



20 YEARS OF

Business & Human Rights
Resource Centre

Just for show

WORKER REPRESENTATION IN ASIA'S
GARMENT SECTOR & THE ROLE OF
FASHION BRANDS & EMPLOYERS

JUNE 2024

Contents

Executive summary	3
Key findings	4
Key recommendations to brands and investors	5
Freedom of association: Context, brand policy and national law	6
Why do trade unions matter?	6
Non-union worker engagement mechanisms	7
A gap between brand policy and practice	8
Alternative worker representative structures in the South and Southeast Asian garment sector	10
<i>“A shell to represent management’s interests”:</i> Why employers favour alternative representative structures	11
<i>“The yellow unions are given more benefits”:</i> How employers use alternative structures to undermine independent trade unions	16
<i>“Brands everywhere are silent”:</i> The role of international buyers	22
Conclusion and recommendations	29
Recommendations	29
Annex 1: Full methodology	32
Annex 2: Worker representative landscape	33

Executive summary

The fashion industry is in flux. As it grapples with supply chain disruption, climate breakdown, geopolitical trade shifts and the aftermath of the pandemic, it must also prepare to comply with rapidly changing landscapes of human rights and environmental regulation and incentives in its major markets. This ranges from human rights and environmental due diligence legislation to new import bans on goods produced with forced labour, climate legislation, and clothes waste directives. This report highlights that the fast fashion industry will only be successful in transforming if its redesign includes the genuine voice of the supply chain workers on which it relies. Freedom of association is at the core of meaningful worker representation, genuine dialogue and fair negotiation – and a fashion industry that can adapt successfully and contribute to shared prosperity through decent work and a living wage. And importantly, as the industry prepares for the implementation of the EU's Corporate Sustainability Due Diligence Directive (CSDDD), this report outlines how brands must centre the requirement of [meaningful engagement with stakeholders](#), while also ensuring they are supporting, and in dialogue with, genuine representative structures along supply chains.

Ensuring meaningful stakeholder engagement

Throughout this report, the Business & Human Rights Resource Centre (the Resource Centre) outlines a concerning landscape for worker representation across six major garment-producing countries in South and Southeast Asia: Bangladesh, Cambodia, India, Indonesia, Pakistan and Sri Lanka. It asks what constitutes genuine dialogue and negotiation that secures real benefits for workers, and outlines the dangers of an “engagement-lite” approach, embodied by the utilisation of alternative representation structures to tick the freedom of association box, over support for trade unions and their right to collectively bargain.

It highlights how a status quo of pervasive union busting to undermine the role and effectiveness of trade unions, alongside the promotion of alternative structures unable to improve terms and conditions, allows for the perpetuation of a business model that relies on tight margins for suppliers and low worker wages along the fashion supply chain. Through a series of case studies and worker interviews, this report outlines both supplier and brand complicity with this outdated and abusive model. It sounds the alarm about the consequences of this approach both for the millions of (primarily women) workers labouring along supply chains, but also for fashion brands, which must increasingly meet new legislative and climate demands.

A more responsible and successful approach is possible: **brands have a critical role to play in ensuring their policy commitments on freedom of association are actually put into practice, through safeguarding the rights of supply chain workers to organise and speak freely.** Evidence throughout this report shows that when international fashion brands use their leverage to assert the right of trade unions to organise within supplying factories, it works. The case studies the Resource Centre analyses show how brand intervention can promote social dialogue between suppliers and trade unions to design successful and just supply chain transformations, stem the tide of union busting and in turn provide the space so desperately needed by trade unions to build their membership and gain collective bargaining status. However, it should not take years of campaigning by workers and their allies to persuade brands to intervene and support genuine freedom of association in garment factories: international buyers must, by default, proactively support the role of independent trade unions and end the promotion of weak and bogus alternative models for representation. This has never been more urgent, given the need for constructive worker engagement and enhanced negotiation norms across the fashion industry to guarantee workers' rights, human rights and environmental due diligence, and a just transition to net-zero supply chains.

