevent and protect women workers from sexual harassment and to penalize the perpetrators of such abuse,³⁵ both of which, as discussed below, Natchi had failed to adequately do.

D. Natchi's Failure to Effectively Address Gender-based Violence and Harassment against Women Workers in the Factory

The WRC's investigation found that Natchi had failed to effectively and properly implement protections for women workers against gender-based violence and harassment, as mandated by Indian law. This failure resulted in a situation where mechanisms formally existed to permit women workers to secure redress for such abuses, and for perpetrators to be held accountable, but, in reality, were too dysfunctional to achieve their purpose.

1. Background on Company-Led Mechanisms

a. Internal Complaints Committees (ICs)

India's Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013 ("the Act") requires every workplace to "provide protection against sexual harassment of women at [the] workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto".³⁶ Under the Act, every employer, at each

³³ "No employee shall be subject to humiliating or corporal punishment or subject to physical, sexual, psychological or verbal harassment or abuse." H&M, *Sustainability Commitment*, 1B (Discrimination, Diversity and Equality).

³⁴ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 2 (Definitions).

³⁵ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 19 (Duties of Employers).

³⁶ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, preamble.

of their workplaces with 10 or more employees, is required to constitute an Internal Complaints Committee (IC) to address complaints of sexual harassment from women workers.³⁷

Workers can also file police complaints related to sexual harassment or assault in the workplace under the Indian Penal Code, but, unlike a criminal case that could drag on for years, the ICs mandated under the Act are expected to offer a quick and effective remedy for complainants. A factory's IC is required to include in its membership one individual who is not an employee of the factory and who is "committed to the cause of women" or a person "familiar with the issues relating to sexual harassment".³⁸

Prior to 2021, Natchi had one IC for the entire factory. In early 2021, Natchi's management held elections for five new ICs, one for each of the factory's four units and one for its evening shift. At the time of the WRC's investigation, each of these committees had 12 to 13 workers among its members.

Natchi's ICs had received external training and support from the Partnership for Sustainable Textiles ("the German Partnership"), a program funded in Tamil Nadu by the German government and a number of major apparel brands. This support included the participation of the Indian nongovernmental organization, Social Awareness and Voluntary Education (SAVE), as the legally mandated outside member of the factory's ICs.

According to Natchi's factory management and SAVE, workers could file complaints concerning gender-based violence and harassment with the IC for the unit where they work, by directly approaching a member of that IC.

b. Other Company-led Complaint Mechanisms

Natchi told the WRC that, in addition to the factory's ICs, the company also maintained six other "redressal procedures" to address workplace complaints. These were (1) a "Grievance Redressal Procedure"; (2) a "Complaints Handling Procedure"; (3) a "Complaints Redressal Procedure"; (4) the factory's "Whistle Blowing Policy"; (5) its "Complaints / Suggestion Box Schemes"; and (6) a "Hotline Grievance Redressal System".

The factory's "Hotline Grievance Redressal System" was established in late 2020 and is operated by the consulting firm, Impactt, as part of the remediation plan recommended by that company in its report to brands concerning labor and human rights violations at the factory. According to Natchi, the purpose of the hotline is to allow workers to submit complaints confidentially.

As discussed below, however, despite this multiplicity of *formal* mechanisms for women workers to bring complaints of gender-based violence and harassment, it is clear that none of them *actually* provided Natchi employees with a trustworthy and effective means of: (a) bringing confidential complaints concerning such abuses; (b) having them objectively and independently investigated; (c) obtaining meaningful redress; and (d) holding persons responsible for the abuses accountable.

³⁷ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 4.

³⁸ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 2, 4b.

Reasons for the dysfunction of these mechanisms, several of which related to the company's failure to comply with the requirements of the Act, are discussed in detail below.

c. Lack of Awareness and Mistrust of Company-led Complaint Mechanisms

Almost none of the Natchi workers who told the WRC that they had personally experienced or witnessed gender-based violence and harassment reported ever submitting a complaint through any of the company's mechanisms. Interviews with these workers revealed that this reticence was due not only to a lack of awareness of these procedures, but also workers' lack of trust that Natchi's management was willing to hold the perpetrators of such misconduct accountable.

Notably, fewer than half of the workers interviewed by the WRC were even aware of the existence of the IC for their unit. Of the minority of workers who were aware of the ICs, one-third of these employees stated that they only learned of the ICs' existence *one day* before the WRC's visit to the facility, in apparent anticipation of which factory management belatedly shared this information with them.

Additionally, workers interviewed by the WRC overwhelmingly said that they did not trust *any* of the company's then-existing complaint mechanisms. For example, one worker told the WRC that, even if she were to report a supervisor for sexually harassing workers, "no change w[ould] come" from taking such a risk.

Such distrust was grounded in workers' actual experience. A worker told the WRC that she previously *had* reported being sexually harassed by her supervisor to the company's welfare officer, but the factory management took no action against her harasser. This worker said that, partially as a result of this experience, she eventually resigned and left the factory.

Workers also expressed a lack of confidence in the factory's existing ICs to effectively address employees' complaints of gender-based violence and harassment. One worker told the WRC, "[The management] put up a poster about [the] IC and spoke about a voting process [for its members] but [then, this was] never spoken of again. No one uses [the ICs' complaint process] because no one thinks it is legitimate or knows anything about it." This sentiment was widely shared among the women workers interviewed by the WRC.

