

WORKING AND LIVING CONDITIONS IN SPECIAL ECONOMIC ZONES

a comparative study between India and Indonesia

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November 2012

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Cividep-India is an NGO based in Bangalore, India, which works to ensure that businesses comply with human rights, labour rights and environmental standards. With this objective, Cividep studies the effects of corporate activities on communities and the environment and educates workers about their rights.



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Indonesia for Global Justice (IGJ, formerly Institute for Global Justice) was formed on 7th August 2001 to address the global trade liberalization issues. IGJ works on global trade liberalization issues, particularly on monitoring and responding to trade-related priority issues, they are: WTO (World Trade Organization), national trade policy, Free Trade Agreements, ASEAN, and the G20.

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Acronyms, Tables & Graphs

Acronyms

AEC	ASEAN Economic Community
APBN	The State Revenue and Expenditure Budget
APBD	The Local Revenue and Expenditure Budget
ASEAN	Association of South East Asia Nations
Bappenas	The National Development Planning Agency
BP Batam	The Batam Indonesia Free Zone Authority
CBEC	The Central Board of Excise and Customs
CITU	Centre of Indian Trade Unions
CPM	Communist Party of India (Marxist)
CST	Central Sales Tax
DL	Direct Labor
DMK	Dravida Munnetra Kazhagam
DTA	Domestic Tariff Area
EICC	Electronic Industry Citizenship Coalition
EMS	Electronic Manufacturing Services
EPZ	Export Processing Zones
ESD	Electric Static Discharge
ESI	Employees State Insurance
FGD	Focus Group Discussion
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GABEL	The association of electronic industry in Indonesia
GDP	Growth Domestic Product
IDL	Indirect Labor
IDR	Indonesian Rupiah
INR	Indian Rupee
IT	Information Technology
ITES	Information Technology Enabled Services
ITI	Industrial Training Institute
Jamsostek	Worker Social Security
KHL	Standard of Decent Living
KBPB BBK	Free Trade Zone and Free Port of Batam, Bintan and Karimun

LMF	Labor Market Flexibility
LPF	Labour Progressive Federation
MNCs	Multinational Corporations
MoU	Memorandum of Understanding
MP3EI	Master Plan for Acceleration and Expansion of Indonesia's Economic Development
PCB	Print Circuit Boards
PKB	Collective Labour Bargaining
PMI	Production Manufacturing Index
RPJP	Long-term Development Planning
SEZs	Special Economic Zones
SIPCOT	State Industries Promotion Corporation of Tamil Nadu
SPEE FSPMI	Electronics Electrical Workers Union – Federation of Indonesian Metal Workers Union
VAT	Value Added Tax
WEF	World Economic Forum
WTO	World Trade Organization

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Executive Summary

Multinational companies from around the world shift their production to South and South-East Asian countries because of the availability of cheap skilled labor force, the low production costs and financial incentives offered by the governments. Developing countries such as India and Indonesia have established Special Economic Zones to attract foreign direct investment.

This report examines the background of SEZs in both countries, the regulations that govern them and looks at the incentives such as tax exemptions, infrastructure, uninterrupted power supply and relaxation of labor laws offered in two specific SEZs the Nokia Tech Par SEZ in India and the Batam Free Trade and Free Port Zone SEZ in Indonesia. Furthermore, it evaluates the working conditions in four companies operating in these SEZs: Flextronics India and Indonesia, Epson Indonesia and Nokia India as well as its supplier Foxconn India.

While both Indonesian companies and Nokia India have recognised trade unions this is not the case in Flextronics India. Indonesian workers have to rely on overtime work payment to meet their monthly expenses. In India overtime work is rare but wages are very low and workers accommodation is poor. All companies use temporary labor with fixed term contract that are supplied to them by manpower agencies. The job security of so called contract workers is very low and they also miss out on benefits such as bonus or paid leave that permanent workers are eligible for.

Governments argue that SEZs will create new employment opportunities and promote development but more employment opportunities alone are not indicators of development. The quality of employment in terms of better working conditions and adequate compensation is equally important. SEZs have in fact negative impacts on working and living conditions due to the high use of contract labor and the low wages paid to workers which are insufficient to meet their living expenses. The use of repressive measures against labor and restrictions on labor unions by companies is a clear violation of labor laws in both countries.

The implementation of labor laws is the duty of the governments and violations have to be dealt with more strictly in both countries to ensure compliance by companies. The right to freedom of association has to be respected by companies and protected by governments to guarantee workers' basic rights and their welfare.

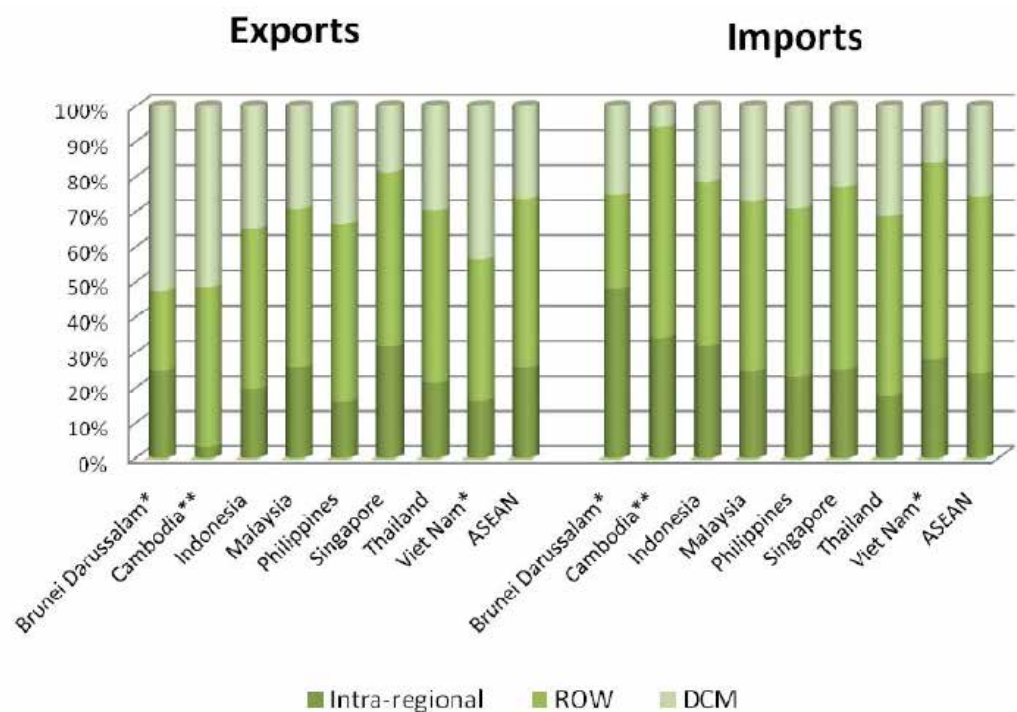
The report concludes with recommendations to improve the SEZ workers' living and working conditions. These are not only addressed to governments but also to companies and national labor rights movements.

Introduction

In the era of highly globalized and competitive trade, multinational companies have a constant need to increase their competitiveness. The international trading industry relies on physical distribution activity which, in turn, creates a high demand for logistics that constitutes a large portion of the production cost of the industry.

International trade activities are mostly dominated by industrialized countries, which seek to expand their market to the developing nations, especially in Asia. Asia has transformed into a dominant target market for the industry, as well as the source for industrial raw materials and low cost labour. This development is also visible in the increase in the value of intra-trade among countries in Asia, particularly the ASEAN countries, which is shown in the following table:

Graph 1: ASEAN Intra-Trade¹



The data from the table above indicates that there is a re-orientation of ASEAN trade with the crisis-hit developed countries. The value of exports and imports by developed countries has decreased. However, there was a rapid increase in trade with developing countries and the ASEAN trade relations demonstrate stronger South-South trade partnership.

Electronics is an important business sector for Asia. It relies significantly on global markets for innovation and technology, investment and a complex international supply chain for imports of components as well as exports. In ASEAN's Economic Community Plan, governments have identified electronics as one of the 12 priority sectors under the Framework Agreement for the Integration of Priority Sectors with the goal of effectively achieving a single market in electronics in all ASEAN countries by 2012².

¹ Source: UNESCAP Working Paper, "ASEAN and Trade Integration", 2009: 10.

² David Parsons, "An Investigation into the Measures Affecting the Integration of ASEAN's Priority Sectors (Phase 2): The Case of Electronics", ASEAN Project Report No. 06/001b, 2007: 2.

The development of the electronics industry in Asia is strongly influenced by the growth of an international production network (IPN) which led to international division of labor between countries along the value chain. Consequently, intra-industry trade in parts and components has been growing rapidly between countries participating in IPNs as intermediate inputs are imported and used in goods that are subsequently exported (so called outward processing trade)³.

The process of linking Asia to global supply chains began in the 1960s in the electronics industry with the arrival of two US companies who responded to increasing pressure created by domestic real-wage increases and rising import competition from low-cost sources. They set up plants in Asia, especially in Singapore to assemble semiconductor devices⁴. The expansion of foreign direct investment in Asia has resulted in the emergence of multiple, uniquely organized cross national production networks⁵.

The main reasons for which multinational companies preferred South-East Asian countries as trade partners at the beginning of the 21st century are the availability of cheap highly skilled labor force, the low distribution costs, financial incentives from the governments, as well as reliable local partners⁶.

The significance of the Asian market has made this region very strategic for international trade. The Asian region is a developing market within which multinationals are looking for advantages of the regional division of labor, a process that requires a close cooperation between these states⁷.

One of the most important features of multinationals which invested in the low-cost markets of South and South-East Asia is that FDI was mainly focused on exports⁸. Domestic markets provide the demand for materials or products that are needed domestically. Export markets emerge from the flow of materials that have their production base in specific areas in order to control production cost to stay competitive. This market would, in turn, shape the demand for special economic areas, which provide various facilities to increase efficiency, productivity and competitive advantage that benefit the investor.

Since the late 1990s, MNC operations in Asia have progressively adopted an international product fragmentation strategy. Horizontal and vertical operations of MNCs are increasingly able to coexist as declining tariffs and transportation costs allow for more flexibility in sourcing components from various countries. During the past two decades, many MNCs have significantly upgraded technical activities of their regional production networks in Asia, especially in ASEAN⁹.

³ Witada Anukoonwattaka & Mia Mikic (ed.), 2011. "India: A New Player In Asian Production Networks?", *Studies In Trade And Investment 75*", United Nations Economic And Social Commission For Asia And The Pacific (UN-Escap): 8

⁴ Witada Anukoonwattaka, 2011: 9.