Key findings

- ➔ **Weak and bogus representative structures are widespread in the South and Southeast Asian garment sector.** They mostly take the form of worker committees and/or “yellow” (non-independent) unions. Usually these are cosmetic, or co-opted by management to work in their interests, rather than for the benefit of workers. Often, they are set up by management in direct response to – and to stop – workers’ efforts to organise..
- ➔ **Alternative structures are privileged, while independent trade unions are punished.** Employers ensure the dominance of alternative structures over independent trade unions by incentivising workers to join committees and yellow unions, and refusing to allow or negotiate with independent trade unions through pervasive union busting. This report highlights how support for alternative worker representative structures by both suppliers and brands is therefore itself a form a trade union busting.
- ➔ **Independent trade unions achieve gains for workers that alternative structures cannot.** Of particular value is the role that unions play in education and awareness raising among workers, alongside the concrete improvements in benefits and conditions they drive. Workers are being shortchanged by an absence of proper structures for collective bargaining in favour of the promotion of alternative structures.
- ➔ **Promotion of alternative structures creates a vicious cycle that drains trade union capacity and resources, which in turn makes them less effective.** Independent trade unions are required to spend valuable time fighting for legitimacy and competing, on a sloping playing field, with weak alternatives that lack the mandate to make sustainable changes to the lives of workers. This means less time focused on the things that matter, from organising, collectivising and representing workers’ needs at factory level, to engaging with brands and suppliers on the fair solutions urgently needed to transform fast fashion.
- ➔ **Brands are currently relying on alternative representative structures** that allow for light touch worker engagement over actively contributing to an enabling environment for independent union structures and routes to achieve genuine dialogue. There are welcome advances in Global Framework Agreements between some brands and trade unions, and limited binding agreements, such as the [Bangladesh Accord](#) and [Dindigul Agreement](#). But, in general, brands fail to actively support the work of independent trade unions in their supply chains.
- ➔ **Brands have a vital and enabling role to play as they navigate the worker representation landscape along their supply chains.** Overall, brands could and should do more. When they do intervene in support of freedom of association and independent trade unions it makes a positive difference.

How this research was conducted

The findings in this report are based on a series of focus group discussions and interviews held with members and partners of the Clean Clothes Campaign – including trade unions and other worker rights advocates – across the six focus countries between October 2023 and May 2024. In some instances, this information is supported by media and other publicly available reports. The Resource Centre also conducted a survey of trade union leaders and officers between December 2023 and January 2024. Particular attention was paid to identifying groups advocating for women workers, given the gender composition of the sector and the specific challenges faced by women garment workers. All named supplier companies and buyers were contacted for their response prior to publication of the report. Excerpts from these responses are included, with [full responses available on the Resource Centre’s website](#).

Key recommendations to brands and investors

International fashion brands

- ② **Strengthen supply chain transformation through workers' freedom of association.** Shift to active promotion and constructive engagement with trade unions, to support successful supply chain transformation, workers' rights and shared prosperity. Bring supply chain trade union representatives into the brand's consideration of supply chain transformation.
- ② **Develop robust policies and put them into practice.** Staying neutral when it comes to freedom of association is not an option. Brands must show how they are moving beyond "ticking the box" when it comes to worker engagement, and where there is a framework for the development of independent trade unions and collective bargaining support this route to worker dialogue over alternative representative structures and communication mechanisms.
- ② **Negotiate Global Framework Agreements and binding agreements for supply chains,** and ensure their principles are embedded throughout the business model, and especially purchasing departments.
- ② **Instruct suppliers of time-bound demands for freedom of association** and collective bargaining in factories, and support dialogue and costs around successful delivery of due diligence and net-zero targets.
- ② **Human rights due diligence must be premised on the right to freedom of association and meaningful engagement with workers along supply chains.** This means undertaking stakeholder mapping along supply chains to identify trade unions and allied groups with which to engage, consulting workers and their representatives throughout the due diligence process and ensuring that the right to freedom of association is identified as a high-risk priority in due diligence processes. Brands required to comply with CSDDD should utilise the opportunity it presents to develop good practice approaches to engaging workers and their representatives throughout the due diligence process, helping to build robust trade union structures and develop social dialogue.