Workers' lack of information about Natchi's company-led complaint mechanisms and their distrust of these procedures as a means to achieve remedy for abuses—which, as discussed below, was greatly exacerbated by management's failure to take meaningful action to hold perpetrators of gender-based harassment and abuse accountable—rendered these procedures ineffective, regardless of their formal content, and denied workers' the protection to which they were entitled. Workers will not, indeed cannot, utilize a complaint system they have not been given reason to trust.

d. Fear that Complaints will not be Kept Confidential and Fear of Retaliation

As already noted, workers expressed to the WRC their belief that, due to the company's deployment of "field officers" to the communities where they live, any complaints they make at the factory would not be kept confidential and, instead, would be disclosed within their communities and

become known to their families. A general lack of trust that information would be handled confidentially prevented women workers from reporting to management about gender-based harassment, since workers feared they would face shame and sanction at home if their families learned that they complained of such abuse at work.

For example, one worker explained that she would not report incidents of gender-based violence and harassment to the factory management because “[The management has the] phone numbers of [workers’] parents and spouses and, in [the] case [that a worker] complained, the management could ring her husband and tell lies [about her conduct at work, in order] to create problem[s] for her”.

Many other workers whom the WRC interviewed said that they did not complain to the management about sexual harassment at the factory for another reason: because they feared direct retaliation from the factory’s managers and supervisors. One worker told the WRC, “[N]obody reports anything [to the management], because [even] if you do, no action will be taken, and the managers will start targeting you, finding fault in everything you do, complain about your work, and yell at you”. Similarly, another worker stated, “We don’t raise any complaints, because we think there will be repercussions [for us], and no change will come anyway. So, we just accept [the situation]”.

2. Lack of Accountability for Gender-based Violence and Harassment

a. Policy of Management Self-Investigating Sexual Harassment by Managers

As discussed above, according to company records reviewed by the WRC, during the eight months prior to the WRC’s investigation, Natchi received complaints of sexual misconduct from women workers against three company managers through the “Hotline Grievance Redressal System”, operated by Impactt. Although one company manager claimed to the WRC that Natchi’s management had referred these complaints to the factory’s ICs for investigation, none of the worker members of the ICs whom the WRC interviewed were aware of any of these complaints. The WRC reviewed the minutes of the meetings of the factory’s ICs during this period and found no record of the ICs having been so informed.

The failure to refer complaints of gender-based violence and harassment received through the hotline to the ICs was, in part, a function of how Natchi’s “Hotline Grievance Redressal System” had been structured to operate. According to Natchi management, Impactt reviewed the complaints that were received from workers via the hotline and then determined which of them should be shared with the factory management. It was then up to *management* to decide whether to refer the complaints to the relevant IC. Thus, under the hotline system, Natchi management retained sole power to determine (a) whether a worker’s complaint was valid; (b) if so, what actions should be taken in response; (c) whether these actions were adequately implemented; and (d) whether the relevant IC was even informed.

Moreover, the factory’s welfare officer, who was also a member of the ICs, admitted to the WRC that the company’s *general policy* was to refer *any and all* complaints of sexual harassment brought by workers against managerial staff not to the ICs but, instead, to senior company management. As previously noted, company records and testimony from Natchi managers indicated that, in the case

of the three managers who were the subject of sexual harassment complaints brought through the hotline, the company permitted all three to resign from their jobs rather than face formal discipline.

While these resignations, as discussed, indicated there was *some* accountability for these managers, they also made clear the inadequacies of the company's current approach. These included, but were not limited to, the fact that this disposition increased the chances that these managers would be reemployed in the industry and again placed in a position of power over women workers. The practice of having management investigate itself, when it comes to worker complaints of gender-based violence and harassment by managers, enabled the company to retain sole power to choose whether to act *and* allowed the company to keep the workforce in the dark as to whether managerial misconduct was occurring and, if so, whether any of that misconduct was being addressed.

Importantly, the company's practice prevented sexual harassment complaints against managers from receiving an investigation that was in any way independent of the management, itself, or in which women workers, who are the ones affected by such abuse, were empowered to have a voice. The company's practice in this regard was directly contrary to the purpose and requirements of the Sexual Harassment of Women at Workplace Act, which mandates the establishment of ICs that are functionally separate from management, and include women workers, as the appropriate bodies to handle such complaints and direct discipline for perpetrators, including managers.³⁹

b. Management's Failure to Act on Disciplinary Recommendations of ICs, Dysfunction within ICs

The nongovernmental organization SAVE, which is the external member of the factory's ICs, stated to the WRC that the factory's ICs, on seven recent occasions preceding the WRC's investigation, had recommended to Natchi management that it impose disciplinary action in response to employee complaints. Yet Natchi management acknowledged that, over the last year, it had not formally disciplined *any* male manager, supervisor, or employee for gender-based violence and harassment.⁴⁰ Such failure by an employer to take action on the recommendation of an IC constituted a violation of the Sexual Harassment of Women at Workplace Act.⁴¹

Making matters worse, testimony to the WRC from members of the ICs conflicted with the information provided to the WRC by SAVE. The WRC interviewed seven of the then-current employee members of the ICs and all but one said that their IC had not received *any* complaints

³⁹ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 4.

⁴⁰ As noted, Natchi claimed to the WRC that it had not taken any disciplinary action against any manager, supervisor, or worker at the factory, in the 12 months prior to the WRC's investigation, for *any* reason, but this broad claim seemed implausible, given that the factory employs over 3,000 workers. The WRC believes this claim may simply have been made as an excuse for the company's admission that it had not taken any disciplinary action for gender-based violence and harassment specifically.

