

SRI LANKA

CEDAW REPORT UNDER ARTICLE 11 ON
EMPLOYMENT SUBMITTED TO OHCHR

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TITLE: WOMEN WORKERS IN GLOBAL SUPPLY CHAINS DENIED/HAMPERED IN FORMING TRADE UNIONS TO PROTECT THEIR RIGHTS TO A DECENT LIVLIHOOD

This report is submitted under Article 11 of CEDAW on Employment by a coalition of the following NGOs and Trade Unions

- 1. Da Bindu Collective**
- 2. Ceylon Red Flag Union**
- 3. Women's Centre**

Introduction

The Garment Industry in Sri Lanka is a significant industry in the country. This industry contributes to 7% of the GDP and contributes to 39.9% of the exports from Sri Lanka. The value of garment exports is US \$ 4.1 billion. (Clean Clothes Campaign, Report: Living Wage in Asia, 2014) There are about 325 garment factories in Sri Lanka employing 283,000 workers, the majority of whom are women.

The industry is mainly located in the Export Processing Zones of Sri Lanka and those outside the zones enjoy the status of Export Processing Zones by a law that allows for this. The garment Industry in Sri Lanka is owned by local entrepreneurs but it is dependent on the big retail brands which place orders and buy from the factories. Thus is part of an international global supply chain and wages and conditions for the production workers revolves around what the suppliers claim is the price for the products from the Brands and which according to them is low.

Most of the workers receive minimum wages and depend on overtime work to make ends meet. When the work becomes too difficult as they grow older and struggle to meet their production targets the women workers leave the jobs and return to their villages. Thus the workers ability to influence their conditions is very weak as most of them are not organized into trade unions. Therefore a vicious cycle exists – poor conditions lead to lack of unionization which leads to poor conditions.

Sri Lanka Laws regarding Unionisation

Sri Lanka's Labour Law are based on all eight ILO Core Conventions which are ratified by Sri Lanka. In addition to legislation on labor relations, Article 14 of Sri Lanka's constitution guarantees the freedom of association and the right to formation of trade unions.

In this report we bring 3 examples of how the lack of the right to Freedom of Association in practice has resulted in poor working conditions for the women workers.

Case One reported by Da Bindu Collective

'Dabindu Collective', is an all women non-profit organization that targets Free Trade Zone women workers in Katunayake as its beneficiary community. Dabindu Vision is to build a society in which the rights and the dignity of women workers are recognized and safeguarded. Dabindu Mission is to organize and empower women workers to create an environment, which will help them, win and safeguard their rights, acquire the respect of society and facilitate their participation in development processes.

The Dabindu Collective (DBC) was formed in 1984. Initially, its main objective was to launch a newsletter dealing with the problems and concerns of workers, particularly women factory workers in the Katunayake Free Trade Zone (FTZ) area. The Dabindu Collective which was first registered as a newspaper in 1985 was later registered under the Companies Act (No. 17 of 1982) in 1999. The Registration No. of the Company is N (A) 105.

Although it is the 38th year FTZs, a strong trade union movement is still not possible as the foreign investors threaten to move out. The demands for a living wage better living and working conditions and the fundamental human right for freedom of association still have not been achieved.

Factory Background

Issue

On 5th September 2014, approx. 350 workers of Next Manufacturing (P) Limited, FTZ, Katunayake, were rushed to Negombo Hospital, a public hospital, with the complaint of vomiting and fainting. The workers claim that this was due to the mid-day meal (Rice, curry and fish) provided by NEXT that they consumed on 4th September 2016. 100 workers were given in house treatment. Others were released after being treated in the outpatient dept. Two of them were treated in the **intensive care unit (ICU)** and one worker died on 7/09/2014. K.Gnanawathi (47) is the worker who died and she had worked for 5 years in Next Manufacturing Pvt Ltd.

There is no trade union in the factory but a group of workers who want to form a trade union undertook action on this case.