Investors

- ② **Integrate freedom of association as a key criterion** in the assessment of brands' material risks in this transforming supply chain landscape.
- ② **Set clear and time-bound expectations to businesses** regarding the consolidation of freedom of association, independent trade unions, social dialogue and collective bargaining in operations and supply chains.
- ② **Promote successful dialogue for a just transition.** Engage brands both individually and collectively to support the design and implementation of implementation of human rights and environmental due diligence and a just transition to net-zero value chains.

See [full recommendations to business, investors and policymakers](#).

Freedom of association: Context, brand policy and national law

Why do trade unions matter?

Universal human rights law provides for the right of all workers to be represented at work. This principle is also a cornerstone of [international labour standards and guidance](#) on decent and dignified work, which establishes trade unions as the primary collective bargaining agent and social dialogue partner on behalf of workers. In apparel-producing countries in South and Southeast Asia, trade unions have been instrumental in securing advances for workers' rights – notably the establishment of the [Bangladesh Accord on Fire and Building Safety](#) in the aftermath of the 2013 Rana Plaza disaster and the subsequent [Pakistan Accord](#), alongside numerous campaigns in workplaces to secure better terms and conditions at factory level. A [study of small and medium-sized enterprises in Vietnam](#) found unionised workers' wages were 9-22% higher than those of non-union workers, while in Cambodia, trade unions were [instrumental in doubling the minimum wage](#) for the garment and footwear sector between 2013 and 2019.

In the face of current multiple, intersecting global crises, the role of trade unions has never been more important. The shifts in the industry needed to accommodate the global fight against the climate crisis through a just transition require trade unions, as mandated social partners, to be bolstered and engaged if workers are not to be left behind. The same is true for complying with mandatory human rights supply chain due diligence legislation, with the [European Union's Corporate Sustainability Due Diligence Directive](#) (EU CSDDD) requiring meaningful stakeholder engagement along supply chains as a critical prerequisite. Yet without the involvement of strong and independent trade unions to represent workers, due diligence processes cannot be truly transformational for the sector. International buyers required – both by legislation and normative standards, such as the UN Guiding Principles on Business and Human Rights (UNGPs) – to undertake due diligence must therefore not miss this opportunity to recommit to freedom of association and what this means for developing meaningful stakeholder engagement, social dialogue and a participatory approach to supply chain human rights due diligence, with an [enabling environment for workers](#) to safely communicate human rights risks.

What are their limitations?

The effectiveness of trade unions can be hampered by a range of factors, from repressive political and legislative landscapes, to factors inherent to the structure of the unions themselves. While recognised in law as the best way to ensure workers are able to effectively advocate for their rights, trade unions can be imperfect structures. Women are often underrepresented in membership and leadership, and their effectiveness can be further hampered by fragmentation and corruption. So-called “yellow unions” – set up or functioning in the interest of management and sometimes government – are also pervasive, and by design do not function in workers' interests. While these challenges are real and must be continually addressed, they cannot be justification to supplant independent trade unions as the core means for collective worker representation.

Freedom of association and the right to collective bargaining

The core human rights to freedom of peaceful assembly and association and to form and join trade unions are established in the **Universal Declaration of Human Rights** (Articles 20 and 23 respectively). The rights to freedom of association and collective bargaining are further enshrined in internationally recognised standards and covenants, such as the **ILO Core Conventions, including 87 and 98** on the right to freedom of association and to organise; **ILO Convention 144 Tripartite Consultation** outlining the role of social dialogue; **Article 8 of the International Covenant on Economic, Social and Cultural Rights** (ICESCR) and **Article 22 of the International Covenant on Civil and Political Rights**. Legislation applicable to many international fashion brands, such as the EU CSDDD, explicitly emphasises violations to the right to freedom of association as articulated in relevant ILO Conventions as a potential adverse human rights risk that companies must take steps to mitigate. Together, these underpin a robust [legal and normative framework](#) for the protection of freedom of association and associated rights, including the right to form and join a trade union, the right of trade unions to function freely without limitations, the right to strike and the right to collective bargaining.