⁴¹ "Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be— (i) to take action The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him." Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 13(3)-(4)

from workers during their service on the ICs. The sole employee who reported seeing a complaint told the WRC that it had not resulted in a recommendation of discipline. While the WRC considered it likely, based on SAVE's testimony, that at least some recommendations for disciplinary action were presented to management, the fact that many IC members were unaware of the complaints the ICs were ostensibly processing reveals that there was also substantial dysfunction *within* the operations of the ICs themselves.

c. Conclusion

Because Natchi management did not permit the factory ICs to hear complaints against its managers and insisted on handling these complaints itself; because the management disregarded the ICs' recommendations; and because many of the factory's workers were too mistrustful of management, and the IC process, to bring complaints in the first place, Natchi's existing complaint and investigation mechanisms did not function to hold the perpetrators of gender-based violence and harassment accountable for their misconduct. The result of this severe dysfunction was that Natchi failed to meet its duties under Indian law to protect its women employees from sexual harassment in the workplace.⁴²

3. Misassignment of ICs to Police Women's Behavior and Enforce Gender Segregation

Under the Sexual Harassment of Women at Workplace Act, the mandatory role of an Internal Complaints Committee is to receive complaints of sexual harassment from women workers, make inquiry into their validity, and, if the complaint is proven valid, recommend action against perpetrators and compensation for affected workers.⁴³ Interviews with members of Natchi's ICs and review of the training materials they had provided revealed that the IC members had not been equipped properly by the company to carry out this role. The training they had been given was generally limited to an explanation of the concept of sexual harassment and the Act itself, rather than instruction and guidance on how to conduct an investigation of sexual harassment under the law.

Instead, as interviews with IC members made clear, IC members were directed by the company managers on the committees to see the ICs' role as policing women workers' appearance and conduct, promoting the segregation of male and female workers, and, more broadly, discouraging interaction in the workplace between men and women.

According to multiple members of the ICs, their duties, as defined by the company, included such tasks as ensuring that women workers wore "acceptable" clothing at the factory and "preventing women from entering the factory wearing jeans or short tops". Employees who were members of

⁴² "Duties of employer — Every employer shall—(a) provide a safe working environment at the workplace with shall include safety from the persons [with whom workers are] coming into contact at the workplace; ... (i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct." Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 19.

⁴³ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Sections 9–13.

the ICs also told the WRC that they had been instructed by the managers on the committees to discourage women workers from “making eye contact” with their male coworkers.

In addition, according to IC members, the committees have been directed toward promoting greater segregation between men and women throughout the factory, such as gender-separated eating areas.

IC members also reported that they had been instructed by the managers on the committees to discourage men and women workers from talking to each other. Indeed, the only complaint to the IC that any of the IC members whom the WRC interviewed reported receiving concerned a *consensual* romantic relationship between two workers.

By defining the ICs’ work in this way, Natchi managers not only had undermined the committees’ statutorily mandated role of receiving and investigating sexual harassment complaints from workers, but also disempowered and discouraged women workers from bringing such complaints to the committees at all. By focusing on controlling the appearance and conduct of women workers and segregating men and women, as the most appropriate means of preventing gender-based violence and harassment, Natchi management denied any recognition that the primary responsibility rests on men to *refrain* from such misconduct and abuse.

The company’s approach also implicitly placed the blame on women workers for ‘causing’ such abuse to occur, either through their choice of dress, or by simply talking, eating, or making eye contact with male coworkers. Women workers interviewed by the WRC saw the activities of the current ICs in the factory in these terms: not as empowering them to raise complaints concerning gender-based violence and harassment but as *disempowering* women workers.

The WRC finds that Natchi’s then-current approach to training the members of the ICs and orienting their activities violated the Sexual Harassment of Women at Workplace Act, as it undermined and prevented the ICs from carrying out their legally mandated role of receiving, investigating, and recommending action on women workers’ complaints of sexual harassment.⁴⁴

4. Failure to Provide Regular Training to Workforce on Sexual Harassment

The Sexual Harassment of Women at the Workplace Act mandates employers to provide training to all workers at regular intervals regarding the provisions of this law.⁴⁵ According to consistent testimony from Natchi’s management, employees who were members of the ICs, and other workers, at the time of the WRC’s assessment, the factory had only carried out one company-wide training on sexual harassment, which had been provided more than four years prior. Natchi therefore had failed to comply with the Act’s requirement that training on sexual harassment be provided to the general workforce at regular intervals.

⁴⁴ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Sections 9–13.

⁴⁵ “Every employer shall- ... organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed.” Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 19.

5. Violations of Freedom of Association: Establishment of Employer-dominated Union at Factory

Subsequent to conducting the investigation of gender-based violence and harassment at the Natchi Apparel factory, the WRC received and conducted an assessment of reports from workers that the company had recently established an employer-dominated trade union at the factory, in clear contravention of workers' freedom of association rights. Establishment of an employer-dominated trade union is a severe violation of workers' fundamental labor rights under ILO core international labor standards and, therefore, must be corrected and redressed immediately and forcefully.⁴⁶

In July 2021, after receiving initial reports from factory workers that Natchi management was involved in setting up a trade union at the factory, the WRC raised concerns with Eastman regarding the factory management's conduct in this regard. Eastman sent a reply in which it "strongly den[ie]d" that its management had played any role in establishing the union, which the company said had been started by "select workers" on their own "initiative".⁴⁷ The company maintained this position in successive communications between the WRC and Eastman's representatives.

The WRC's investigation of the union's establishment determined, however, that the company's claim was untruthful. To the contrary, Eastman's management played an active role in setting-up the company union – including, but not limited to, having its human resources (HR) managers both distribute union membership forms to its line leaders (forepersons) in the factory, and direct these line leaders to recruit worker to join the union on paid company time in work areas, a setting where non-work activities are otherwise not allowed. This active sponsorship of, and other forms of discrimination and favoritism to provide advantage to, the company union over workers' independent associational activities with the TTCU are discussed below.

a. Privileged Access to Company Premises for Company Union Activities and Advertisements

The new union was permitted by the company to hold organizational meetings on company premises (at the Eastman Spinning facility adjacent to the Natchi factory), and, to mark its formation, hold a prayer ceremony (*puja*) for its founding inside the factory on working time and to have its officers distribute sweets to workers.