⁵ John Zysman and Eileen Doherty, "The Evolving Role of the State in Asian Industrialization", Working Paper 84 the Alfred P. Sloan Foundation, 1995: 3.

⁶ Diaconu Laura, "The Multinational Companies and The Low-Cost Markets of South-East-Asia", *Annals Of Faculty of Economy Vol.1 Issue 1, 2009: 151.*

⁷ Diaconu Laura, 2009:150.

⁸ Diaconu Laura, 2009: 149.

⁹ Witada Anukoonwattaka & Mia Mikic (ed.), 2011. "India: A New Player In Asian Production Networks?", *Studies In Trade And Investment 75*," *Studies In Trade And Investment, United Nations Economic And Social Commission For Asia And The Pacific (UN-Escap): 10.*

Therefore, many developing countries, especially in Asia, offer Special Economic Zones as an investment opportunity. Special Economic Zones are areas where goods may be traded without any barriers imposed by customs authorities¹⁰ which makes these areas attractive for MNCs. There are several common terms related to Special Economic Zones: Bonded Warehouse, Bonded Zone, Free Port, Custom Warehouse, Free Trade Zones or Special Economic Zones. Having production bases in these Special Economic Zones in Asia gives MNCs greater competitive advantage due to shorter logistic flows and other benefits.

The development of Special Economic Zones is expected to attract investors and thus have a positive impact on the economy of the host country. Low wages and flexible labour laws are offered as incentives to investors by the host countries.

For the host country, the objectives of developing Special Economic Zones include¹¹ :

1. Increase in investment;
2. Absorption of labour;
3. Growth of the nation's revenue due to higher export activities;
4. Better human resource quality and technology transfer.

The focus of this research report is first to highlight the reasons why MNCs are shifting their production to Indonesia and India. Secondly, it analyzes the regulation of Special Economic Zones in both countries and the incentives offered to attract investors. Thirdly, it takes a closer look at two existing Special Economic Zones and studies the working conditions in these SEZs. Finally, it concludes with recommendations for corrective actions to improve the welfare of workers especially in Special Economic Zones.

Key questions that this research addresses are:

1. What are the major pull-factors for multinational corporations to invest in the electronics sector in Indonesia and India?
2. What are the similarities and differences of SEZs in India and Indonesia in terms of structure, business set-up, employment regulations and legal requirements?
3. What are the issues related to working conditions in SEZs in both countries? Are wages paid sufficient to cover living expenses and how widespread is the contract labour system?
4. What can workers from both countries learn from their colleagues with regard to unionization and collective bargaining?

¹⁰ "International Free Trade Zone", download from <http://www.economywatch.com/international-trade/free-trade-zone.html>

¹¹ Ronny Sautma Hotma Bako, "Problems in Special Economic Zones", *Journal of Law and Banking*, Department of Law and Human Rights, 2010.

Benefits for MNCs to shift their production to South and South-East Asian countries

An advantage for investors in Indonesia is its proximity to the Asian regional market. The country's geographical location allows multinational companies to expand markets within the Southeast Asian region that is populated by over 500 million people and to other regions in Asia. Singapore in particular is very close and MNCs from the developed countries are based there. Indonesia is also close to countries such as China (1.3 billion population), India (1.2 billion), Japan (127 million), Taiwan (23 million) and Australia (20 million). Hence, Indonesia is seen as a country with great potential as a regional production base to serve East Asia's market.¹²

This makes Indonesia a target of the global liberalization agenda, which aimed among others to integrate trade between countries by eliminating various barriers. Trade liberalization requires efficiency and to reduce the cost of production for the logistic and labor costs. The Association of Electronic Industry in Indonesia (GABEL) states that Indonesia is attractive for foreign investors because the country has a supply of cheap labor as a pull factor.

The data below shows that the minimum wage of workers in Indonesia (Jakarta) is US\$ 161.33 per month. This value is extremely low when compared to other ASEAN countries like Thailand and the Philippines. However, when compared to Vietnam and Cambodia, Indonesian wages are slightly higher.

Table 1: Comparative Wages in Selected ASEAN Countries, 2012 (in US\$)

Country/City	Daily Minimum Wages	Monthly Wages
Philippines/NCR	9.72 – 10.60	291.61 – 318.00
Thailand/Bangkok	6.99 – 9.45	209.82 – 283.54
Indonesia/ Jakarta	2.95 – 5.38	88.36 – 161.33 ¹³
Vietnam	2.22 – 3.17	66.51 – 95.01
Cambodia	0 – 2.03	0 – 61.00

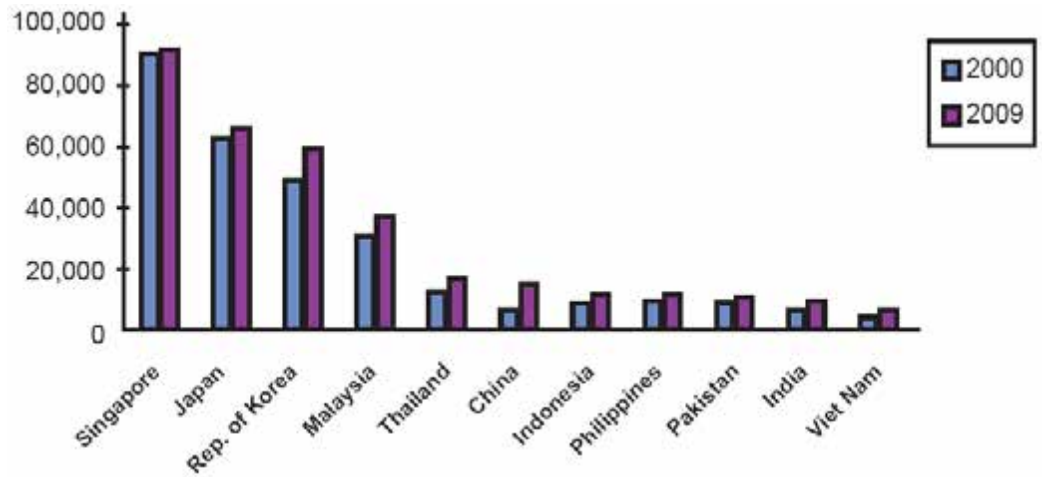
Source: <http://nwpc.dole.gov.ph/pages/statistics/Asean>

In terms of levels of productivity, Indonesia has nearly the same rank with the Philippines, and slightly higher than India and Vietnam.

¹² Syamsul Hadi;dkk, "Globalization, Neoliberalism, and Local Development (Studies on Special Economic Zones in Indonesia)", 2011: 31.

¹³ This is the current minimum wages in Jakarta. Convert into rupiah amount to Rp.1.529.000,- (Jakarta Governor Decree No. 117 Year 2011)

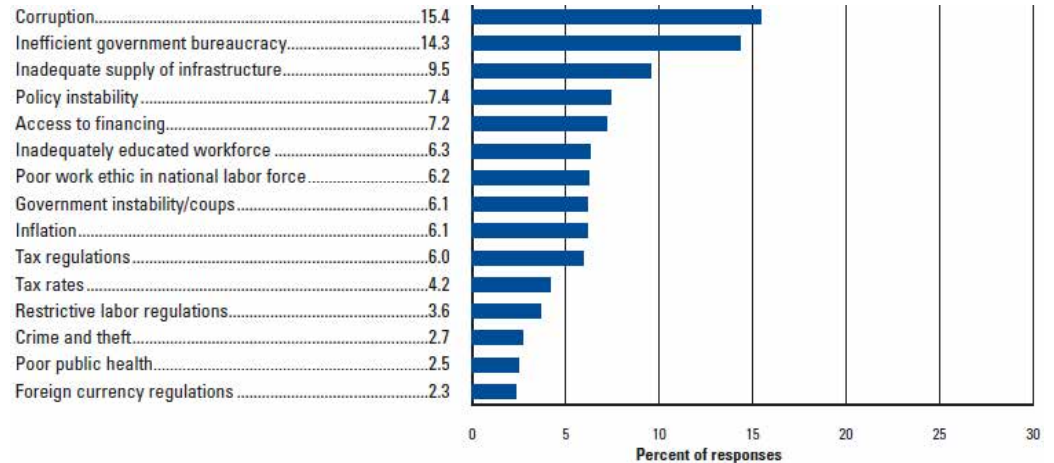
Graph 2: Output Per Worker in Selected Countries



Source: Asian Decent Work Decade Resource Kit: Competitiveness, Productivity, and Jobs (www.ilo.org)

Investors' interests have pushed Indonesia to create free trade zones that provide various facilities and incentives to attract more foreign direct investment. One way of creating a "friendly" investment climate is by establishing pro-investor state policies. Currently, according to the WEF (World Economic Forum) there are still many problems that arise in doing business in Indonesia where its Global Competitiveness Index ranks only 50th.

Graph 3: Problematic Factors in Doing Business in Indonesia



Source: The World Economic Forum: The Global Competitiveness Report 2011-2012, Switzerland, 2011

Indonesia's competitive advantage for MNCs in the electronics sector is related to the development of global supply chains. Batam was the first area that was built as an Export Processing Zone (EPZ) in the 1970s and successfully attracted FDI mostly in the electronics sector due to its position in a 'growth triangle' alongside Malaysia and Singapore. Foreign investors directly invested in Batam to reap the benefit of abundant and inexpensive labour to undertake low-value low-tech activities in the production of electronics. There are indications that electronics firms in Batam are still engaged in low-value and low-tech activities with no upgrading trajectory towards high-value and high-tech activities¹⁴.

¹⁴ Yohanes Kadarusman, "Knowledge Acquisition: Lessons From Local and Global Interaction in The Indonesian Consumer Electronics Sector", *Institutions and Economics* Vol. 4, No. 2, 2012: 72.

The insertion of Indonesian electronics industry into export markets is linked to FDI of global firms through the establishment of their subsidiaries in Indonesia. Electronics manufacturing companies from developing countries including Indonesia may take up roles as suppliers to global lead electronics firms. The electronics industry in Indonesia now is concentrated in Java and Batam Islands and most electronics firms in Batam are specializing in electronic component manufacturing and computer industries.

One of the key factors for transnational corporations to invest in India is the liberalization policies that were undertaken by the Government of India as part of the structural adjustment program in the 1990s¹⁵. The policies were geared towards the promotion of foreign direct investment and hence contained deregulation measures favorable for investment by multinational companies in India. The main policy measures related to the structural adjustment program included permission for automatic FDI and 100 percent foreign ownership in many sectors, liberalization of the Foreign Exchange Regulation Act, permitting Foreign Institutional Investors to invest in capital markets, reduction of import duties on capital goods etc¹⁶. India's closer integration into the world economy which was helped by the reform program enabled the country to better exploit and alert foreign multinationals to its comparative advantages¹⁷.