Non-union worker engagement mechanisms

Outside of trade unions, worker representation and participation – also known as “worker voice” – can manifest in alternative representative structures. These include mechanisms such as **workplace committees**, as well as worker communication tools such as **surveys, smartphone apps, hotlines, suggestion boxes, helpdesks** and **human resources outreach**. While such mechanisms can never replace the role of trade unions, they can, in certain contexts, support them. This includes workplace committees with a defined and limited role, such as health and safety or resolving gender-based violence and harassment.

Committees also serve as mechanisms for engagement with workers and trade unions within legally binding agreements, as seen through the implementation of both the [International Accord](#) and [Dindigul Agreement](#). Likewise, individual mechanisms, such as an independent hotline, can provide a valuable means for anonymous reporting of sensitive issues. Furthermore, in highly repressive political environments, non-union committee structures might genuinely be the only avenue for worker engagement. Finally, given the acknowledged limitations of some trade unions in fully representing the diversity of the workforce (for example women, migrant and informal workers); trade unions can – and in some cases *must* – be complemented by engagement with other grassroots organisations advocating for the rights of vulnerable groups.

However, alternative structures are rarely an adequate substitute for trade unions and cannot perform the function of delivering improvements to worker rights through collective bargaining. Furthermore, employers' promotion of alternative structures, where the law permits the formation and recognition of trade unions, constitutes a form of union busting. [Research](#) from the United States Department of Labor (USDOL) and Penn State University in 2023 defines six key components of worker voice, arguing that to be truly effective, mechanisms must *elect, represent, include, protect, enable* and *empower* workers – and that these criteria are best met through the collective mechanisms of **democratic trade unions** and **collective bargaining**, especially where union leadership represents the diversity of the workforce.

A gap between brand policy and practice

International fashion brands assert their commitment to freedom of association and collective bargaining, including the right of workers to form and join trade unions, across their suite of human rights and responsible sourcing policies. For example, of the top 20 international fashion companies (by market capitalisation)¹: **20** have statements against anti-union discrimination; **19** assert the right to freedom of association and **19** note the role of collective bargaining. Out of these 20 companies, all of those that disclose their first-tier suppliers source from at least one of the six countries of focus in this report.

Yet despite brands' stated commitment to freedom of association, there is limited information in the public domain on how they are implementing it along supply chains. Findings from the [KnowTheChain Apparel and Footwear Benchmark 2023](#) – covering the industry's 65 largest publicly listed companies, which together have a significant supply base in South and Southeast Asia – highlight this gap:

- ➔ Less than a quarter (**22%**) of companies disclosed engaging with local or global unions to improve freedom of association in their supply chains.
- ➔ Only **12%** of companies disclose even partial information on the percentage of their supply chains covered by collective bargaining agreements (CBAs), of which only one company provides a breakdown by region (**Inditex**) and only two companies provided aggregate data for the full first supplier tier (**H&M** and **Lululemon**).
- ➔ Less than a third of companies (**28%**) disclosed being party to an enforceable labour rights agreement or global framework agreement in their supply chains.
- ➔ And only **5%** of companies (**Asos**, **Primark** and **VF**) described how stakeholders such as workers, unions, and civil society organisations were engaged as part of a human rights risk assessment process.

¹ Amazon, LVMH, Walmart, Nike, TJX, Hermes, Fast Retailing, Lululemon, Kering, Inditex, Adidas, H&M, Li Ning, Deckers Outdoor Corp, ANTA Sports Products, Burberry, Mocler SpA, Skechers, Next, Shenzhou International



Navigating national law

Alongside policy commitments, fashion brands refer to compliance with both national and international standards in relation to freedom of association. Yet, these two frameworks are sometimes in tension, and too often brands cite the former as justification for a softer approach to worker engagement. To adhere to not just the letter, but also to the spirit of their policies, brands must consider the legal framework and enabling environment for freedom of association when making sourcing decisions, while also ensuring employment law is the floor, rather than a ceiling, for their approach to freedom of association.

In the six focus countries of this report, national law provides robust protections for trade unions and limits the scope of alternative structures such as committees. Yet this framework is weakening in key jurisdictions like **Sri Lanka**, **Cambodia**, **Indonesia** and **India**, and testimony from research participants highlighted significant implementation and enforcement gaps despite supportive legislation existing on paper. International fashion buyers sourcing from these countries have a responsibility, therefore, to navigate these complexities – utilising the grounding in national law which does exist to ensure they use their leverage and lend their support to the promotion of genuine freedom of association at a factory and national level.