In addition, for more than one month, a large professionally printed color billboard announcing the establishment of the union, with the photographs of the new union's officers, was displayed on the

⁴⁶ ILO Convention 98 (Right to Organise and Collective Bargaining) (defining as a violation of the rights protected under the convention "acts which are designed to promote the establishment of workers' organisations under the domination of employers or to support workers' organisations with the object of placing such organisations under the control of employers"), https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C098.

⁴⁷ Email to WRC from Eastman Senior Vice-President Alagesan Senniappan, July 30, 2021 (on file with WRC).

factory premises. (The billboard was removed, however, shortly after the WRC raised concerns with Eastman regarding factory management's role in establishing the company union.)

Neither holding meetings and prayer ceremonies nor posting advertising had previously been not permitted by the management on the premises by any independent organization and, moreover, is generally not permitted by Indian employers for any independent union. The company's permitting the new union to hold meetings and ceremonies and to post large advertisement on the company premises clearly demonstrated that the new union was sponsored and favored by the factory management.

b. Company Human Resources Managers' Direction of Recruitment of Workers to Join Company Union on Paid Time and in Production Areas

The factory's human resources office actively directed and coordinated the recruitment of members for the new union among the workforce. According to eyewitness testimony, human resources managers called factory line leaders (forepersons) to the office and gave them union membership forms which the managers instructed the line leaders to have the workers under their supervision sign.

The human resources managers directed the line leaders to return the signed membership forms to the office after the line leaders had the workers in their sections sign them. The factory management's direct involvement in the recruitment of members for the union and its use of the factory line leaders, as persons with authority over other workers, to solicit workers' membership also showed the management's sponsorship of and control over the union's organization and formation.

The factory's line leaders, acting at the direction of the company's managers, collected the signatures of workers on union membership forms on company time (i.e., paid work time), in work areas, and in full view of other factory managers. As the factory does not permit any workers to circulate petitions of membership forms for any independent organization within the factory anywhere or at any time, much less on paid time and in work areas, this further demonstrated that the organization of the union was sponsored by the company.

c. Conclusion

ILO Convention 98 (Right to Organise and Collective Bargaining) explicitly states that "acts which are designed to promote the establishment of workers' organisations under the domination of employers or to support workers' organisations with the object of placing such organisations under the control of employers" are a violation of workers' right to self-organize without employer interference.⁴⁸

⁴⁸ ILO Convention 98 (Right to Organise and Collective Bargaining).

Similarly, India's Industrial Disputes Act of 1947 defines as an "unfair labour practice" by an employer, and, therefore, a violation of law,

To dominate, interfere with or contribute support, financial or otherwise, to any trade union, that is to say: an employer taking an active interest in organising a trade union of his[/her] work[ers]; and an employer showing partiality or granting favour to one of several trade unions attempting to organise his[/her] work[ers] or to its members, where such a trade union is not a recognised trade union, [or] ... To establish employer-sponsored trade unions of work[ers].⁴⁹

Eastman Exports' conduct, with respect to the establishment of the Natchi Apparel Workers Union as an employer-dominated union, constitutes a clear violation of these legal standards. Eastman unlawfully took "an active interest" in and showed "partiality" and "favour" toward the new union's formation by its HR managers: (1) having its line leaders recruit members for the union on work time and in work areas, and (2) permitting the union favored access to hold meetings and post advertisements on its premises.

The WRC found that Eastman's sponsorship and direct role in the establishment of an employer-dominated union at Natchi Apparel violated workers' associational rights under both Indian law and international labor standards. Because brand codes of conduct require supplier factories to both respect the right of freedom of association and comply with all relevant national labor laws, Eastman's conduct in this regard represented a violation of its buyer labor and human rights standards for suppliers as well.⁵⁰

E. Recommendations for Corrective Action

The workplace practices and conditions discussed in this report describe the environment of pervasive and persistent gender-based violence and harassment at the Natchi Apparel factory that the WRC found existed at the factory during the months and years prior to this investigation. This environment was exacerbated by the company's failure to respect workers' rights to freedom of association, which can play a crucial enabling role in permitting employees to organize themselves to resist and report such abuses. The WRC concluded that the abuses of women's rights reported by the factory's workers, and the lack of an adequate response to these abuses by Eastman, as the factory's owner, constituted violations not only of Indian law and international labor standards but also the codes of conduct of the brands whose apparel the factory has produced.

As this report also details, both the abuses themselves and workers' lack of access to meaningful recourse against them were exacerbated by the oppressive and coercive atmosphere that prevailed in

⁴⁹ Industrial Disputes Act, 1947, 5th Sched. (Unfair Labour Practices), § 2(ra), https://labour.gov.in/sites/default/files/THEINDUSTRIALDISPUTES_ACT1947_0.pdf.

⁵⁰ H&M, Code of Conduct §§ 1 ("[A]ll our suppliers and other business partners must, in all their activities, follow the national laws in the countries in which they operate.") and 4.1.4 ("All employees have the right to form or join associations *of their own choosing* ... Refer to ILO Convention[] ... 98") (emphasis added), https://about.hm.com/content/dam/hm/about/documents/en/CSR/codeofconduct/Code%20of%20Conduct_en.pdf.

the factory. This atmosphere also served to prevent any meaningful independent exercise by workers of freedom of association as a means to protect themselves from abuse.

Exacerbating this dynamic, in the context of the Tamil Nadu garment industry more broadly, workers' ability to exercise these associational rights and to resist and seek remedy for gender-based violence and harassment was hindered by caste prejudice and the added vulnerability of many employees as migrant workers. All these factors contributed to highly unequal relationships of power and vulnerability between women workers and male managers and supervisors (and, often, male coworkers) that are at the root of gender-based violence and harassment at work. All these power dynamics had to be considered in devising effective measures to prevent and correct such abuses.