MNCs tend to be attracted to countries with sizeable domestic markets, and sustained growth as indicated by GDP measurements. India with substantial growth rate coupled with macroeconomic stability is an important investment destination for MNCs and offers an attractive market for consumer goods, especially those with recognized brand names¹⁸.

The long standing democratic institutions of India which support stable economic growth and political stability have been recognized as factors that determine investment by foreign firms¹⁹.

It has been indicated that India's competitive advantage lies not only in the natural resource industries and the low-skilled, labor intensive markets like the rest of Asia but also in skill intensive services sectors such as software, IT and ITES, product / project engineering and design²⁰. Skilled labor in India is comparatively cheap and also tend to have English language capability unlike their counterparts in South East Asia. Survey results presented by A T Kearney (2004) suggest that India is increasingly perceived as a Research & Design hub for a wide range of industries²¹. These factors were also supplemented by the drop in IT hardware prices and import tariffs in the 1990s.

¹⁵ Kapur and Ramamurthy, "India's emerging Competitive advantage in Services", 2001, available online at <http://www.iupui.edu/~anthkb/a104/india/india's%20advantage%20in%20service.pdf>

¹⁶ Ibid

¹⁷ Chakraborty and Nunnenkamp, "Economic Reforms, Foreign Direct Investment and its Economic Effects in India", Working Paper, Kiels Institute for the World Economy, 2006, available online at <http://dspace.cigilibrary.org/jspui/bitstream/123456789/28666/1/WP%201272%20-%20Economic%20Reforms%20FDI%20and%20its%20Economic%20Effects%20on%20India.pdf?1>

¹⁸ Balasubrahmanyam and Mahabare, "FDI in India", *Transnational Corporations, UNCTAD, 2, Volume 12, 2003*, available online at http://www.unctad.org/en/docs/iteit34v12n2_en.pdf?q=corporations#page=5

¹⁹ Friedrich Schneider, Bruno S Frey, *Economic and political determinants of foreign direct investment, World Development, Volume 13, Issue 2, 1985*, available online at <http://www.sciencedirect.com/science/article/pii/0305750X85900026>

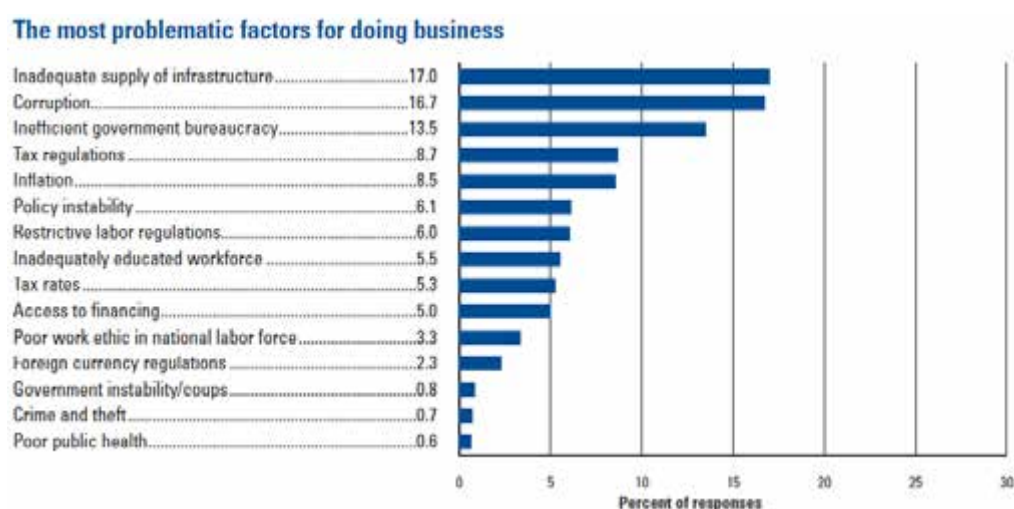
²⁰ *Supra n. 1*

²¹ *Supra n. 3*

Stronger environmental regulations in industrialized nations have also resulted in companies shifting production to countries with less stringent norms, such as India and Indonesia. There is a general trend towards shifting polluting or hazardous production processes to India and other developing countries²². The "global race to the bottom" in terms of wages and production cost has resulted in exerting pressure for non-enforcement of labor laws and also occupational health and safety standards²³. The statutory minimum wage in the electronics sector in Tamil Nadu, India is 141 INR per day which is equal to US \$ 2.50 and comparable to other low labor cost countries such as Indonesia.

However, there are also problems in doing business in India. According to the Global Competitiveness Index by the World Economic Forum India was ranked 59 out of 146 and is therefore lagging behind Indonesia.

Graph 4: Problematic Factors in Doing Business in India



²² McGarity, *Bhopal and The Export of Hazardous Technologies*, 20 *Texas International Law Journal*, 333 (1985), available online at <http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/tilj20&div=26&id=&page=>

²³ Garret D. Brown, *The Global Threat to Worker's health and safety on the job*, *Social Justice*, Vol. 29, no. 3 (89), 2002, available online at <http://www.jstor.org/pss/29768133>

SEZs in India and Indonesia – A comparison

Establishment of Special Economic Zones in Indonesia

The establishment of Special Economic Zones (SEZs) in Indonesia is the mandate of the bill No. 25 Year 2007 on Investments as part of the efforts to accelerate economic development in certain areas of Indonesia that play a strategic role in the national economy.

The bill is a form of government commitment to liberalize trade, as agreed in the WTO. This commitment is expected to ensure economic integration amongst the countries that allow trade in goods, services, investment, and capital without barriers. Trade without barriers is part of the WTO general principles to achieve world trade liberalization (both regional and bilateral) by:

1. Implementing non-discriminatory trade;
2. Creating free market access;
3. Eliminating unfair trade;
4. Creating relations between trade liberalization and social values and interests;
5. Harmonizing national laws.²⁴

SEZs in Indonesia have actually been operational for a relatively long time, earlier known as Industrial zones (Presidential Decree No. 41 Year 1996), Integrated Economic Zones (Presidential Decree No. 150 Year 2000), Free Trade and Free Port Zones (Bill No. 44 Year 2007), and Bonded Hoarding Places (Govt. Regulation No. 33 Year 1996 – which covered bonded zones, bonded zones plus, bonded warehouses, entrepot for exhibition, and duty free stores).

Bill No. 32 Year 2009 on Special Economic Zones is the foundation of the establishment of SEZs in other economic regions in Indonesia. Batam Island, based on Govt. Regulations No. 46 Year 2007, still holds its status as Free Trade and Free Port Zone.

The establishment of Special Economic Zones is expected to integrate Indonesia into the global economy and to invite foreign investment as well as to make Indonesia the regional production base using its comparative advantages of cheap labour, natural resources, and proximity with regional markets.²⁵ In 2011 the Indonesian Government has assigned eight regions and targeted two to be Special Economic Zones which are Sei Mangke of North Sumatera and Tanjung Lesung of Banten. SEZs consist of many zones namely export processing zone, logistical zone, industrial zone, technology development zone, tourism zone, energy zone, and/ or other economic

²⁴ Van Den Bossche, Peter: "The Law and Policy of The World Trade Organization", page: 615-616.

²⁵ Syamsul Hadi;dkk, "Globalization, Neoliberalism, and Local Development (Studies on Special Economic Zones in Indonesia)", 2011: 20

zones. SEZs provide facilities and incentives that support the investment activities in the region.

The establishment of Special Economic Zones (SEZs) goes hand in hand with Indonesia's strategic economic policy as stated in the Master Plan for Acceleration and Expansion of Indonesia's Economic Development (MP3EI) by the year 2025, which was enacted through Presidential Regulations No. 32 Year 2011.

MP3EI is an elaborate interpretation of Indonesia's strategic plan as stated in the Law No. 17 Year 2007 on Long-term Development Planning (RPJP) from 2005-2025.

The establishment of SEZs which are able to absorb both local and foreign direct investment is deemed necessary by the government of Indonesia to implement MP3EI. Therefore, SEZs are expected to provide various business incentives or facilities to attract investors. The main incentives in addition to tax waiver that attract investors are labor related incentives, which include labor market flexibility and low wages that keep production costs low.

The bill 39 year 2009 states that minimum wages should serve as a safety net and contract labour can only be employed in production related to new products, new activities, or additional products that are still in the experiment or exploratory phase. Contract labour can be employed on a fixed contract up to two years which can only be extended by one year and thereafter cannot be renewed.

Establishment of Special Economic Zones in India²⁶

India was the first country in Asia to establish an Export Processing Zone (EPZ) in Kandla, Gujarat in 1965. All SEZs in India are governed by the Special Economic Zones (SEZs) Act, 2005 and the SEZ Rules 2006 which guide the development and promotion of SEZs. The office of the Development Commissioner of SEZs is under the Ministry of Commerce. SEZ units are entitled to fiscal benefits and concessions as laid down in the SEZ Act, 2005.

According to the Ministry of Commerce and Industry the main objectives of the SEZ Act are:

1. generation of additional economic activity
2. promotion of exports of goods and services;
3. promotion of investment from domestic and foreign sources;
4. creation of employment opportunities;
5. development of infrastructure facilities;

The SEZ Rules provide for simplified procedures for development, operation, and maintenance of the Special Economic Zones and for setting up units and conducting business in SEZs.

SEZ developers submit the proposal for establishment of SEZ to the concerned State Government. The State Government has to forward the proposal with its recommendation within 45 days to the Board of Approval which consists of representatives from different ministries.

The Board of Approval is the apex body and is headed by the Secretary, Department of Commerce. The Approval Committee at the Zone level deals with approval of units in the SEZs and other related issues. Each Zone is headed by a Development Commissioner, who is ex-officio chairperson of the Approval Committee. The performances of the SEZ units are periodically monitored by the Approval Committee and units are liable for penal action under the provision of Foreign Trade (Development and Regulation) Act, in case of violation of the conditions of the approval.

Out of 582 formally approved SEZs in India 71 are located in the state of Tamil Nadu alone. Apart from the Nokia Tech Park SEZ, there is Flextronics Industrial Park, SIPCOT – High Tech SEZ, SIPCOT SEZ Oragadam and Foxconn India Developer SEZ all manufacturing Electronics Hardware based in Tamil Nadu.

In India the Special Economic Zones Act 2005 and in Indonesia the Bill No.39 year 2009 on Special Economic Zones mention several incentives and exemptions.