Legal framework booklet

The legal framework and industrial relations landscape in sourcing countries is complex. These legal guides cover the key areas of employment legislation that brands must consider when developing a strategy for building social dialogue in sourcing countries and grappling with the presence of multiple representative structures in one workplace. They can also be utilised when responding to requests from suppliers, workers and the international labour rights community to investigate allegations related to freedom of association, union busting and threats to workers' ability to collectively bargain.

The Resource Centre's [legal framework booklet](#) sets out for each country of focus:

- ➔ thresholds for trade union formation and recognition;
- ➔ the process to secure collective bargaining rights;
- ➔ the remit of alternative representative structures.

The booklet also includes (non)ratification by each country of relevant ILO Conventions, key statistics on trade union density and collective bargaining coverage and indicators of the national context for the protection of freedom of association.

Alternative worker representative structures in the South and Southeast Asian garment sector

Interviewees and focus group participants across all six countries described a complex landscape for worker communication and representation at factory level, with independent trade unions sitting alongside myriad alternative mechanisms. The most common alternative structures found are **worker committees** and **yellow unions**. **Worker voice technologies**, such as **apps**, are also used to report grievances (according to **54%** of survey respondents) and to gather general feedback about worker satisfaction (**37%**). This proliferation of so-called “worker voice” structures beyond independent trade unions can confuse and divide workers, often by design, and weaken their bargaining power.

“ *The situation is confusing for workers as there are so many options ... and factories know this.*”

Tharo Khun, programme manager, Center for Alliance of Labor and Human Rights (CENTRAL), Cambodia

A table of the alternative representation and communication mechanisms found in each country covered in this report can be found in [Annex 2](#).

Fragmentation of the worker representative landscape is widespread, but nowhere more so than in Cambodia. Workplaces contain not just independent trade unions, but also many non-independent “yellow” trade unions. On top of this is a further alternative layer of representatives through the country’s “shop steward function” – a system of worker representatives that are, in practice, often selected by and working in the interests of management. The huge number of representative structures within a given workplace make it very difficult for workers to have a clear picture of where they should go to raise issues, and crucially, all but impossible to build union density and in turn collective power. Particularly stark examples include **Meng Da** factory (supplying **adidas**) where there are 17 unions for a workforce of 3,500, only two of which are considered independent, and **Hung Wah** factory (supplying **H&M** and **Primark**) which has 23 unions (of which 21 are seen as yellow), 40 shop stewards, 40 shop steward assistants and a Performance Improvement Consultative Committee (PICC) – an enterprise-level advisory committee established through the Better Work programme – for a workforce of just 1,535. The threat this fragmented landscape presents to freedom of association in the country has been documented by Human Rights Watch in its [2022 report](#) outlining the union busting role of “instant noodle” (yellow) unions.

“A shell to represent management’s interests”: Why employers favour alternative representative structures

Among survey respondents, **82%** agreed or strongly agreed with the statement: “Employers prefer to engage and bargain with other bodies, such as yellow unions and worker committees, instead of the independent trade union”. Employers know independent trade unions strengthen workers’ power and enable them to collectively negotiate for better pay and conditions in a way alternative structures do not. This is perceived as a threat to factory profitability and, in some cases, survival, given tight margins and order unpredictability because of the poor buyer purchasing practices pervasive across the industry. As a result, “Management are very scared that workers will get unionised and organised”, in the words of Rukmini V P, president of Garment Labour Union (GLU) in Karnataka, India.

“ Yellow unions do not care about the actual issues workers face – they don’t complain to the factories or the brands about these concerns, but the independent unions do.”

Sithyneth Ry, president, Independent Trade Union Federation (INTUFE), Cambodia

“ Worker committees do not work for the betterment of the worker.”