As this report also makes clear, none of the mechanisms that had been established at Natchi at the time of the WRC's investigation had been effective in improving the environment in the factory with respect to gender-based violence and harassment, or empowering women workers to protect themselves, vindicate their fundamental rights, and achieve effective redress. This failure pointed to the need for a far more robust response on the part of both Eastman, as the factory's owner, and the brands that are Eastman's business partners.

The recommendations the WRC made to the relevant stakeholders, for such a response—regarding both combating gender-based violence and harassment and establishing respect for freedom of association in the Natchi factory—when sharing the findings of this report, are outlined below. In developing these recommendations, the WRC was informed by not only the specific findings of our investigation, and the existing legal framework in India for addressing sexual harassment in the workplace (most notably, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act), but also other, already-existing, enforceable labor rights agreements among brands, employer, unions and other worker rights and women's rights organizations to address gender-based violence and harassment in contracted supply chains.

These precedents included the agreements signed in 2019 between the brands, Levi Strauss, Kontoor Brands (Lee and Wrangler jeans), and Children's Place and unions and women's rights organizations in Lesotho, and between the latter organizations and the global denim manufacturer, Nien Hsing Textile, to eliminate gender-based violence and harassment documented by a WRC investigation in Nien Hsing's factories in that country. They also included the agreements reached in the US between the Coalition of Immokalee Workers and major food retailers establishing the Fair Food Program, which has successfully combated gender-based violence and harassment in the agricultural sector in the southeastern US, and the Accord on Fire and Building Safety in Bangladesh, which operates a complaint mechanism that provides for independent investigations and determination of remedies in cases of gender-based violence and harassment.

Bearing in mind these standards and precedents, the WRC recommended to all stakeholders the creation of a comprehensive, worker-led program of action, via binding agreements among Eastman, H&M, and worker representatives from TTCU and its international allies, to combat gender-based violence and harassment at the factory and protect workers' associational rights. At the time the WRC made this recommendation, the labor stakeholders were already pursuing an agreement along these lines and had engaged H&M in initial discussions. Subsequent to the WRC

sharing its findings and recommendations with the parties, these negotiations continued and intensified. As discussed in Section IV of this report (Factory and Brand Response), TTCU, AFWA, and GLJ-ILRF, subsequently completed these negotiations and signed agreements with Eastman and HM&M, that establish an anti-gender-based violence and harassment program at Natchi and the adjacent Eastman spinning facility that is consistent with the recommendations detailed below.

1. Recommendations to Address Gender-based Violence and Harassment

While Natchi had already, as a formal matter, established a multiplicity of mechanisms to address abusive treatment in the workplace, the WRC found that none of them effectively prevented or redressed gender-based violence and harassment, and that some of them, in at least some respects, *contributed* to the environment of impunity and fear that currently exists. This track record of dysfunctionality had led to deep distrust in these mechanisms by women workers, with the result that Natchi management could not, acting by itself, resolve this crisis.

Instead, to end the culture of abuse at Natchi, the WRC, after consultation with the TTCU, and its members among the women workers at the factory, and with leading women's rights advocates in Tamil Nadu, recommended the establishment and implementation of a comprehensive program to receive, investigate, and remedy gender-based violence and harassment at the Natchi factory ("Anti-Gender-based Violence and Harassment Program"). The WRC further recommended that such an Anti-Gender-based Violence and Harassment Program consider and be tailored to address the social context in the Tamil Nadu garment sector of systemic caste prejudice and the added vulnerability of many Natchi employees as migrant workers.

The WRC's recommendation was that this Anti-Gender-based Violence and Harassment Program must:

- Be established via a binding, enforceable agreement among key stakeholders—Eastman's buyer brands, worker representatives from the TTCU, and local and international labor rights and women rights advocates, including local organizations with expertise in combating sexual harassment and understanding the impact of caste;
- Incorporate a definition of gender-based violence and harassment that is consistent with the one established under ILO Convention 190 (Violence and Harassment) and the one set forth by the Sexual Harassment of Women at Workplace Act, and considers how the impact of gender-based violence and harassment may be affected by workers' caste, age, or migrant worker status;
- Empower women workers to participate meaningfully in the process of preventing, reporting, monitoring, and developing remedies for gender-based violence and harassment;
- Reconstitute the factory's Internal Complaints Committees (ICs) to play an effective role in the Anti-gender-based violence and harassment Program's activities, with, to this end, a *majority* of the membership of the ICs comprised of women workers appointed by the TTCU, and the external member of the ICs agreed upon by the TTCU and Eastman;

- Adopt an Anti-gender-based violence and harassment Code of Conduct for Natchi that defines, subject to regular review and consistent with international standards and Indian law, the range of practices, conduct, and actions that are prohibited as constituting gender-based violence and harassment, sexual harassment, or retaliation for reporting or opposing them, as well as the persons and places to which such prohibitions apply, and remedies;
- Establish a joint oversight committee comprised of representatives of buyer brands, the TTCU, and Indian and international labor rights advocates—to supervise, monitor, and enforce Eastman’s implementation of the commitments in this agreement. This joint oversight committee should select a roster of independent external expert assessors who, on behalf of the reformed IC, will investigate complaints of gender-based violence and harassment from workers, reach findings, and issue binding recommendations to Eastman for remedies up to and including dismissal of managers, supervisors, or employees found to have committed gender-based violence and harassment;
- Require gender-based violence and harassment training on an ongoing basis, as well as regular peer education, for all Natchi employees (including migrant workers, new hires, supervisors, and management), at the factory and on company time, that:
 - Trains workers to identify and report gender-based violence and harassment on an ongoing basis;
 - Recognizes the interrelationship between gender-based violence and harassment, systemic caste prejudice, workers’ potential vulnerability due to age and/or migrant status, and denial of associational rights;
 - Is developed and delivered by the TTCU, as a union with experience and expertise with gender-based violence and harassment in the garment sector in Dindigul, Tamil Nadu; and
 - Includes participation by Eastman and Natchi management and TTCU representatives.
- Prohibit, prevent, and require remedy for any form of retaliation, whether occurring inside or outside of the workplace, against workers or workers’ representatives, related to preventing, reporting, opposing, or cooperating with the investigation of gender-based violence and harassment at Natchi;
- Require Eastman to cease practices that contribute to, or hinder workers from resisting and reporting, gender-based violence and harassment in the workplace, including:
 - All use of corporal punishment, including requiring workers to remain standing in front of other workers as a disciplinary measure; and
 - All monitoring, surveillance, and interrogation of, or reporting on, workers outside the workplace.
- Require Eastman, *as a condition of continued business relations with its customers*, to sign a binding agreement with the TTCU, and local and international labor rights and women’s rights