The actions are as follows:

01. A Police Entry was made at the FTZ Katunayake Police Station on 07th September 2014
02. Accompanied a lawyer from Colombo who visited the funeral home a complaint was made to the Police Station at Angunakolapelassa, the area of the deceased. This entry at the Police Station was done by the son of the deceased worker.
03. Dabindu met the Officer In-Charge (OIC) - Police Station of FTZ Katunayake and we were informed that a B-Report was sent to the Negombo Courts on the 15th Sept. 2014.
04. on 18th September. 2014, a consultation with senior lawyers was held in Colombo.

We have conducted 4 similar discussions with our workers successfully. But “NEXT” company has sent their spies to observe what we are discussing since they pay much attention to all our movements and observe us closely. They have taken photographs of the participants of the programme and taken a video voice-cut given by the facilitators Chamila Thgushari and Sugath Rajapakshe to BBC and threatened the workers. And also the workers have been individually invited to the Human Resource Management of “NEXT” company and have been threatened that they will be sacked. Since the front-line activists have been threatened the foundation of the Union has been paused for a while. And also the membership has decreased in number. In this way “NEXT” company has strategically destroyed the idea of founding a new Union.

Even then we have done the needed things related to founding a Union despite the barriers.

- We have published this incident in both mass and print Media.
- We have informed about the food poisoning to CCC, Labour behind the Label, Next UK.
- Standing for the Compensation Case of late Jnanawathi to get justice over her death.

But we were unable to found a Labour Union in “NEXT” Company since they have intimidated the members who are interested to found a Union for themselves. Hence, the following labour rights violations continue.

- Daily 12 hours work. When there are more orders, 14-16 hours work is imposed.
- In the past the women workers have been undergoing sexual harassment. (as reported in Dabindu newsletter, standing against the sexual harassment in the month of November, 2016)

- Standing while working without any facility for sitting down.
- Salary inequality among the old and new workers.
- Because of the above mentioned reasons workers leave the company and this has resulted in increase in the number of untrained workers.
- Breaking the code of ethics of the company's fabric production. (more than 60 hours overtime work per

Case 2 reported by Ceylon Red Flag Union

The Ceylon Workers Red Flag Union (Reg.No :171) has been working for the past 50 years to prevent labour rights violations , to strengthen the workers in their fight to win their labour rights and facilitate the workers to develop their leadership qualities to lead the union. The union works with Tea and Rubber plantation workers as well as with Garment workers.

Factory Background: Smart Shirt (pvt).Ltd Hunnasgiriya

Brand: Polo

This factory has been in operation from 1993, and this company has branches all over Sri Lanka, especially there are three branches in Kandy alone. The number of workers working in this factory can be estimated as 1600 around 460 are male while 1140 are women workers. The products of this company are sent to U.S.A.

Problems:

A trade union discussion was held on 07th April 2013 by the garment workers from this factory. Four enthusiastic organizers of Red Flag Union (working in the garment sector) organized the meeting in which 56 workers participated. As a result, on the 13th of July 2013, two of the organizers were punished by the factory management for getting involved in such Union activities. This was followed by the punishments faced by the rest of the organizers.

The particular meeting mentioned above, started at 10.30 am in the morning at Ududhumbara on 07.04.2013 .At about 11.55 a.m, police officers arrived, claiming that they need to check the place of meeting, since they had received information from the factory manager that this meeting is held to promote people to join the Liberation Tigers Of Tamil Ealam (LTTE). Finally the organizers managed to send off the police officers by explaining that it was merely a Union meeting.

15 minutes later, once the police officers had left, the principal of the school where the meeting was held, appeared at the scene saying that the factory management had informed him that a meeting is being held to recruit people for the LTTE. He urged the people to stop the meeting and leave the place immediately as he will need to face problems with the police and he feared that it would affect his career. Therefore the organizers had to adjourn the meeting early that day.