Table 2: Exemptions and Incentives in Special Economic Zones in India and Indonesia

	Indonesia	India
Tax and Customs	<ul style="list-style-type: none"> - Will not be charged for Value Added Tax or Luxury Goods Sales Tax on taxable goods; - Every tax payer doing business in Special Economic Zones is entitled for income tax waiver; - Property tax reduction; - Import duties suspension; - Customs free, as long as the goods are raw materials or subsidiary materials; - Import income tax free; - Every tax payer who does business in Special Economic Zones receives incentive of local tax and retribution waiver or reduction. 	<ul style="list-style-type: none"> - 100% Income Tax exemption on export income for SEZ units for first 5 years, 50% for next 5 years thereafter and 50% of the ploughed back export profit for next 5 years. - Exemption from minimum alternate tax. - Exemption from Capital gains arising on transfer of assets (machinery, plant, building, land or any rights in buildings or land) on shifting of the industrial undertaking from an urban area to any SEZ would be exempted from capital gains tax. - Exemption from Central Sales Tax. - Exemption from Service Tax. - Exemption from State Sales Tax and other levies as extended by the respective State Governments.

	Indonesia	India
Manpower	<ul style="list-style-type: none"> - License to hire expatriates who hold the position as directors or commissioner. The license will be given once and valid through the end of their tenure. 	<ul style="list-style-type: none"> - Power of labor commissioner to be delegated to development commissioner by State Governments - Labour in SEZ considered to be a “Public Utility Service”.
Other Incentives	<ul style="list-style-type: none"> - Entitled for land right waiver; - Entitled for waiver in business licensing, activity licensing, industry, trade, harbour, and immigration for foreign businessmen and security facilities. 	<ul style="list-style-type: none"> - Single window clearance for Central and State level approvals. - Local Governance Institutions essentially dissolved. State SEZ policies indicate that the SEZs will be notified as industrial townships, under A. 243 Q, exempting them from part IX, which provides for elected bodies. Industrial Township Authority created without elected representatives. - No investigation, search or seizure to be conducted within the SEZ by any officer, except in the case of Central Government notifying such an offence. - SEZ rules emphasize on self-certification - Enhanced limit of INR 2.4 crores per annum is allowed for managerial remuneration. - Exemption from requirement of domicile in India for 12 months prior to appointment as Director.

The SEZ in Batam

Batam is an island with a area of 415 km² and located 20km away from Singapore. Batam Free Trade and Free Port Zone was established by the Government Regulation No. 46 Year 2007 with a validity of seventy years.

A free trade and free port zone is free from customs, value added tax (VAT), tax on luxury goods sales, and excise.²⁷ Besides being tax free, Indonesian Government promises to provide single-window-policy in processing licenses to reduce time and cost involved. Batam Special Economic Zone offers the following incentives:

²⁷ Pasal 1 Perppu No.1 Tahun 2007 Tentang Perubahan Atas Undang-undang No.36 Tahun 2000 tentang Penetapan peraturan Pemerintah Pengganti Undang-undang (Perppu) No.1 Tahun 2000 tentang Kawasan Perdagangan Bebas dan Pelabuhan Bebas Menjadi Undang-undang.

Table 3: Batam SEZ Incentives

Receiver	Incentives	Regulations
Companies	<ul style="list-style-type: none"> - all goods into and from the Special Economic Zones can only be traded by a company which has received a license from BP Batam and only for goods which are related to their business activities. - Import and Export of goods into/ from the Special Economic Zones must be conducted at the port or airport designated by the BP Batam where delivery of goods in the Special Economic Zones are not subject to VAT. - The goods as mentioned above have exemptions from import duty, VAT, income tax, and/or tax duty. - As SEZ is exempted from the customary area of Indonesia, the goods coming-in from overseas to Batam will not be declared imported goods. While goods from Batam coming in to other regions in Indonesia are considered imported goods. Commodity from other islands to Batam is considered as inter-island trade. 	<ul style="list-style-type: none"> - Government Regulation No. 2 of 2009: the treatment customs clearance, taxation, and customs duties and the control over entry and exit of goods from / to the appointed KPBPB BBK. - Regulation of Finance Minister No. 45,46,47 of 2009: on taxation, customs clearance and procedures for notification of outgoing / incoming goods in KPBPB BBK - Regulation of Trade Minister No. 12/MDAG/PER/3/2009: on transfer of permit issuance in the country to foreign trade KPBPB BBK
Residents who live in Batam	<ul style="list-style-type: none"> - People who are allowed to stay in Batam are those who are involved in SEZ activities. - People who live in SEZ Batam do not have to pay VAT (Value Added Tax). The exemption of VAT will make production cost more competitive, particularly the labour costs. - Free of sales tax and luxury goods facilities. - The price of goods in SEZ Batam area is cheaper than outside the SEZ because VAT is not applied. 	

SEZ Batam is one of the major electronics manufacturing centres in the world, created largely with Singaporean capital²⁸. Of all manufacturing industries in Batam Island, Electronic Manufacturing Services (EMS) is the most dominant. In June 2011 electrical machinery and equipment commodity accounted for the highest exports with a value of US\$ 1,486,241,457. The sector has also dominated the imports with a value of US\$ 1,554,787,699²⁹.

The establishment of Batam SEZ must be put in the context of the development of electronics industry in Singapore. The electronics industry in Singapore played a prominent role in shaping the regional division of labor in ASEAN countries, especially in Indonesia. Singapore started outsourcing electronics manufacturing to Batam Island due to limitation of available land and the need for cheap labor.³⁰ Therefore, the highest investment comes from Singapore, the base of many multinational companies. Out of the foreign investment Singapore is on top of the list with US\$ 933,063 from 410 companies, followed by Japan with an investment worth US\$128,818 from 15 companies and Malaysia at the third place with investment worth US\$82,089 from 52 companies.³¹

Singapore's strategic interest has ushered Batam Island into a more comprehensive cooperation with Singaporean Government. In 2006, the Government of Indonesia and the Government of Singapore made an agreement to form a joint steering committee and a joint working group.³²

Industry in Batam is divided into two areas that of light and heavy industries. Light industry includes manufacturing of electronics, garments, plastic, etc. Heavy industry is dominated by shipbuilding, fabrication, steel, metal, etc.³³ Batam Island has 25 industrial zones run by private companies.

According to the Government Regulation No. 46 Year 2007, the Industrial Development Authority (BP Batam), which was established by the Board of Free Trade and Free Port has the responsibility to manage, develop, and build the free trade and free port zone. In order to do so, BP Batam has authority to make specific rules and issue business license. BP Batam can undertake its own business to fund its activities and operations. Such businesses include airport, port, water facilities, hospital, IT center and quarantine center. In addition, BP Batam receives fund from the State Revenue and Expenditure Budget (APBN) and the Local Revenue and Expenditure Budget (APBD) as well as other incomes from domestic and foreign loans.

According to BP Batam 2010 data 274.978 people including 269.851 locals and 5.127 expatriates were absorbed into employment in all business sectors. The majority of expatriates were from Singapore working at supervisory and management levels. The second most numerous foreign nationals were from India, working at the production level in shipbuilding often on temporary contracts.

²⁸ Sri Wulandari, "Batam Free Trade Zone", *Asia Monitor Resource Center*, 2010: 4.

²⁹ *Development Progress of Batam*, BP Batam, 2011: 30.

³⁰ Sri Wulandari, "Batam Free Trade Zone", *Asia Monitor Resource Center*, 2010: 5.

³¹ *Development Progress of Batam*, BP Batam, 2011: 26.

³² Syamsul Hadi;dkk, "Globalization, Neoliberalism, and Local Development (*Studies on Special Economic Zones in Indonesia*)", 2011: 32.

³³ http://www.batamkota.go.id/bisnis.php?sub_module=39&klp_jenis=348

However as the biggest Special Economic Zone, Batam has also seen labour disputes which have caused a decline in investment. This can be seen from the closure of some companies in Batam SEZ such as PT Exas, PT BJ Industries, PT Kyocera, PT Panasonic Battery Batam, PT Toyocom, PT Casio Electronics Indonesia. Some of the companies have moved their location to neighbouring countries with more conducive investment climates like Malaysia and Vietnam.³⁴

There has been increasing tensions in the industrial relations climate characterised by protests by workers demanding fulfilment of their rights, especially regarding wages and contract labour system or outsourcing. Some of these protests turned violent resulting in burning of government facilities and vehicles and business activities in the industrial park of Batam City came to a halt. The companies operating in Batam were reluctant to start their business again thereby slowing down investments in Batam SEZ.

The minimum wage in Batam SEZ 2012 is lower than in Non-SEZ production hubs such as Jakarta and Bekasi Regency (East Java) and can be seen from the table below. Batam SEZ also lacks a sectoral minimum wage while non-SEZ areas have a sectoral minimum wage.

Table 4: Wage Comparison Between SEZ and Non-SEZ

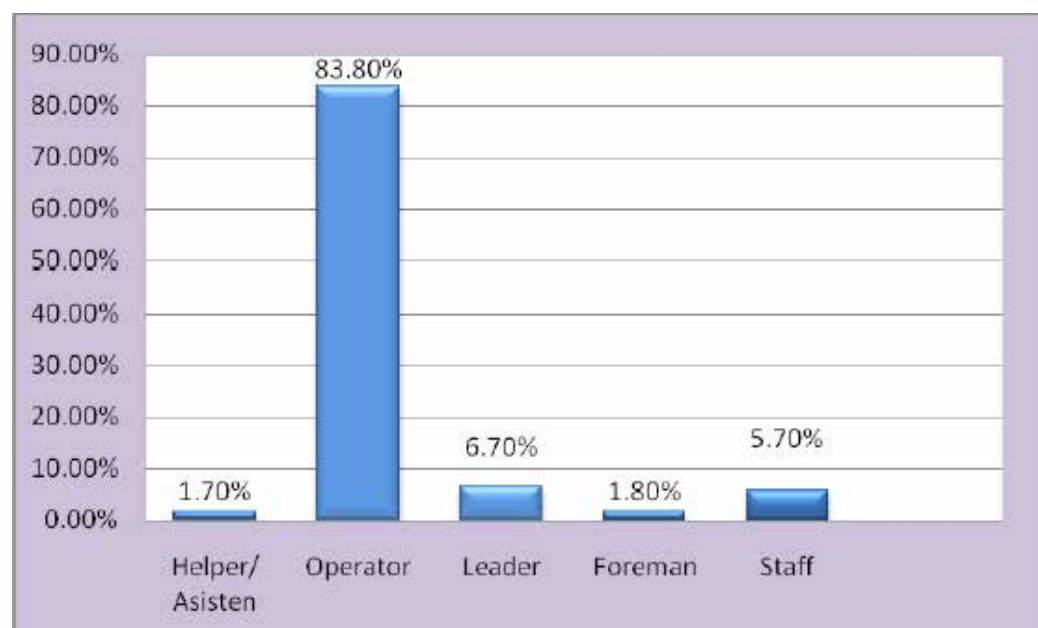
Area	Province Minimum Wages (IDR)	Province Sectoral Minimum Wages on Electronic Sector (IDR)
Bekasi Regency (Non-SEZ)	1.491.000	1.849.000
DKI Jakarta (Non-SEZ)	1.529.150	1.727.940
Batam (SEZ)	1.402.000	-

Given the provision of various incentives employers operating in Batam SEZ should be able to pay higher wages than in non-SEZ industries. Moreover, food prices in Batam are higher than even in Jakarta which poses another disadvantage to workers in Batam.