Niaz Khan, general secretary of the Textile, Power Loom and Garment Worker Federation, Pakistan

Unions build worker power

Union membership and engagement provide opportunities for training, education and awareness raising that other structures do not. Rashadul Alam Raju, general secretary of Bangladesh Independent Garment Workers Union (BIGUF), explained that in contrast to committees, trade unions help workers build the skills to effectively negotiate with employers, resulting in a more equal footing between workers and management than is possible through other structures. Outlining the effectiveness of unions as a conduit for training and capacity building of workers, interviewees in Sri Lanka and India expressed frustration that factories and their buyers often bypass the trade union in favour of worker committees to deliver trainings.



Recognising the role trade union activists and representatives play in building worker power, interviewees outlined the mix of threats and incentives used by factory managers to try to neutralise them. At **JAW Garment** in Cambodia, a representative of the Cambodian Alliance of Trade Unions (CATU) reported management has tried to bribe union representatives with salaries of US\$600 (nearly three times the minimum wage for the garment sector in Cambodia) to stop their organising work in the factory – demonstrating the significant resources some employers are willing to deploy to reduce union power. Interviewees reported it is common for management to demote union members or move them to other lines and **more than one third** of survey respondents said “separation of union members from their colleagues” is used as a union busting tactic where they work. This practice is both a punishment for the individual worker and disrupts the social relations that enable unions to build collective power.

The Women's Centre, an NGO supporting women workers in Sri Lanka's garment sector, outlined how factory management utilises a series of escalating tactics, including the use of alternative representative structures, to neutralise potential union activists and leaders. It highlighted the case of a female worker at factory in Sri Lanka, who was increasingly involved in Women's Centre training and union activity at work from 2018. Verbal warnings and arbitrary transfers to other production lines were followed by an offer from management to join the workplace employees' council. After refusing this request and stressing her involvement with the Women's Centre and factory trade union, the worker was subsequently fired and only rehired after the Women's Centre intervened.

A quote from an employer in India, reported via a survey respondent, sums up why employers fear strong, independent unions: *“We [employers] don't want a trade union. We discourage its formation as it corrupts the minds of workers to demand [their] rights and does not encourage workers to be productive. Trade union is a bad word for us.”*



Case study: Education, more benefits and reduced harassment: How a trade union improved conditions for workers at Esquel Lanka (formerly Polytex Garments) factory, Sri Lanka

Background

Khrishanthi Mangalika is now president of the Free Trade Zones and General Service Employees Union (FTZ & GSEU) in Sri Lanka and outlined her 25-year engagement with worker representative structures. Mangalika joined **Esquel Lanka (then Polytex Garments)**, a (now-closed) factory near Colombo, in 1998. At the request of the company, she served as president of the employee committee from 1998 to 2002.

Case details

In 2003, Mangalika and seven of her colleagues established a branch of FTZ & GSEU in the factory in response to poor working conditions and abusive practices, including widespread harassment, which they felt the employee committee – in the pocket of management – was not adequately addressing. While factory management was initially very hostile, including hiring people to beat up union leaders, it finally recognised the union in 2004 following a three-month strike and intervention from the parent company.

“The employees’ council was top down,” said Mangalika. *“It just gave information to workers, but the trade union was there to take information the other way and communicate workers’ problems to management.”*

Mangalika says it was only through being in the union that she learnt which brands the factory produced for, what collective bargaining means and what her rights were as a worker. According to Mangalika, the employee council never provided any of this training or awareness raising.

In 2007, the first collective agreement between the union and the factory’s management was signed and renewed annually until 2014. After the first collective agreement was signed, the employee committee at the factory disbanded; the union was largely able to freely organise and thus build membership density – and had an office on the factory premises.

During this period, the union significantly improved conditions for workers:

- ➔ overcoming the harassment of workers by supervisors, (which had previously been widespread);
- ➔ securing an additional three days’ casual leave;
- ➔ introducing an efficiency bonus; and
- ➔ increasing an existing bonus from one month’s pay to 1.5 months, as well as the provision of lunch and transport by the factory.

“The most important thing is, workers were able to work with respect,” said Mangalika.

Even following the factory’s closure due to a drop in orders because of COVID-19, the work of Mangalika and her colleagues in building a union to effectively advocate for workers lives on. The factory’s former workers were transferred to Ja Ela, a factory owned by the same parent company, in May 2020. The influx of unionised workers meant that the Ja Ela employee committee, which had previously played an outsized role in the factory compared to the independent union, disbanded. Two unions (CMU and FTZ & GSEU) joined forces and workers at Ja Ela now have a strong independent union advocating for their rights.