When the workers returned to work on the following day on 08.04.2013, the rest of the workers in the factory informed them that the Human Resource Manager (HRM) had set a hidden camera to video the meeting held the previous day, and that all the workers who attended the meeting had been identified. Furthermore they also were informed that the Factory Production Manager had arrived from Katunayake to investigate this issue.

Next, the production manager called 28 of the workers who attended the meeting, for individual investigation. They were questioned about in and out of the meeting. Then the workers were forced to sign a letter with the statement "We did not attend the meeting willingly, the organizers forced us to participate in the meeting therefore we participated without proper information. We promise that we will never participate in such meetings in the future and we will never support any trade union activities as such." Subsequently, Mr. Sathya Seelan, the main organizer out of the 4 organizers, was sent for by the HRM for individual investigation. He was called to the office at around 4.30 p.m. Once he entered the room , the officers took off his phone and made him

sit for more than 3 hours alone and refused to allow him to leave the room. Neither the HRM nor any other officers came to investigate. They made him suffer without allowing him to move or communicate with anyone. Even at around 7.00p.m he wasn't released to go home, when all the other workers left after work.

After making him wait for so long, finally at 7.30 p.m he was called to the conference room where the head officer, production manager, HRM and other offices were seated around in the investigation table. They questioned him on how many such meetings were held previously, and what type of issues were discussed, what did the workers complain to the union, and what did the union promise the workers. After investigating these topics, they warned Seelan to stop such trade union activities. He was persuaded to leave the connection with the Union and not to hold such meetings or gather people for the Union, because if he continued to do so, they will have to close the factory and as a result all the other workers would lose their jobs too, because of his wrongdoings.

Meanwhile the 3 remaining organizers contacted the Union Office and informed them that Seelan was called in at 4.30p.m but was not released till then. The Union contacted the Labour Minister to complain about this issue. The labour minister informed the Ududhumbara Area Sub Inspector (SI) to look into the matter. When the SI appeared at the scene, the factory management spoke to him, and thereafter even the SI who went to rescue the victim, told him not to involve in trade union activities in future. After sometime, due to the pressure given by the Union office and the Labour minister, the SI requested the Managers to stop inquiry for the day and send him off. Finally they released Seelan at 8.30 p.m.

On 9th of April, when Seelan went to work in the morning, he was called by the HRM to his office room. Once Seelan entered the room, the HRM took off his phone by force and commanded the security officer to sit opposite to him. The security officer was told to keep a watch on whatever Seelan did. Even if he wanted to use the wash room or have a sip of water, the security officer followed him throughout the day. Seelan spent the whole day seated at one place under observation.

Meanwhile the HRM walked all over the factory, stopping at every section to inform that the "Trade Union is an agent who gathers people for LTTE, they are trying to trick you. Please don't fall into that trap, if you do, you will be arrested by the police and at the same time we will need to close the factory which would result in loss of job".

At the same time, the union tried contacting the organizer Seelan. Upon not receiving any reply, the Union made a complaint at the Police Station. Therefore at around 12.30 p.m the Officer In-Charge (OIC) visited the factory for investigation. From 12.30 p.m to 3.00 p.m the Factory Management spoke with the OIC and convinced him about the matter. In turn the OIC called Seelan at 3.00p.m and induced him to leave the Trade Union activities. He tried to convince the organizer by highlighting the security of the family and intimidating him by telling him about impending personal loss and comforts of life that he and his family would experience if he continued to organise a trade union. From 3-5 p.m the OIC together with the managers discussed with Seelan. Once the OIC left, the HRM asked the organizer Seelan to write a statement saying that "I joined the Union without any proper knowledge and convinced others too, to do so. I promise that I will never get involved in such trade union activities in future or support them by any means."

The organizer claimed that he cannot write a letter in Sinhala as he was a Tamil. Therefore he was allowed to write it in Tamil. He wrote and signed a letter saying that he would stop all trade union activities temporarily. But when the managers read it they compelled him to change it and replace it by saying that he will never involve in Trade Union activities in future. They changed that statement by force and got it signed by Seelan.