The legalization of the use of outsourced and contract labour and violation of labour laws by companies in Batam SEZ is a proof of the inadequate protection of workers by the government. Due to the contract and outsourced labour system workers have no job security and can be easily retrenched. According to labour regulations, contract and outsourced labour can not be used in core production processes but only for cleaning service, catering, and security. However, in practice many employers violate these provisions by employing contract labour in core production jobs, especially as operators.

³⁴ Haluan Kepri, "Batam Economics is getting weak", 25 January 2012. (downloaded from <http://haluankepri.com/fokus/25388-ekonomi-batam-makin-lesu-.html>)

Graph 5: Dominant Position for Non-Permanent Workers



Source: Joint Research AKATIGA-FSPMI-FES on Contract Work Practices Outsourcing And Labor In The Metal Industry Sector In Indonesia, 2010

A joint research conducted by FSPMI (one of the major unions in Batam), AKATIGA, and FES in 2010 states that the use of temporary workers in the electronics sector is very high in Batam SEZ compared to West Java non-SEZ areas³⁵.

Table 5: Composition of Workforce

Area	Permanent Workers	Contract Workers	Outsourced Workers
Batam SEZ	20.30%	51.20%	28.50%
West Java (Non-SEZ)	44.60%	31.10%	24.20%

Source: AKATIGA-FSPMI-FES Research on Contract Work Practices Outsourcing and Labor In The Metal Industry Sector In Indonesia, 2010.

The lack of government protection for workers especially in Batam SEZ is also indicated by the plan of the government to revise some labor regulations that are considered potentially adverse for investors. The government of Indonesia has drafted a policy that seeks to provide security for investors and proposed reforms related to:

1. Regulation on industrial relations, including severance pay, employment termination, employment relations (short-term contract and outsourcing), wages (minimum wages, standard of decent living (KHL), wages during suspension), workers security and strike;
2. Regulation on trade unions;
3. Regulation on resolution of industrial disputes.

³⁵ Indrasari Tjandra et al, "Contract Work Practices Outsourcing And Labor In The Metal Industry Sector In Indonesia", Joint Research by AKATIGA-FSPMI-FES, 2010.

This plan is included in the Ministry of Manpower's Strategic Planning 2011 – 2014. In 2012 National Priority Matrix issued by Bappenas (the National Development Planning Agency), also covers aspects of improving industrial relations social security for labour.

The national economic strategy will have serious impacts on workers in Indonesia, especially in the SEZs whose freedom of association will be restricted. The non-implementation of labor regulations has had negative impacts on workers' lives and these will further increase if the regulations are changed.

The Nokia Teck Park SEZ Sriperumbudur, India

The Nokia SEZ is one of the 582 formally approved SEZs in India and operational since 2006. It provides employment to approximately 25,000 people. The total land on which the SEZ was built is 210 acres and includes factories of Nokia and its suppliers Foxconn, Wintek, Perlos and Salcomp. Nokia took the land for the SEZ on lease at a concessional rate (INR 450000 per acre³⁶) from the government of Tamil Nadu which had acquired fertile agricultural land to establish the Special Economic Zone. Nokia has entered into lease agreements with its suppliers in the SEZ. There are other component manufacturers located outside the Nokia SEZ such as Flextronics.

By 2011 Nokia had already produced 500 million mobile phones. Phones produced in the SEZ are sold on the domestic market and are also exported to other Asian and European countries³⁷. Nokia is not only exempted from paying export tax but also reimbursed value added tax (VAT) by the government of Tamil Nadu for its sales within India. Nokia was exempted from paying electricity charges for the first five years of production and was guaranteed uninterrupted power supply. Nokia pays only a token amount of INR 1 per year as rent during the lease period of 98 years to the state of Tamil Nadu.

In principle all Indian labour laws are applicable to SEZs. This includes the Trade Union Act ensuring the right to freedom of association, the Factories Act among other things laying down health and safety conditions including provisions for drinking water and canteens, first-aid, safety equipment etc. and limiting the maximum working hours in a week to 48 hours. Beyond eight hours of work per day, overtime wages are to be paid at the rate of twice the ordinary wage. Furthermore, the Minimum Wage Act, Employee State Insurance Act and the Contract Labour Regulation and Abolition Act that states that contract labourers shall become permanent after 120 days of work are applicable.

Although formally all labour laws are applicable in SEZs in India, to curb any attempt of workers to go on strike, the Nokia SEZ (like many others) has been declared a 'public utility' and therefore any strike has to be announced 14 days in advance. This clearly restricts workers' fundamental labour rights to organise and also limits the scope for collective bargaining.

³⁶ Madhumita Duta (2009), *Nokia SEZ: Public Price of Success*, *Economic & Political Weekly*, Vol XLIV No 40

³⁷ *Cividep-India & Suedwind "Shiny Phone – Paltry Pay" (2012)*, p.3

The major incentives given by the Government of Tamil Nadu to Nokia to set up its unit in the State are shown in the table below³⁸. The details of these concessions were agreed upon through an MoU that was signed between the Government of Tamil Nadu and the company in April 2005.

Table 6: Nokia SEZ Incentives

Tax Incentives	
<p>VAT and CST reimbursement: For sales from SEZ to DTA, the Government of Tamil Nadu will reimburse the VAT and the CST it has to pay to respective governments.</p>	<ul style="list-style-type: none"> - Value Added Tax has to be paid in case of a sale within Tamil Nadu, reimbursement by the Government of this tax results in a loss of income to the State. - Central Sales Tax is collected from vendors in case of a sale outside Tamil Nadu by the respective State Governments; refund of this tax forms a cost to the government and adds to State expenditure. - The only cap on the refund of this tax is that it should not exceed the investment made by Nokia in fixed eligible assets within three years of signing the MoU, additional investment would lead to raising of the cap.
<p>Exemption from paying Electricity tax for the first five years of commercial production.</p>	
<p>A capital subsidy for mega projects was also offered to Nokia to the tune of INR 100 lakh.</p>	<ul style="list-style-type: none"> - According to the New Industrial Policy of Tamil Nadu, 2003, there is scope for further benefits (150% of the original subsidy) since it is located on land belonging to the State Government owned SIPCOT Sriperumbudur Industrial Park.
<p>Failure to charge duty on goods sold within India</p>	<ul style="list-style-type: none"> - Duty of INR 681.38 crore foregone on the inputs due to failure to charge duty on goods sold within India (by the Government of India).
Land and Infrastructure	
<p>Land leased to Nokia at concessional rates</p>	<ul style="list-style-type: none"> - According to the Comptroller and Auditor General, the acquisition cost incurred by the Government was between INR 4 to 14 lakhs per acre, whereas the sum that was negotiated with Nokia by virtue of a second MoU (July 2005) was only INR 4.5 lakhs per acre. In addition to this Nokia is allowed to sublet and charge higher prices.
<p>Infrastructure facilities</p>	<ul style="list-style-type: none"> - water supply pipeline, electrical lines and roads had been built to the unit by SIPCOT.

³⁸ Source: "The Public Price of Success" A Citizen's Research Collective Report on SEZ, and "Nokia SEZ: Public Price of Success", Madhumita Dutta, *Economic and Political Weekly*, October 3, 2009 vol xlv no 40.

Labour	
Extensive use of contract labor in non-manufacturing forms of work	- Contract labor is banned in manufacturing; however, in all non-manufacturing forms of work (including warehouse staff, drivers, cleaners etc.) in Nokia SEZ the employment of contract labor is prevalent. In 2011, 2500 workers in Nokia were contract labourers.
Labor control	- The MoU signed in April 2005 states that the State shall declare the SEZ site to be a "Public Utility" in order to "curb labour indiscipline".
Wages	- Salaries that Nokia pays to its employees in the Sriperumbudur plant are 45 times lesser than what Nokia pays its workers globally. Adjusted to different purchasing power in India, global salaries are still 10 times higher than what Indian workers receive.

Critics such as the Anti-SEZ Movement in Tamil Nadu have often pointed out that the indirect and direct tax incentives given to companies in SEZs in India result in a great deal of revenue loss to the government. However, the government states that the benefits of SEZs in terms of employment creation and investment outweigh this loss. Nevertheless, in 2010, the Central Board of Excise and Customs (CBEC) recommended an overhaul of the Special Economic Zones (SEZ) Act, 2005, as it had detected gross violations of the duty and tax concessions, causing it to suffer a revenue loss of INR 175,000 crores (31818 million US\$) till January 2010³⁹. It also estimated that there had been an overall revenue loss of INR 350,000 crores (63636 million US\$) in the creation of SEZ after 2006.

Tax incentives under the SEZ Act are also criticized on the basis that they are largely unnecessary and expensive given that with increased liberalization in India, advantages for companies within SEZs are not that different from that in the domestic tariff area.

As far as employment generation under SEZ is concerned, the Committee on State Agrarian Relations and Unfinished Task in Land Reforms in its 2009 Report has noted that a majority of employment generated by SEZs are in the IT/ITES sectors (61%), and it is concentrated in the districts that are more industrialized, with non-agricultural occupations and higher literacy rates, while more than one million people dependant on agricultural lands are expected to be displaced.

Furthermore, there are allegations that SEZs have not achieved the primary objectives they started out with, like balanced economic growth across the country. It has been pointed out that there is a great deal of regional disparity in the development of Special Economic Zones, indicated by the fact that out of 582 formally approved SEZs, 329 are in the most developed states of the country⁴⁰.

³⁹ <http://infochangeindia.org/governance/analysis/five-years-after-sezs-chronicle-of-revenues-forgone.html> access 01/08/2012

⁴⁰ States considered developed for this calculation are Andhra Pradesh, Maharashtra, Tamil Nadu and Haryana.