advocates, including local organizations with expertise in combating sexual harassment, committing Eastman to comply and cooperate with the above measures.

The WRC further recommended that, given the incidents of gender-based violence and harassment reported by workers and the climate of fear and impunity inside the factory, among the initial tasks of any Anti-Gender-based Violence and Harassment Program to be established must be to investigate past incidents to identify those responsible and establish accountability—including meaningful remedies for workers who have experienced gender-based violence and harassment. The WRC recommended that this initial investigation should also consider the relationship between these incidents and the caste, age, and/or migrant worker status of the affected workers. The WRC stressed that such an investigation would send a powerful message that gender-based violence and harassment will not be tolerated at the Natchi factory going forward and would reduce fear of retaliation among workers.

Finally, the WRC recommended that Eastman must provide appropriate compensation to the families of deceased women workers, where a causal or contributing factor in their deaths was a gender-based relationship, encounter, or incident involving another company employee, supervisor, or manager, or an employee providing services to the company through a contractor. The WRC noted that this compensation should be negotiated between the family and the company, with the right of the family to be represented by the party or parties of its choice being fully respected and without coercion or intimidation by factory management or anyone acting on its behalf.

As discussed, subsequent to the WRC sharing these recommendations with the relevant stakeholders, TTCU, AFWA and GLJ-ILRF reported to the WRC that Eastman and the family of the murdered worker, Jeyasre, had agreed upon, through a noncoercive and voluntary process, an amount of compensation that the company should pay the family, for the death of their daughter with the support of labor parties. The WRC recommended that, going forward, compensation should be agreed upon with and provided by the company to the family of the worker, Suguna, whom, the WRC found, was most likely murdered by a company-contracted bus driver and, if and when they can be credibly identified, the family of the migrant worker whose murdered body, workers and supervisors have told the WRC, was found on the factory premises.

2. Recommendations to Address Freedom of Association

The ability of workers at the Natchi factory to meaningfully exercise freedom of association is not only a fundamental workplace right in itself but also a crucial enabling right for empowering women workers to be able to report incidents of gender-based violence and harassment and participate in initiatives to combat such abuses. The WRC's finding was that, at the time of its investigation of the Natchi factory, the environment at the factory was so coercive as to make impossible for workers to meaningfully exercise this fundamental enabling right. Moreover, the WRC determined that the company had placed additional obstacles to workers' ability to engage in authentic associational activities through its role in creating and sponsoring a company union at the factory.

For this reason, the WRC recommended that Eastman commit to and implement a series of remedial measures at Natchi for workers to be able to freely engage in basic associational activities. Specifically, the WRC's recommendations were that Eastman:

- Allow migrant workers to leave their dormitories, without restriction and without accompaniment (unless requested) or monitoring, during all non-working times and to voluntarily terminate their employment and return home at any time, with no restrictions or penalties other than those explicitly authorized by law;
- Refrain from any monitoring, surveillance, interrogation, or other harassment of either workers or third-party persons or entities concerning workers' associational activities, including workers' and other parties' participation in interviews with the WRC;
- Allow both employee and nonemployee representatives of the TTCU access to the factory and the migrant workers' dormitories, to both monitor conditions and to meet with employees during non-work time in non-work areas, and, if requested by one or more employees, to represent them in disciplinary procedures and in meetings with management regarding workplace issues;
- Directly communicate to workers factory management's commitment to respect freedom of association in an announcement, approved in advance by Eastman and the TTCU, to be read aloud to workers by their direct line supervisors, to include:
 - A commitment to refrain from interference with, or retaliation or discrimination against, employees exercising associational rights, including the right to engage in union activities, including remaining strictly neutral as to workers' choice to join a union; and
 - Recognition that these associational rights include the rights of workers to meet with other workers and with TTCU representatives during non-work time in any non-work area of the factory, without interference or monitoring by any manager, supervisor, or any other employee, to discuss workplace issues, including, but not limited to, gender-based violence and harassment; and be represented by another worker or a TTCU representative in disciplinary procedures and in meetings with management regarding workplace issues;
- Disestablish the new company-dominated union, by: (1) directing the withdrawal and cancellation of its registration; (2) removing all notices of and advertising for the new company-dominated union and its officers inside the Natchi factory; and (3) refunding to workers all money deducted from wages for dues to the company-dominated union.
- Correct for the company having advertised the company-dominated union and having directed recruitment of workers to join it by permitting (1) the TTCU union to post notices on company notice boards in the factory; and (2) the TTCU union's representatives to have regular access to the factory to meet with workers on non-work time and in non-work areas, and to participate in employees' meetings with the management concerning discipline and other workplace issues.