Next he was urged to give a statement on behalf of all the workers who attended the previous meeting saying that "I joined the Union without proper knowledge and I am sorry for misleading you as well. I realize that we do not need any trade unions for our factory". After the statement, the workers returned to work.

Even after that, Seelan was watched by specially appointed workers. They spied on his activities and reported to the management. He was transferred several times, to section after section as a punishment.

In the meantime the 3 remaining organizers too suffered much stress. Two of them, one male and the other a female, were pressured to give up the job voluntarily. They were tortured psychologically by their sectional heads, during work time and been treated with lack of respect. Finally the 2 workers gave up their jobs because of unbearable mental stress.

The remaining organizer named Yogendra Kumar also faced many problems. The managers were furious upon getting to know that each time the factory management called Seelan for investigations, it was Kumar who has informed the Union. Therefore they made a false complaint at the Police Station saying that he used his phone illegally within the office premises. They took hold of his phone too and caused him trouble and harassed him in many other ways.

But Kumar obtained his phone back, by making a complaint at the Police Station. Later upon receiving this information, the Union filed a case under Unfair Labour Practices Act.

On 12.07.2013 the discussion on this case was brought to the Labour Department. After attending it, on their return the Management of the factory called Seelan and expelled him from work.

Next they contacted Kumar too to inform that he had been expelled from work since he made a complaint at the Labour Department and due to many other issues he was told to collect his compensation for service.

Actions Taken:

- A case was filled at the Labour department under Unfair Labour Practices
- A case was filed at the Labor Tribunal for illegal expulsion from work.

Challenges:

- The case at the Labour Tribunal has been dragging on for the past 3 years. The workers are fed up and discouraged due to this and are unable to work in peace.
- The workers are afraid and discouraged due to the torture faced by the 4 organizers. They avoid joining any union fearing that they might face the same situation and that their lives and families would get into trouble.
- The slow procedure of the Labour Department and Labour Tribunal has failed to solve the problems of the workers. They are tired, waiting for a solution and therefore they have lost hope and trust in the department as well as the Unions.

Problems faced by the workers in the absence of Trade Unions:

- Increase of Labour Rights violations.
Eg : workers are not provided with sufficient leave .They are forced to work even on public holidays, poya days and Sundays.
- Physical & mental stress due to unreasonably high production targets.
- Exceeding 8 hours of work without extra payment.
- Workers being forced to work night shift.
- No interest showed in health & safety issues.
Eg : Unclean toilets, no face mask, no hygienic place to consume food etc.

Case 3 reported by The Women's Centre

The Women's Centre - Sri Lanka was established when supporting the workers during the Polytex garment struggle in 1982. The women's group called "women's Liberation Movement" which worked by providing guidance and encouragement to the Polytex strike that began on 13th December 1982. Some of the women activists understood that there was a need for a women's organization especially to protect and encourage women workers rights and leadership and they established the Women's Centre.

At the beginning of Women's Centre had been concerned about defending the rights of women workers and women workers leadership especially in the Free trade zones but afterwards it expanded its service to North and East women workers, migrant women workers and plantation women workers. After the end of the Sri Lanka civil war in 2009 women's centre played an important role in ethnic integration and improve social and economic development in North and East Sri Lanka.

Presently Women's Centre has its branch in the Free trade zones of Katunayake, Biyagama, Koggala and Wathupitiwala. Also working in Mullaithivu, kilinochchi, Mannar, Vavuniya and Madulkele Estate.

Background of the case

One of the Factories in FTZ Katunayake, named ATG Ceylon is presently violating workers' rights by the following activities, such as condemning formation of Trade Unions, terminating active union members and prohibiting workers to join the union and campaigning against Free Trade Zone & General Services Union. We are writing this report to support this union.

'ATG Ceylon private limited' is a company, situated in step 2, Export Promoting Zone – Katunayaka. They have nearly 2400 workers, and 42% of them are female. Under the ATG label they export their productions to the following countries - USA, Sweden, Norway and Japan.