In relation to the non-economic incentives offered to companies through SEZs, criticisms have been raised that they are geared towards isolating the areas notified as SEZ from the rest of the country, even in judicial and administrative affairs, and it has been pointed out that these provisions are essentially undemocratic. In addition to this, the fact that most states have delegated the powers of labor commissioner to the development commissioner has resulted in various concerns being raised as to the compliance to labor laws within SEZ. Since the development commissioner is concerned primarily with attracting investment to the Special Economic Zones and ensuring economic efficiency, it is considered likely that ensuring compliance towards labor laws may not be his top priority.

Working Conditions in SEZs: relaxation of labor laws and use of contract labour

In order to obtain information on the working and living conditions of workers in Batam, Indonesia and Sriperumbudur, India, face-to-face interviews and Focus Group Discussions were conducted during April – June 2012 with 40 workers in total. During discussions with workers it was explored to what extent labor laws and regulations are implemented in selected companies from both SEZs. The research was conducted with workers from four electronic companies, two of which are located in Batamindo Industrial Park: PT. Flextronics Technology Indonesia and PT. Epson Batam located in Indonesia. The other two companies are Flextronics India located in SIPCOT High Tech Park as well as Nokia and its supplier Foxconn situated in the Nokia Tech Park India. The companies have been chosen since Flextronics operates both in India and Indonesia and thus serves as a good example to compare working conditions. The other three companies were selected to assess differences in working and living conditions of workers from the same SEZ.

Furthermore, a workers exchange visit to Indonesia and India was organised to facilitate mutual learning and increase solidarity among workers as well as provide workers the opportunity meet and exchange experiences and get an insight into working and living conditions of workers from the same sector in another country.



Cividep staff and Epson Batam Worker in her dormitory, near to the Batamindo Industrial Park



Foxconn and Nokia female workers live in this house in Kancheepuram, India

PT. Flextronics Technology Indonesia

Flextronics operates in Batamindo Industrial Park, Batam SEZ, Indonesia. This company produces PCB (Printed Circuit Boards), Backplanes, Box-build and other components to serve its network of customers in global services and the mobile market. Facilities that Flextronics has are design manufacturing, functional and reliability testing, supply chain management and logistics, and specialization in mechanical engineering such as plastic and tools.



PT. Flextronics Batam, Batamindo Industrial Park

Flextronics Batam employs about 2,000 workers, including 800 people with direct fixed-term contract, 200 people outsourced from labor suppliers, and 1,000 people with non-fixed term contract, 20 of who are expatriates. A Focus Group Discussion was conducted with ten employees to discuss issues related to labor welfare.

1) Recruitment

Flextronics Batam recruits in two different ways: direct recruitment and indirect recruitment. Direct recruitment can be in form of a fixed-term work agreement (temporary worker) or non-fixed term work agreement (permanent worker).

The company engages two labor suppliers, PT. Edyasa and PT. Tunas Karya for indirect recruitment to occupy positions that are part of the production process which violates the labor law that stipulates that outsourced workers should only be employed in non-production positions such as canteen or security.

There are opportunities for the fixed-term contract workers and outsourced workers to become permanent employees. However, this would depend upon the productivity of the particular worker as determined by the company. Some of the interviewed participants who are permanent employees with seven to 19 years of service, started as fixed-term contract employees.

Table 7: Recruitment & Promotion Pattern in Flextronics Indonesia

Recruitment Mechanism	Contract I	Contract II	Recess	Contract III	Promotion
Outsourcing	1 Year	1 Year	1 month	1 Year	Direct contract
Direct recruitment	1 Year	1 Year	1 month	1 Year	Permanent status

2) Working hours and benefits

Flextronics has two different working hours systems for employees who work on the production line and in the office. Workers in production work six days in a week; those in the office work five days in a week. Production is carried out in two shifts. The first shift is from 8 am to 8 pm and the second shift starts at 8 pm and ends at 8 am. Each shift consists of seven main-working hours, two hours of break and maximum three hours of overtime. This is in accordance with the labor laws in Indonesia. Flextronics Batam follows the EICC (Electronic Industry Citizenship Coalition), which suggests that the maximum number of working hours should not exceed 60 hours per week including overtime. For every overtime hour, the company provides overtime pay in addition to the workers' basic wages. Overtime pay calculation at Flextronics is as follows:

Overtime pay = wages / 173 X overtime hours

Overtime on work days	Overtime on holiday
First hour : x 1.5 hours	1st – 7th hour : x 2 hours
2nd - 5th hour : x 2 hours	8th hour : x 3 hours
	9th – 12th : x 4 hours

A year consists of 52 weeks therefore there are $52/12 = 4.333$ weeks per month. The maximum number of working hours per week is 40 hours as set by the government. Therefore, the maximum working hours per month is $40 \times 4.333 = 173.333$ which is rounded off to 173 hours.

3) Wages

Flextronics Batam's wage system works based on the minimum wage standards in Batam City. The city's minimum wage in 2012 is IDR 1,402,000 /month (US\$ 148).

Wage increment for those who have served more than one year is done by calculating the percentage of annual wage increase.

Following are the components of Flextronics Batam workers' wage receipt:

- **Basic Salary:** basic wages and fixed allowance (transportation and housing)
- Total hours of overtime
- **Allowance:** shift allowance, individual performance (attendance), overtime meals allowance, overtime transport allowance, unclaimed menstruation leave, annual bonus (per-4 months), and religious allowance.
- **Deductions:** taxes, absence, Jamsostek⁴¹ premium, union fee, workers cooperative fee.

There are some difference in wages with regard to transport allowance, bonus, and health insurance between outsourced workers and workers hired directly by the company (either contract or permanent). The company does not provide transport

allowance to outsourced workers in the form of cash but it arranges transport from their dormitory to work. A quarterly bonus is awarded every four months but only permanent workers are eligible.

The company provides health insurance for all workers. However, there is a difference in the quality for the outsourced workers and those who are directly hired by the company.

The wages of permanent workers with a tenure of one to 13 years are between IDR.2,100,000, -/month to IDR 4,500,000, -/month (US\$ 222 – 475). These are actual wages including overtime payment. It also depends on the positions in the company, those who receive the highest wages are the production supervisors.

Despite relatively decent wages workers have to bear with Batam's high living cost and education expenses. An unmarried worker spends approximately IDR 2,500,000 (US\$ 265) on electricity, rent or mortgage, meals, clothing, toiletries, transportation, and communications per month. A married worker with two children has to meet expenses of IDR 4.620.000 (US\$ 490) which includes electricity, mortgage, meals, clothing, children's education, children's health care, transportation, communication and toiletries per month.

These needs would not be met if they only depend on their basic salary. Therefore, workers have to rely on overtime pay to meet their basic living needs or they must find a second part-time job.

4) Freedom of Association

Flextronics Batam's workers have formed a union called PUK SPEE FSPMI PT. 50% of the workforce are members of the union. However, union membership is reserved for those who are directly hired by the company. The right of freedom of association is granted by the company and has successfully improved the working condition at Flextronics Batam. In fact, the chairman of the PUK SPEE FSPMI PT. Flextronics Technology Batam was once a member of the Wage Council Batam.

Working conditions improved after the company and union agreed on Collective Labor Bargaining (PKB) which regulates rights and obligations of each party and guarantees workers' rights. The labor union at Flextronics has a relatively high bargaining power because of its vast membership thus being able to exercise pressure on the company. They often protest by refusing to work overtime to ensure that their demands are met by the company.

Outsourced workers in Flextronics cannot join the union, those who do risk their contracts not being renewed. But they may benefit indirectly from the collective bargaining agreements fought for by the union. Freedom of association for outsourced workers is one of the main targets of the Flextronic Batam union.

Flextronics India

Flextronics established an industrial park near Chennai in 2006 — a facility located in a low cost region of the country that helps diminish the cost of production. Products are manufactured on-site and shipped directly from the Industrial Park to end users, greatly reducing freight costs of incoming components and outgoing products⁴².



Flextronics India Industrial Park

In the industrial park Flextronics employs 1600 workers of which 60% male and 40% are female. The Chennai Industrial Park, located in Sunguvarchatram close to the Nokia Tech Park, manufactures mobile chargers, mechanical enclosures and PCB assemblies for both domestic and overseas customers.

Flextronics India is situated in a Special Economic Zone, the company is entitled to benefits as provided under SEZ Act. These include tax immunity for a specified period, no customs and excise duty since the product is sold to other SEZ customers and the finished product is not subject to custom duty or sales tax.

For this research a Focus Group Discussion with six employees was conducted in June 2012.

1) Recruitment

The company's workforce consists of 40% permanent employees and 60% contract employees. Contract workers are engaged through different contractors. Permanent employees have to work as contract workers for two years. After completion of two years they will get permanent appointment in the third year. However, workers claim that this also depends on the performance of the company. There is no discrimination between the permanent and contract workers, even in terms of salary. The workers were not aware of and the company does not provide them with their code of conduct.

Two of the workers interviewed were working for the company since three years, another two were on apprenticeship. The rest were contract workers since one year. Before getting confirmed as an employee, the workers have to work on a yearly contractual basis. Workers were recruited through an advertisement which stated that they will be paid INR 6000 (US\$ 105). But after joining the company they found out that they were paid less and realised that there were several deductions from their wage. One of the workers mentioned that he earlier used to earn INR 13000 (US\$ 230) per month as a welder. But his family forced him to leave the welding job as it was risky and hence he joined Flextronics. Now he regrets the same and feels trapped.

2) Working hours and benefits

The factory operates on a three-shift basis with eight hours per shift on six days per week.

There is generally no overtime work in Flextronics. In peak seasons overtime work may occur on Sundays but it is voluntary. The respondents describe the working conditions as satisfactory. They are provided with safety equipments such as Electric Static Discharge (ESD) gown and footwear. The canteen and toilets are clean and there is a First Aid room with a nurse and a doctor on the campus who work in shifts. In Flextronics, the women workers are given rest and also leave if required during menstruation. They have 60 days of paid maternity leave, however this applies only to permanent and not to contract employees. Flextronics is covered under Employees State Insurance. The workers contribution to ESI is deducted from their salaries and the company contributes a matching amount.

3) Wages

The Flextronics pay package is according to qualification. A worker who holds a diploma receives INR 4700 (US\$ 85) as a starting salary, permanent workers earn up to INR 8000 (US\$ 145).

