

# **Trade Union Rights and Decent Work in the Indian Supply Chains for Textiles and Footwear, With Specific Reference to KESKO**

## **Executive summary**

This study examines the garment and footwear sector with specific reference to the trade union and workers rights in three select companies, two garment exporters and a footwear exporter. The study combines desk work and interviews with workers in these companies.

The study finds that garment and footwear supply chains, like those in other industries, are typified by a tendency to transfer risk from more powerful actors – such as retail giants or branded manufacturing companies – to weaker actors. The end result of this, where unions and labour organising are weak, is that these risks are transferred on to the workers at each step of the chain. In the case of both of these industries, demand has a tendency to undergo wide fluctuations – due to seasonal, fashion and other changes, some of which are driven by the retail industry itself (fashion being an example of this). Rather than take on these risks, retailers and brand companies pass them down the chain by demanding that their suppliers “adapt” to continuously changing requirements, including sudden large orders followed by long periods of small or piecemeal orders. These suppliers in turn pass these risks to workers by casualising and contractualizing work and pushing workers into ever greater insecurity.

The study also examined the extent to which the regulatory regime would curb such tendencies and protect workers’ rights. The study finds that, while on paper many such rights enjoy protection under Indian labour law, structural and institutional features of the Indian labour law regime severely undermine these protections in practice.

In the factories that we surveyed for this study, the net result of all of these problems emerges in its worst possible form. Overall, these factories were characterised by the following issues (discussed in more detail in the findings section):

- **Freedom of Association:** There are no active unions in any of these factories. It is clear from the workers’ responses that any effort to form a trade union would lead to immediate termination of employment. This is in direct violation of India’s Industrial Disputes Act as well as international law on the right to freedom of association. Indeed, it is a criminal offence under the former.
- **Overtime:** The mandatory payment of twice the normal rate for overtime work – required by law in India – is not being followed in any of these factories. In xx\* there was never any increase – indeed in some senses there was a decrease, since workers working double shifts were often paid for only 1.5 shifts – and in xx there was an occasional increase of around 10% at the discretion of the owner.
- **Leave:** None of these workers received any paid leave. This is in violation of basic labour standards as well as Indian law.
- **Health and Safety:** The mandatory provisions of the Contract Labour (Regulation and Abolition) Act, the Inter State Migrant Workers Act and the Factories Act are all being rampantly violated in these factories. Beyond a first aid kit, drinking water and toilets, no other basic facilities are being provided. Nor did the factory owners bear any of the costs for the occupational health problems resulting from work in the factory.

- **Compensation:** It is clear that in all these cases, the wages being paid are well below those required to constitute a living wage in the area (even if they may have been above the statutory minimum wage). Further, a significant proportion of the workers are being paid on a piece rate basis, meaning that their income is entirely subject to whether the factory has an order or not.
- **Insecurity of Employment:** In violation of the Contract Labour (Regulation and Abolition) Act, no written contracts were maintained, no muster roll of payments was maintained, and what are known as “core” tasks were being carried out entirely by contract labour. Indeed, the workers were not aware of any written records at all. This opened them up to immediate termination at any time and denied them the benefits of severance pay and notice that they are entitled to under the Industrial Disputes Act. Piece rate based production also means that the workers can be “laid off” and “rehired” almost on a daily basis, as they can only earn whatever they can within the work that is available.
- **Denial of Benefits:** As noted above in each case study, none of the workers are registered with the Employees State Insurance Corporation or the Employees Provident Fund Organisation, despite such registration being mandatory in law. This means they have no health coverage, no access to the specific health facilities that they are entitled to, and no protection for their savings or pensions.

The study concludes that the only way to address such a situation is through a concerted effort to provide workers with the freedom, space and possibility of organising. It outlines some measures that can be taken in this regard.

## **Concluding Remarks**

It is clear from the above that violations of minimum labour standards, both international and domestic, are rampant in the factories under study – and most likely in the industry as a whole (as the workers in xx repeatedly stated, “every factory does these things”).

Such a daunting list of violations leaves one with a sense of not knowing where to begin. However, it was clear from circumstances on the ground that most of these violations flow from the first one – the denial of workers' freedom of association and the lack of active unions. In the absence of such organising, it is impossible for workers' legal rights to be secured. The corruption, understaffing and apathy of the Labour Department means that it only acts in very rare cases unless it is subjected to pressure from a union or other organisation.

### **Steps by KESKO**

#### ***KESKO India can consider taking the following steps:***

- Mandating that all workers in its factories must be registered with the EPFO and the ESIC and that copies of registration cards, along with receipts from the EPFO / ESIC for the mandatory payments, are submitted to it by its suppliers.
- Printing its own publicity material on labour rights and union rights and ensuring that they are posted in its suppliers' factories.
- Specifically asking for regular meetings with union representatives from its suppliers factories.

Informing the local labour department that it expects inspectors to verify compliance with the law in its suppliers' factories and failure to do so will result in KESKO withdrawing its business from the area.

- Initiating a surprise audit of the factory by an external audit team that will interview every worker present in the factory at the time of the audit. It is vital that this audit be completely a surprise to the management and with no prior warning.
- Incentivising suppliers to comply with these measures by perhaps an additional payment or other measures. It should be noted that incentives are preferable to punitive measures as a first step, since any punitive measure will be inevitably transferred to the workers rather than borne by the management.

### **Steps by SASK**

As a trade union organisation, SASK needs to ideally look at the bigger picture and not see the issue as merely one of compliance with existing laws and standards. In particular, SASK can consider:

- Joining hands with other existing movements and organisations that are demanding "umbrella laws" that protect basic workers' rights regardless of sector, number of workers or type of establishment.
- Raising demands for such protections to permit the workers themselves to file a criminal case against employers who are in violation of the law, and officials who connive with them.
- Industrial areas, adopting an area-wise (rather than factory-wise) approach to organising that consists of building an organisation among contract workers in their places of residence and taking up demands for the labour department to enforce the law and legal rights. Targeting individual owners can be part of such a strategy but it must be recognised that in a situation of rapidly shifting workforces and constant insecurity of both production and contract, it cannot be the sole strategy. It should also be recognised that these are not problems in particular factories but ones that affect the entire sector.

These measures may be a first step towards addressing the egregious violations of workers' rights that are currently taking place in these areas. It should also be noted that a progressive improvement in the situation is the most that can be hoped for.

*\*xx names of the factories are left out for privacy reasons*