Furthermore they have one more factory in Katunayaka, named as 'ATG Occupational' and one in Wathupitiwala – FTZ and also another plant in Koggala (Down South) FTZ. They have one share holder in Sri Lanka and 2 share holders in UK.

ATG Ceylon in Katunayaka FTZ was established 23 years ago and the FTZ & GS Union was actively engaged since 2013 with workers' issues. ATG Company management insisted to the workers, to resign from the Union, or else they will not be paid the allowances or privileges given by the company. Furthermore, the management organised some gangsters to assault the workers brutally, on their way to work.

The worker's club organised by the company, (MahithaSoorayo) started providing different kinds of incentives and privileges for the members of that club, such as day to day needs at a low rate, providing school books to workers' children and organising trips and picnics. The management refused to give OT (Over-time) to Union members and in August 2016 they totally stopped giving OT on Sundays to union members to discourage the workers for being in the union

Due to this reason a huge number of members resigned from the Union some of them have been terminated. The union has filed cases for 10 workers who lost their jobs and 2 women workers are there among them. One woman worker got terminated, due to sexual harassment faced by her. She was on her way to work and a Company supporter verbally harassed her and asked her to have sex with him. Then she has slapped the man and has made a complaint to the manager. The manager has talked to both of them and tried to solve the problem, but the personal manager has questioned the female worker that why she slapped the man? And he has asked the female worker to give in black & white why she slapped the man? But the female worker has made a complaint to the police instead of writing a letter.

A female worker who is working in the Knitting Section started a kind of loan system which collects money and giving the whole amount to the person who wins the lottery. Accordingly everyone who joined this system will get their share when they win the lottery. But the management has announced that this is an illegal activity and this type of collecting money is against the rules and regulations of the institution and the worker who has started this lottery has been terminated. But this was not done inside the factory premises and this was done to revenge the female worker because she is a strong member of the Union. A case was filed by the Union in favour of the female worker.

Women's Centre has given their maximum support to the FTZ & GS union in all these progressive activities related to Union Busting. In past years, cases where trade union busting had clearly occurred were reported and still the struggle is continuing.

Furthermore, WC has done several awareness raising programmes for female workers on their right to Freedom of association and collective bargaining which are rights according to ILO Conventions and Sri Lanka laws... Complaints have been added to the following:

- a) To the Prime Minister
- b) Commissioner of Labour
- c) Minister of Labour Affairs

From the chemicals they use in the factory to produce gloves, workers are facing to several occupational hazards and experiencing health disorders as well. Reproductive health problems and cancer have become the most visible problems. Though we have complained to the respective ministries and authorities they have not have taken sufficient measures to find solutions up to now. And the management is telling that these things are production secrets and unable to find solutions. For the campaign organised by the FTZ & GS Union, Women's Centre also participated and gave the fullest support.

Furthermore, we are in a process of the struggle for women workers' rights and contributing our fullest support to raise this problem as a national issue and trying our best to get the international support and the support of the opinion makers and intellectuals.

Recommendation to Sri Lankan Government

1. Assure us that the Sri Lankan law on freedom of association will be upheld in the garment factories through taking measures against Employers in the Free Trade Zones when they deny their workers the right to form trade unions.
2. When inviting foreign Investment state that the Freedom of Association will be upheld for the workers employed in these factories. The Board of Investment should not hamper this right by forming substitutes to trade unions like factory committees which are easily controlled by the Employers.
3. Women workers to decent work especially in the global supply chain factories must be upheld by removing all contract labour, and that all the rights in law be awarded to the workers as a matter of simple procedure instead of lengthy legal cases.
4. The Labour Tribunal and Labour Department cases should be resolved in a fixed time period such as (within 2 or 3 months time.)
5. Employers be stopped from penalizing workers who win cases in court and get back to their former working positions by stiff warnings and further punishment. Such penalization is often through forced transfers, forced resignation, etc.