Following are the components on Flextronics India workers' wages receipts:

- Basic Salary
- Earned Leave days
- Working days
- Loss of Pay days
- Attendance Bonus
- Deductions: Employees State Insurance (ESI), Professional Tax, Canteen fee, Bus fee

Salary Deductions applicable to all the workers are: Transport INR 100 (US\$ 1,80), ESI INR 100, Canteen INR 100, Provident Fund INR 600 (US\$ 10). In general the salary is increased based on experience and expertise and not based on qualification. Workers that were interviewed were not aware of the Tamil Nadu minimum wage which is set at INR 141 (US\$ 2,50) per day.

Workers clearly state that salaries are not high enough to secure a decent livelihood. It is just enough for a bachelor to lead a very modest life style but not enough to support their family. Their salary expectation is INR 20000 (US\$ 350) per month for a decent living.

Current wages of workers with one year experience is INR 6000 (US\$ 105), contract workers earn only INR 4500 (US\$ 80). Permanent workers with 10th or 12th grade graduation earn INR 6000, ITI graduates earn INR 7500 (US\$ 135) and diploma graduates earn INR 8000 (US\$ 145).

4) Freedom of Association

There is currently no trade union established in Flextronics India. Workers claim that nobody takes the initiative and they fear the company might suppress attempts to unionize.

Workers are young first generation industrial workers mostly from rural backgrounds. They do not have experience in participating in trade union activities as most of their families are either landless labourers or marginal farmers. Another vulnerability of the workforce is that the majority of them are contract workers without claims for a permanent tenure of employment.

Personal account of a Flextronics Indonesia worker in India

I was excited to travel to India to meet workers like me who are employed in mobile phone manufacturing. When I arrived we went to the SIPCOT area near Chennai in Tamil Nadu. There are many companies which produce mobile phones Nokia and its supplier Flextronics. I asked about unions in the electronics sector in India and my colleague from Cividep informed me that unions are not very strong or are completely absent as in the case of the Flextronics unit here (the company I work for in Indonesia). According to the workers I met the management is not supporting the formation of a union and even threatened workers that whoever joins a union will be fired. It seems to me the basic salary in Flextronics here is also very low and inadequate to cover decent living standards in India compared to our wages in Indonesia.

I was asked how long I have been working in Flextronics and when I answered that I had more than 13 years experience in the same factory, workers were surprised! In India it is usual for workers to work only up to 3 years in one company and after that they are replaced which is a very concerning trend.

Moreover, in India they are allowed to have only 24 hours of overtime work per month which is less compared to Batam where we can have up to 4 hours per day which means in one week alone we can have up to 24 hours of overtime!

Flextronics employees could not join a union because there is no one who takes the initiative to start organizing workers. Finally, workers said a union is not too important but I think they need a union to help them in many things in the future. Only a union can take the role of representing workers and building a bridge between the employees and the management.

In contrast there is a trade union in Foxconn. When I met the workers here it seemed that permanent and contract workers are working together on good terms and permanent workers support their fellow contract workers when there are any issues. Workers also told me that if an employee joins a union the company is likely to harass him/her. The company discriminates between union members and others and workers also complained about other problems such as short break times. Because of long queues in the canteen they don't have much time to eat and afterwards they have to return in a hurry. If they are late to return to their workline they will get a warning letter from their line leader or supervisor.

My India visit was enlightening and I returned with the feeling that it was important for workers to actively participate in trade union activities.



Epson Batam, Batamindo Industrial Park

PT. Epson Batam

PT. Epson Batam is one of Epson's flagship factories in the world and produces scanners, printer ink, and semi conductors. About 70% of the scanner, ink and semiconductor production is destined for European and Latin American markets; the rest goes to Japan and the domestic market. PT. Epson Batam operates in Batamindo Industrial Park with a total workforce of 2700 workers.

Focus Group Discussions and interviews were conducted with 10 Epson workers.

1) Recruitment

Epson Batam recruits its employees directly. However, prior to promotion as permanent employees, they have to be on probation with a fixed-term contract. They will be promoted only if they meet the skill requirements and pass the assessment test conducted by the Human Resources Department. Focus Group Discussions showed that employees can get promoted as permanent workers in less than one year and some employees who started as a temporary worker now have worked there for 12 years as permanent workers. Epson Batam provides two years' fixed-term contracts for workers at production level and one year for workers at management level.

The company also hires labor suppliers to recruit workers but only to fill in positions that are not directly related to production such as cleaning and catering. This means that Epson Batam Indonesia is complying with Indonesian labor regulations.

2) Working hours and benefits

Epson Batam has different working hours for the production and the management staff. In production employees work in two shifts, the first shift starts at 6.30am and ends at 3.30pm, with 2 hours and 45 minutes overtime. The second shift starts at 9.30pm and ends at 6.30am, also with 2 hours and 45 minutes overtime. Management staff work at regular working hours from 8am to 5pm. Epson Batam provides meal allowance.

Working hours at each production level for scanner, ink, and semiconductor are different. The workers at the scanner division only work in one shift from 6.30 am to 3.30 pm because they do not get as many orders as the ink production. The company compensates every overtime hour the workers have worked in addition to their basic salary. Overtime pay calculation at Epson Batam is as follow:

Overtime pay = wages / 173 X overtime hours

Overtime on work days	Overtime on holiday
First hour : x 1.5 hour (up to 2 hours and 45 minutes maximum)	1st to 8th hour : x 2 hours 9th hour : x 3 hours
If more than 2 hours and 45 minutes, every 15 minutes, the pay should be multiplied by an additional 0.5 hour	The 10th and more hour: x 4 hours

3) Wages

Epson Batam's wage system follows the city's minimum wage law. This is also used as a guideline by the company to adjust wages of those who have been employed for more than one year. The company uses minimum wages to calculate the basic salary for employees who work below one year.

For those who have worked for more than one year wages are increased annually. The increment is calculated based on the annual percentage increase in wages from their current wages. Wage components at Epson Batam include basic salary plus other allowances as regulated by the Labor Act in Indonesia. Following are the components on Epson Batam workers' wages receipts:

- Basic Salary : basic wage
- Allowance: fixed allowance, position allowance, marriage allowance (for those who are married), medical allowance, shift allowance, special skill allowance (only for security, nurse, and IT), overtime meal allowance, attendance bonus,
- Overtime pay
- The 13th month bonus every year
- Religious allowance (those who have been employed for more than one year will get one month's salary as allowance and those who have been employed for more than five years will get two months' salary.

- Deductions: tax, absence, Jamsostek premium, workers' cooperative fee, and union membership fee.

The company has a clinic in the factory that has two doctors and three nurses to provide health care and first aid to the workers. Health care provided in the factory is free, but not the medicines. However, medicines that are available in the clinic are of good quality and affordable.

What is interesting is that Epson Batam provides childbirth allowance of IDR 5,000,000 (US\$ 90) for normal delivery to female workers who are pregnant. The company will cover all expenses for those who are delivering by caesarean section, as long as the surgery is conducted in its partner hospitals.

Take-home salaries of both workers with fixed-term contract and non-fixed term contract with a tenure period of one to 13 years range from IDR 2,500,000 per month to IDR 6,000,000 per month (US \$45 to 107). It also depends on their positions in the company. Those who receive the highest wage are the supervisors.

An unmarried worker incurs approximately IDR 2,700,000 (US\$ 48) as monthly expenditure that includes electricity charges, rent or mortgage, meals, clothing, toiletries, transportation, and communication. The monthly expenditure of a married worker with two children per month is about IDR 4,500,000 (US\$ 80) including children's education and health care.

The majority of workers stated that their wages are not sufficient to meet their basic needs. Therefore, they sometimes have to borrow money from workers' cooperatives or find a second part-time job. Their needs would not be met if they only depend on their basic salary. Therefore, workers at Epson have to rely on overtime pay for their monthly expenditure.

4) Freedom of Association

The workers of Epson Batam have established a labor union in 2009 called PUK SPEE FSPMI PT. Epson Batam with 93% of the total workforce as members. It is obvious that Epson Batam grants freedom of association to its workers from the fact that the union is given the opportunity to give a presentation to new workers during initial orientation.

The company usually responds to workers' demands and has entered into collectively bargained agreement. There are hardly any protests or strikes since agreements have been reached through negotiations between the union and the company.

However the union also faces challenges in educating its members on various issues because workers have very little free time due to the high workload and overtime work.

Personal account of an Indian Field Researcher in Indonesia

The visit to Batam Island in Indonesia was my first international travel. I had mixed feelings of expectations and apprehensions when I landed at Singapore Airport and took a ferry to Batam Island.

On the first day I went to FSPMI Union for a meeting. I was told that the union was not affiliated to any political party. The atmosphere was very open and the workers leaders were interested in understanding the socio- economic condition of Indian mobile phone workers. FSPMI is affiliated to International Metalworkers' Federation (now IndustriAll) and they have unions in various sectors. Their main motto is to increase solidarity among women workers, something I have not seen yet in unions in Chennai. Women workers' participate actively in this union. The union's struggle has improved working conditions and also raised salaries.

The socio-economic condition of Indonesian workers is somewhat different from that of Indian workers. Living conditions of the workers in particular are much better than that of workers in India. The majority are migrant workers who are staying in dormitories which are very near to the companies, some even located inside the factory campus. The local workers from Batam use two-wheelers and do not rely on company transport. Each dormitory room accommodates three people in bunk beds. Mineral water is supplied free of charge and they also have gas cylinders for cooking. The room I visited was very clean with marble floor, and had attached toilet and bathroom with running water. Female and male workers stay in the same building on the same floor but in separate rooms. This would be quite impossible in Sriperumpudur!

Migrant workers visit their native places once in two years or once in four years because of high travel fares. Whereas, in Chennai migrant workers visit their native places sometimes once in a month even if it is far away.

The participation of Indonesian workers in Focus Group Discussions impressed me. They seemed to be well aware of their labour rights and of company policies. They voluntarily shared information about their working conditions. Indonesian Flextronics workers seemed more aware about labour rights than their colleagues in India. Unions in Batam are strong because workers are well aware of their rights. I witnessed a sit-in-strike

at the Industrial park with very few workers but the union leader explained that other workers are also on strike but inside the factory. My impression was that the workers struggle was not led by people outside but by the workers themselves and this could be a major factor for their success. Workers' basic salary and benefits are much higher than of workers in Sriperumpudur. The basic salary is 1.4 million IDR for the electronics sector which translates to INR 8300 (US\$ 150).

Nokia India Pvt Ltd. and Foxconn India Pvt Ltd.

