

Case Study 1 – Garment Factory Workers in Kedah (Viet Nam/Malaysia)

Ms N contacted her family in Viet Nam from her work place in Malaysia, a garment factory in Kedah, claiming that she was not receiving all of her wages, was working without overtime payment, and was being forced to work on her day off. The family contacted the ILO Viet Nam and the case was referred to the Malaysian Trades Union Council (MTUC). The MTUC committed to assisting in this case and went to investigate Ms N's claims.

As the address of the factory was no longer correct, MTUC had to search for and locate the workplace but were not able to access the workers. The MTUC representative decided to follow the bus that took the workers to their hostel and again was not allowed access to the workers. Eventually, the MTUC hired a translator and gained access by claiming to be a personal visitor of the workers. Ms N was initially wary of the MTUC coordinator until it was explained that the coordinator was there as a direct result of the complaint by her family in Viet Nam. After that, she was keen to cooperate, and claimed that she was being paid wages lower than promised and did not have access to her personal documents as they were kept by the factory management.

The MTUC coordinator went to the Department of Labour to make a general complaint about conditions at the factory and arranged a visit between the Department of Labour and factory management. Ms N's identity was kept secret from the authorities but the details of her claim (no overtime paid, forced work on rest days, long working hours, lower pay than promised, and restriction of movement) were outlined. The Human Resource Manager claimed that none of these abuses were taking place but the Labour Department stated that further investigation would be undertaken by the MTUC. The Human Resource Manager then produced the employment contract (broadly supportive of the claims of the workers) and proceeded to explain the deductions that were made to the accounts of the workers. The Labour Department asked the Human Resource Manager to follow-up on the claim and departed.

Shortly after the meeting, the Human Resource Manager contacted the Labour Department indicating that they would rectify the errors that had been made and agreed to pay compensation to the workers. The Human Resources Manager produced documents for the Labour Department showing that the deductions had been reversed, overtime was paid for the last year, working hours were fixed, rest periods were established, and overtime was voluntary. These payments and improved conditions seem to have benefitted not only Ms N but also the 74 other workers at the factory of Vietnamese, Cambodian, Indonesian, and Nepalese origin.

After this settlement, the hostel moved, so the current conditions for the workers have not been verified. Challenges encountered in this case included language barriers and translation costs, access and building trust with workers, and understanding the specifics of the claim (given that workers did not have access to their contracts). The unsettled nature of the workplaces hosting migrants also meant that time was required simply to find the factory and investigate the case. Ms N has now returned home to Viet Nam.

Case Study 2 - Compensation and Reinstatement for Garment Factory Workers (Myanmar/Malaysia)

After being contacted by members of the Myanmar migrant worker community in Kuala Lumpur, MTUC provided assistance to two migrant worker women who had been unfairly dismissed and their wages subject to unlawful deductions. Following various wage changes in Malaysia around the implementation of the minimum wage at the beginning of 2013, the Myanmar women were told to no longer attend work. Despite being provided with valid work permits (after some delays post-arrival), the workers were never provided with a contract of their employment. Neither of the women spoke any Bahasa or English, making them especially vulnerable to exploitation.

Negotiations began with the employers as part of an industrial relations process to recover the deductions made to the salaries of the workers. Evidence of deductions were clear from the payslips and indicated that workers were paying back unlawful debts, including for air ticket costs, the levy and agency fees. The levy was (at the time) legislatively the responsibility of the employer, not the employee. As per documents provided by the company, the total debt held by each worker was around 850USD, a figure that would take four months of full time work to repay. MTUC demanded the repayment of the unlawful deductions, the difference between the wages paid and the minimum wage and reinstatement in the position, in accordance with the migrant workers wishes.

With MTUC support, a case was filed in the labour court in Bangi for unfair dismissal, with the MTUC representative claiming that though targets were not being met by the workers, the short length of time they had been working indicated a probationary period during which time targets should not be expected.

After several mediation hearings at which the workers were represented by MTUC and intervention from Adidas, a sportswear company purchasing from the factory involved in this dispute, the workers were repaid and reinstated. The Labour Court claim was dropped in acknowledgement of the settlement and the workers identification documents returned to them when they returned to work. Systemic issues of the factory sending employees unable to negotiate outcomes to mediation hearings was encountered during the resolution of this case.