- Meet with the TTCU union monthly to discuss workers' concerns regarding labor conditions; and permit workers to be represented by the TTCU union in meetings with management concerning disciplinary matters and workplace concerns.
- Provide training for workers and managers, respectively and separately, on respect for and exercise of freedom of association, to be delivered by trainers mutually agreed upon by Eastman and the TTCU; and
- Commit to meaningful remedy for workers who experience anti-union retaliation, including forward-looking remedy for the chilling effects of such retaliation, as well as meaningful discipline for managers who violate associational rights and/or otherwise retaliate against workers for exercising their associational rights.

3. Brand Support for Progress at Natchi, via Placement of Orders

Throughout the period of the WRC's engagement in this case, the WRC has recommended that brands buying from Natchi maintain their orders and work to improve conditions at the facility. This is the obligation of any brand that produced at a factory where labor rights violations have occurred, and this obligation remains until and unless it is clear that the factory will not take steps to remedy violations and improve conditions. In this case, as discussed in the following section of this report, Eastman has agreed to take such steps by entering into binding agreements with worker organizations. The WRC did and continues to recommend that, as long as Eastman complies with its commitments under these agreements, current and recent buyers from Natchi should provide orders to help sustain the factory and see the new anti-gender-based violence and harassment program through to fruition.

IV. Factory and Brand Response

Subsequent to the WRC sharing the findings and recommendations of our investigation with the relevant stakeholders, Eastman and H&M negotiated and, in April 2022, signed binding agreements with TTCU, AFWA, and GLJ-ILRF to establish and maintain an Anti-Gender-based Violence and Harassment Program at Natchi and the adjacent Eastman facility, Eastman Spinning Mills. TTCU will play a central role in the governance and implementation of this program. The Anti-Gender-based Violence and Harassment Program that these agreements provide for substantially incorporates the key recommendations of the WRC's report.

The agreements, titled collectively, the Dindigul Agreement to Eliminate Gender-Based Violence and Harassment, represent a vital advance for Natchi's workforce and a rare and important example of legally binding corporate commitments to improve working conditions in the global apparel supply chain. The agreement between H&M and the labor stakeholders commits H&M, as a condition of doing business with Eastman, to require Eastman to comply with the latter's own obligations under the separate agreement Eastman signed with the same labor stakeholders to establish the Anti-Gender-based Violence and Harassment Program. If Eastman fails to meet those

obligations, H&M is required to reduce its business with Eastman until Eastman remedies the breach and complies with the terms of the agreement it signed.

In a global garment industry in which gender-based violence and harassment are widespread, these agreements represent one of the few cases in which apparel corporations have made *binding* commitments to worker representatives that will protect the workforce from abuse. Given the prevalence of gender-based violence and harassment in the apparel supply chain, the most meaningful indicator of corporate responsibility is not whether this problem exists at a company, but whether the company and its buyers are pursuing bold and innovative means to address it. To their credit, H&M and Eastman, in partnership with TTCU, AFWA and GLJ-ILRF, have committed to do so at these factories.

A. Agreement between Eastman and Labor Stakeholders

1. Prohibited Conduct and Practices, and Required Remedial Measures

The agreement between Eastman and the labor stakeholders, which is of three-years' duration, incorporates a definition of gender-based violence and harassment that is consistent with both the one established under ILO Convention 190 (Violence and Harassment) and the one set forth by the Sexual Harassment of Women at Workplace Act, and which takes into account how the impact of gender-based violence and harassment may be affected by workers' caste, age, or migrant worker status. Based on this definition of gender-based violence and harassment, the agreement establishes a list of practices and conduct that are recognized to be prohibited in the workplace, as forms of gender-based violence and harassment, sexual harassment, or retaliation for reporting or opposing them (including practices and conduct that violate or interfere with freedom of association), as well as a set of agreed-upon remedies to be applied to address them.

The agreement categorizes forms of prohibited conduct and practice into four classifications, namely:

1. Gender-based violence and harassment *not* involving physical assault on the worker, including, but not limited to, verbal abuse of a gendered or sexualized nature, or verbal or written sexual comments or propositions;
2. Gender-based violence and harassment that *do* involve physical assault on the worker, including any forms of violence, other assault, unwanted touching, or corporal punishment;
3. Repeated gender-based violence and harassment that the perpetrator has previously been found to commit in the above two categories, or retaliation against a worker for reporting or resisting gender-based violence and harassment; and
4. Violations of the right of freedom of association, as a necessary enabling right for the elimination of gender-based violence and harassment, including discrimination or other retaliation against workers for union activities, violations of workers' rights to privacy, and other forms of interference with associational rights, including establishment of a company-dominated union.

The agreement also establishes an extensive list of remedies that may be recommended by one of the Anti-Gender-based Violence and Harassment Program's Assessors (see below) to address instances of such conduct and practices. These include both interim measures to protect workers while investigations are pending (such as relocation in the factory, leave and counseling), and permanent measures based on investigative determinations, both to support the affected worker(s) (including financial compensation and counseling), and/or to hold perpetrators accountable (from apology up to and including termination).

The agreement specifies that remedies are required that are commensurate with the severity and/or repetitive natures of the prohibited conduct or practices that have been committed. Such remedies, if recommended by an Assessor, are required to be adopted by the factory's IC and implemented by Eastman.

2. Anti-Gender-based Violence and Harassment Training and Workplace Monitoring

The agreement between Eastman and the labor stakeholders requires annual training on gender-based violence and harassment and the Anti-Gender-based Violence and Harassment Program (including both prohibited conduct and practices, available remedies, and the grievance mechanism (see below) for all workers, supervisors, and management. The trainings are to be delivered at the factory on paid company time, and to be developed and implemented at Natchi with the active participation of both the TTCU and Eastman management, and of workers whom the TTCU will train to become peer educators.