The Nokia Tech Park is in Sriperumbudur located on the Chennai-Bangalore Highway and was established in 2006. It is now Nokia's largest facility worldwide. Nokia employs 11,300 workers in this SEZ producing at least 300,000 phones per day in a three shift system. The factory produces both for the domestic market as well as the export market.



Nokia Tech Park in Sriperumbudur

Apart from Nokia's factory the Nokia Tech Park houses several of its supplier factories such as Foxconn, Salcomp, Wintek and Perlos. The Nokia SEZ has its own power plant to supply electricity to the factories.

Foxconn is a major international Electronic Manufacturing Services (EMS) company, operating on a large scale across many locations worldwide⁴⁴.

The company is Taiwanese but most of its production takes place in China⁴⁵. Foxconn has two factories in Sriperumbudur, the main one in the Nokia SEZ employing about 5,000 people⁴⁶ and another one in the SIPCOT High-Tech SEZ just outside the Nokia SEZ. Foxconn produces mobile phone panels (plastic covers) for Nokia.

For the purpose of this research 13 workers from the Nokia Tech Park were interviewed six of them work for Foxconn and seven of them work for Nokia. Two of the workers have four years' experience, four workers have three years' experience and five have two years' of work experience. The remaining two workers are contract workers.

1) Recruitment

In both Nokia and Foxconn, workers are employed as trainees more than one year before they get confirmed as regular employees based on performance. The three stages they undergo are: training, probation and then permanent employment.

Out of the total 11,300 employees at Nokia 9000 are permanent and approximately 2000-2500 are contract workers. More than 50% of the workforce is female.

⁴⁴ <http://www.foxconn.com/WorldLayout.html>, access 01.03.12

⁴⁵ makeITfair report 'Phony Equality' (2011), page 17

⁴⁶ makeITfair report 'Phony Equality' (2011), page 17

According to the workers in Foxconn, 2500 workers are permanent and 4500 are on contract. The relationship between contract and permanent workers is amicable. Promotion is based on experience in Nokia while in Foxconn workers claim it is based on 'loyalty' to the company. Furthermore, in Foxconn a gender bias is evident – higher posts are held only by men.

Foxconn workers reported that they had not seen the service rules of the company before joining. They were given an appointment order only one month after joining the company. The workers who work for Foxconn since five to six years are all Industrial Training Institute graduates. Nevertheless, they had to undergo an 18 months' training and six months' probation period before they became permanent employees. There is no guarantee of getting permanent status even if they complete this process. The workers who are directly recruited by Foxconn are called Direct Labor (DL) and those who are not directly recruited by the company are called Indirect Labor (IDL). Indirect Labor are contract workers. Those with an IDL status can also be given permanent status through a confirmation letter however workers claim that they can be easily retrenched by the employer.

Workers in both factories are between 18-28 years of age. However, companies seem reluctant to hire new workers above 24 years of age. In Foxconn women workers usually quit their job when they get married presumably because of the low salaries and lack of facilities. In Nokia married women continue to work perhaps because they offer facilities for women workers with children.

2) Working Hours and benefits

Nokia works on seven days and Foxconn six days per week, in shifts of eight hours per day. Overtime work is not compulsory and is limited to a maximum of 24 hours per month. Facilities offered by Nokia apart from provident fund, Employees State Insurance, maternity leave and an annual bonus include: a clinic with an ambulance, company buses for transportation, a crèche, a rest room for women workers, marriage fund of INR 5000 (US\$ 90), education fund for higher education and annual sports and cultural programmes. Mothers can breast feed the children in the crèche. Women workers can take rest during menstruation. However, there is no menstruation leave for women workers as in Indonesia.

Compared to Nokia, Foxconn has fewer facilities. There is for example no rest room for female workers. Foxconn workers complain about harassment if they do not meet production targets and also the yearly bonus is not always paid to the workers.

3) Wages

In Foxconn the highest salary is INR 9400 (US\$ 170) for senior operators (above five years of experience) and the lowest is INR 4500 (US\$ 80).

Following are the components of Foxconn India operator's salary receipt dated December 2011:

Earnings	Deductions
Basic Salary: 3331	Provident Fund: 571
Dearness Allowance: 1427	Employees State Insurance: 113
House Rent allowance: 1694	Other Deductions: 130
Conveyance: 476	
Washing allowance: 238	
Shoes allowance: 238	
Waitage allowance: 990	
OP Special allowance: 300	
Gross Earnings: 8694	Gross Deductions: 821
Net Salary: 7873	

In Nokia the highest salary is INR 14500 (US\$ 260) for senior operators and the lowest is INR 6500 (US\$ 115). However, a trainee operator only earns INR 4.400 (US\$ 78) after deduction he or she receives around INR 3.900 (US\$ 70) in hand.

Following are the components on Nokia India operator salary receipt dated December 2011:

Earnings	Deductions
Basic and DA (Dearness Allowance): 2288	Provident Fund: 275
Conveyance: 503	Employees State Insurance: 87
HRA: 1430	Food Cost Deduction: 182
Supplementary Allowance: 1115	LWF: 7
Welfare Benefits: 1200	
Washing Allowance: 50	
Night Shift Allowance: 120	
Gross Earnings: 6706	Gross Deductions: 551
Net Salary: 6155	

All companies in and around the Nokia Tech Park are paying above the minimum wages (INR 141 x 26 days = INR 3666/US\$ 65) even if it is marginal to avoid labour law violations.

4) Freedom of Association

Nokia has formally recognized the Nokia Employees Union, an independent factory union with no affiliation to any federal union with links to political parties. This development was after two workers' strikes in 2009 and 2010. The Nokia Employees Union has approximately 4000 members. Foxconn has an official union affiliated to LPF, the labour wing of the earlier ruling party in Tamil Nadu, DMK. However, the majority of Foxconn workers have formed an alternative union affiliated to CITU, the labour wing of the communist party CPM. This union is till date not recognized by the management. The formation of a union in Foxconn was also the result of a strike organized by workers in 2010.

Conclusion

The formation of SEZs in developing countries such as Indonesia and India is intended to attract Foreign Direct Investment (FDI) and ensure trade liberalization through international trade agreements either under the WTO, ASEAN, or bilaterally.

It is often argued that SEZs will create new employment opportunities but the actual number of additional jobs created does not match the claims. More employment opportunities alone are not indicators of successful development. The quality of employment in terms of better working conditions and adequate compensation also counts. SEZs have in fact negative impacts on working and living conditions due to the high use of contract labor and the low wages paid to workers which are insufficient to meet their living expenses. Low labor cost, as is well known is one of the incentives for investment in developing countries which also contributes to reduction of production costs. The use of repressive measures against labor and restrictions on labor unions by companies with the complicity of respective state authorities is another negative aspect.

The field research shows that the implementation of labour laws in SEZs is weak with regard to freedom of association in India and payment of a living wage that covers workers needs in both countries.

- Many workers cannot cover their basic needs because their wages are low compared to inflation rates and prices of goods. Despite Value Added Tax (VAT) not being applicable for consumer goods in Batam, prices are not affordable for workers. Prices are high because basic goods such as food and clothing have to be shipped from Java Island. In India minimum wages are fixed at a very low rate and do not allow workers to have some discretionary savings. Indonesian workers have to rely on overtime work to make ends meet which also affects their social relations as well as their health. Economic growth and rising productivity would indeed improve the profitability of companies but at the same time they must not be allowed to evade their social obligations like paying fair wages. Wage increment and dearness allowance that are calculated every year need to be revised as frequently as necessary considering that inflation can occur more than once a year.
- The wage system in Indonesia is based on a calculation involving the price of 46 components of normal consumption necessary to meet decent living needs. This formula however does not really meet the actual living needs of the workers as basic needs have increased over the years. This system of wage calculation seems to work somewhat in the case of single unmarried workers but is wholly inadequate for workers with a family. The concept of decent living needs should act not only as a safety net for workers but must also ensure welfare of the workers and their families. Workers in India have confirmed that their wages are too low to start a family and hardly cover their own expenses.

- Regulations on fixed-term work agreement and outsourcing are being violated by companies who contrary to the rules recruit outsourced workers to work in their core business activities. Moreover, labour rights of outsourced workers are not respected by the labor supplier agency. This is due to weak or absence of government monitoring of labour suppliers in both countries.
- Hiring temporary and outsourced workers is legalized by law on Special Economic Zones in Indonesia and the Contract Labour Regulation and Abolition Act in India. The availability of low cost labor with fixed-term contracts is what attracts investors to shift their production to India and Indonesia. However, it has negative impacts on the life of workers in terms of job security, wage rates and the freedom to organize themselves. The high rate of unemployment in Indonesia also leaves jobseekers with low bargaining power. Their lack of skills due to low level of education further reduces their bargaining capacity.
- In India the mandate to implement labour rights in SEZs has been shifted from the labour commissioner to the SEZ development commissioner which is somewhat paradoxical because the same institution that is responsible for the promotion of SEZs and attracting investment, when given the responsibility of labour regulations also, is unlikely to have the implementation of labour rights as the priority. This leaves workers in an even more vulnerable position.
- The unwillingness of the governments to intervene in industrial relations can cause instability in the investment climate. Freedom of association has little meaning if the government in its role as regulator of industrial relations does not intervene effectively. The welfare of workers is not the sole responsibility of labor unions but also of the government. Therefore, the governments should effectively monitor the implementation of labor laws and take necessary action against non-compliance.

To conclude, the research makes the following recommendations to improve the SEZ workers' living and working conditions. Governments as well as companies and national labor rights movements play an important role in achieving these changes.

1. International and National Campaigns to create awareness on the negative impacts of Labor Market Flexibility and low wages in SEZs.
2. Campaign to advocate for a pan-Asia living wage for the electronics sector. There is an urgent need to define a living wage for the electronics sector that is applicable to production countries and which ensures that workers can cover their and their family's basic needs along with some room for savings. The standard components to calculate a decent living wage need to be revised and adapted to current lifestyles including the following:
 - The number of wage components
 - Quality of goods
 - Quantity of goods
 - Household of four members
 - Adjust wages to the rate of inflation.

3. Lobby governments to review labor laws in SEZs and ensure their implementation in practice. Labor law violations have to be dealt with more strictly in both countries to ensure compliance by companies. The right to freedom of association has to be respected by companies and protected by governments to guarantee workers' basic rights and their welfare.
 4. Set-up independent monitoring agency to regulate the activities of labor supplying agencies.
 5. Build a strong national labor movement that can respond to labor rights violations, especially in SEZs.
 6. Provide education to all workers on labor rights and the impact of FTA and SEZ policies.
 7. Build solidarity among trade unions and organize mass actions and also build their capacity to address workers' grievances.
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