Key takeaway for brands

- ➔ Brands cannot expect workers in their supply chains to assert and defend their rights without supporting strong, independent and democratic trade unions.
- ➔ Companies with leverage – in this case the factory’s parent company, but this also applies to international buyers – can successfully apply pressure to factories to ensure freedom of association and workers’ right to organise are protected.
- ➔ Brands must support structures that build workers’ capacity and provide labour rights education for workers.

Unions representing workers inside and outside the workplace

In the context of union busting and the privileging of alternative structures, independent trade unions and worker advocates often devise creative solutions to defend workers' rights by other means. Throughout this research, independent trade unions highlighted their role in supporting workers inside and outside of the traditional workplace. This is especially important given many factory workers are migrants living in temporary accommodation near factories and free trade zones – often far away from their own families and community networks. Moreover, in the context of employers banning trade unions from factories to stifle union organising, it ensures workers have a space outside of the workplace to raise concerns and build collective power. For example, in the absence of a direct line to factory management, Dabindu Collective Union (Dabindu) – a trade union and NGO supporting women workers – works with its members to build its own relationship with local stakeholders to address needs at the community level. In lieu of the union having a formal role in engagement with local authorities within factories, this includes regularly meeting with Ministry of Health officers and local police to build their understanding of factory-level dynamics and issues impacting workers. Dabindu also holds community workshops on key labour rights issues facing the workforce to ensure workers are aware of their rights – and, from there, bring workers' concerns to the factory. However, without the formal status as a recognised trade union, such efforts require huge amounts of resources from the trade unions themselves, as well as additional commitment from workers outside of their (often overwhelming) work schedules. Recognising trade unions and building sustainable social dialogue would allow for a streamlining of this process and a direct route for workers' concerns to reach management.

Alternative structures serve management's interests

Across all six countries, interviewees reported management heavily influencing the composition and activities of worker committees. Representatives are often “handpicked” by management and, even where elections are held, employers allegedly take steps to rig the process in their favour – for example, by falsifying vote counts and bribing union members to cease engagement. Survey results suggest some differences between countries in how committee representatives are chosen: while 27% of respondents, the majority from Indonesia, said “committee members win their seats in a fair election”, 32% – from India, Pakistan, Bangladesh and Cambodia – said “there are no elections, representatives are selected by management”. Mora Sar, programme manager at CATU, said: “*The shop steward function is manipulated and controlled by the employer.*”



Photo by Marcel Crozet / ILO

The experience of two independent trade unions – Garment Labour Union (GLU) and Karnataka Garment Workers Union (KOOGU) – trying to organise at **Shahi Export** in Karnataka, India (which supplies brands across the industry) highlights the influence factory managers often exert over the composition and activities of workplace committees, and the ways in which workers are shortchanged as a result.

Across Shahi's dozens of production units, there are five workplace committees, as required by law for companies of Shahi's size: a works committee (covering workplace issues such as production targets and overtime), an internal complaints committee (covering sexual harassment), a canteen committee, a health and safety committee and a creche committee. Representatives from KOOGU and GLU described the ways management interferes in the selection process for committee members. KOOGU reported that at one unit (where it signed a memorandum of understanding with management in 2018), pro-management candidates are given greater leniency to campaign during election processes for committee positions and to talk to other workers, while pro-union contestants are strictly monitored and restricted. Management openly canvasses for its preferred candidates, said KOOGU, while the union has received veiled threats of dismissal and blacklisting for putting up its own candidate. GLU reported that union members at two units where it has a presence are allowed to stand for election and take up roles as committee representatives. Detailed guidelines on the process for committee elections were recently established in meeting minutes agreed by GLU and management of one of the Shahi units in question. These are positive recent developments, but GLU's members reportedly remain sidelined in committee discussions, thus limiting the union's ability to advocate for workers in this space.