In addition, the agreement provides that the TTCU may designate workers in each area of the factory as shopfloor monitors to assist and support workers in accessing the program's grievance mechanism. To offer assurance to shopfloor monitors that they can assist their coworkers in bringing complaints of gender-based violence and harassment without fear of being discriminated against as a result, the agreement stipulates that any adverse employment action against a worker who is a shopfloor monitor may be reviewed by a program Assessor as potential prohibited conduct, with a rebuttable presumption that is retaliatory in nature.

3. Reform of Internal Committees and Independent Investigation and Remediation of Grievances

The agreement between the labor stakeholders and Eastman requires the company to reconstitute its Internal Committees (ICs) to be made up of three workers, who are to be designated by the TTCU, one Assessor and one senior female company manager, who are to be mutually agreed upon by Eastman and the labor stakeholders. Under the agreement, the ICs will refer complaints of gender-based violence and harassment received from workers to one member of a roster of expert Assessors, who are required to be independent of any of the parties to the Anti-Gender-based Violence and Harassment Program agreements, and are to be jointly appointed by a program oversight committee (see below) made up of representatives of all these parties (i.e., the labor stakeholders, plus the employer and brand representatives, and a neutral chair chosen by all of these parties).

The agreement requires Eastman and the other parties to permit Assessors to investigate worker complaints and recommend remedies independently, free from any interference, and requires that the IC and Eastman implement any remedies ordered by the Assessor. The Assessors are required to carry out investigations and recommend remedies for the ICs in a manner that is consistent with the Indian Sexual Harassment of Women at Workplace Act, including provision of due process for individuals alleged to have engaged in prohibited conduct or practices.

B. Agreement between Labor Stakeholders and H&M

As noted, the labor stakeholders and H&M also signed a binding three-year agreement which, in turn requires H&M to apply commercial sanctions to its business relations with Eastman should the latter fail to meet its obligations under Eastman's own agreement with the stakeholders. These sanctions would involve H&M, should Eastman fail to return to compliance once a breach is determined, reducing the volume of orders it has with Eastman. Conversely, the agreement also commits H&M to consider placing orders at Natchi, and, if Eastman fulfills its commitments under Eastman's agreement with the labor stakeholders, to seek to use its business relations going forward with Eastman, generally, to reward this compliance.

H&M's agreement also commits the brand to provide funds to support the anti-gender-based violence and harassment program, including the operation of its grievance mechanism and the investigative activities of the Assessors. Finally, H&M has committed to appoint a representative to the oversight committee for the program. Based on prior experience with comparable binding agreements reached among brands, employers, and worker organizations to address labor rights violations, including gender-based violence and harassment, in brand supply chains, the WRC believes that the H&M and Eastman agreements with the labor stakeholders offer an effective and sustainable approach for protecting the rights, safety and welfare of women workers at the Natchi Apparel factory.

While H&M deserves credit for signing its agreement with TTCU, AFWA, and GLJ-ILRF, it is important to note that, at present, H&M is not placing orders at Natchi. The prospect of renewed orders from H&M, and H&M's obligation under the agreement to condition future business on Natchi's fulfillment of its commitments, does create strong incentive for Natchi to comply. Ultimately, however, it is vital that H&M place orders again at Natchi (assuming the latter's continued compliance), because the long-term success of the program depends on the economic health of Natchi and of Eastman more broadly. For this reason, it is positive that H&M, in its agreement with the labor stakeholders, has explicitly committed to consider placing new orders at Natchi in the future.

C. Engagement with Other Brands

As noted, Authentic Brands, Walmart, and Marks and Spencer are other brands that are or have recently been substantial buyers from Natchi. Authentic Brands has sourced from the factory as recently as April of this year. It is unclear whether Walmart is sourcing from Natchi at present. Marks and Spencer is not currently buying from Natchi. Marks and Spencer claims that it ceased sourcing from Natchi in January of 2020; however, Marks and Spencer listed Natchi as a supplier, nine months later, in its own public supplier list, issued in October of 2020. In any case, the labor

rights problems identified by the WRC at Natchi were long-standing and were present at the factory while Marks and Spencer was producing there. This is also true of Walmart.

GLJ-ILRF has advised the WRC that it recently asked these brands to sign an agreement, that Marks and Spencer declined, on the basis of its claimed departure from the factory in 2020, and that responses from Authentic Brands and Walmart are pending, as of the date of this report's publication.⁵¹ Given their past and/or present patronage of Natchi, all of these buyers should (1) sign an agreement with TTCU, AFWA, and GLJ-ILRF comparable to the agreement H&M has signed, and (2) place orders at Natchi, going forward, and thereby support the process of change now underway at the facility (as long as Natchi complies with its commitments). If these brands, having profited from their relationship with Natchi prior to the existence of robust worker rights protections, do not support the facility as it puts these protections in place, this will belie their stated commitments to protecting the rights of women workers in their supply chains.

D. Compensation for Families of Deceased Workers

With respect to the cases that have been identified where deaths of women workers appeared linked to workplace gender-based violence and harassment, the WRC has been informed by TTCU, AFWA and GLJ-ILRF that Eastman had reached an agreement with the family of Jeyasre Kathiravel on compensation for the death of their daughter, that has been negotiated with the support of the labor stakeholders in a non-coercive environment.

Going forward, the factory should also provide appropriate compensation to the families of the other two deceased women workers whose cases are discussed in this report, whose deaths were linked to gender-based violence occurring at or stemming from their place of employment – the local worker, Suguna, and, should she be identified and her family contacted, the migrant worker from Odisha, whose body was reportedly found on the premises. Such compensation should be negotiated in a non-coercive fashion between the families of each worker and the company, with the right of each family to be represented by an external party of its choice being fully respected.

⁵¹ With the exception of Marks and Spencer, these brands did not see the WRC's draft report prior to its finalization; the present report was provided to them at the time of publication.