Nevertheless, in the units where the two unions have no presence, workers reported elections for committee positions are rarely held, with management simply selecting its preferred workers. The [numerous serious rights violations](#) reported at Shahi units underscore the importance of workers having effective representatives to improve working conditions. As it is, the situation reported by the unions indicates a concerted attempt by management to deny workers this opportunity: first [interfering with the unions' attempts to organise](#), then attempting to prevent union representatives standing for committee elections, and finally denying unions a voice on committees even where they do manage to get elected.

This pattern of co-optation and control of “representative” structures by management highlights what interviewees reported throughout: alternative structures allow employers to tout worker representation and engagement to brands, auditors, and workers themselves, without being challenged to respond to workers' concerns in a meaningful way. While some employers use committees and other structures in a union-like role, to discuss issues like pay and dismissals, others use them merely as a “rubber stamp”, with workers denied any opportunity to be represented at all. In both scenarios, workers are shortchanged, as they are denied a proper avenue for collective bargaining. As Rashadul Alam Raju (BIGUF) explained: *“Participation committees don't have bargaining power, so they can never represent the workers' voice.”* This is reflected in the examples shared by interviewees of alternative structures making agreements with management to workers' detriment. The [Chiefway Katunayake case study](#) in this report outlines an instance of an employee committee in Sri Lanka siding with management to agree unfavourable terms for workers in relation to overtime pay, while in Cambodia, several interviewees said employers frequently use the shop steward to sign off on decisions on dismissals, pay, bonuses and compensation for factory closures they know the independent unions would resist.

“The yellow unions are given more benefits”: How employers use alternative structures to undermine independent trade unions

Across all six countries, interviewees reported employers use alternative structures as a tool to prevent trade unions building the membership density needed to be effective and meet legal thresholds for formation, recognition and collective bargaining. Enabling conditions are created for the former, and a punitive environment for the latter. This is seen both in terms of incentivising and rewarding individual workers in relation to joining the yellow union, or the union preferred by management (as reported by **82%** of survey respondents), as well as in terms of how the respective structures themselves are treated. Together, these strategies make it difficult for trade unions to recruit and retain members. It also makes it difficult for workers to join representative structures that have the mandate for collective bargaining and can build the collective power of workers as true negotiating partners. This, in turn, impacts trade union density and representativeness, further allowing employers to sideline trade unions as thought and negotiating partners.

“ Management uses union-busting techniques to keep union membership numbers low, thus trying to suggest to workers that committees are more effective than unions, and that unions are controlled by outsiders.”

Sebastian Deveraj, honorary president, KOOGU, India



The struggle to translate worker engagement into membership density in a hostile environment

Dabindu described how union busting means worker engagement rarely translates into union membership density. Since 2017, Dabindu has attempted to organise workers in two **MAS** factories in the Vidiyal and Vaanavil regions (supplying **PVH** and **Nike** and **Fanatics**, respectively). Dabindu responded to denial of facility access by holding off-site workshops and training near workers' housing, with the aim of developing workers' capacity to raise issues on the factory floor. These workshops covered rights at work, alongside issues of particular interest to women workers including gender-based violence and harassment, and access to potable water and sanitation facilities within the workplace. Yet, Dabindu reported that when workers raised these issues with management, MAS used multiple tactics to make clear the development of a workplace trade union was unwelcome. Some active workers were offered promotions to supervisor roles and others threatened with dismissal. **At the same time, management continued to promote alternative complaints and representative structures, highlighting the availability of a suggestion box and the presence of an employees' committee, even as it sidelined the role of union members in the committee.**

Dabindu pointed out freedom of association is not an item on the ongoing agenda of the Joint Apparel Association Forum Sri Lanka (JAAF), which represents large employers in the country, including MAS. Likewise, Dabindu reported that **Brandix**, another JAAF member and the largest apparel producer Sri Lanka, has made it clear to workers and Dabindu activists that committees are its preferred structure and it is not yet "ready" for

trade unions. In this context, despite its ability to bring together as many as 50 women from the two MAS factories at community workshops, Dabindu has been unable to build trade union density in these strategic supplier factories. According to Dabindu, workers at MAS engage with the organisation outside the workplace but are unwilling to sign membership forms.

The Resource Centre sought a response from both the factory and linked brands. **MAS** did not respond. **Brandix** refuted the allegation it had expressed a preference for workplace committees over trade unions or indicated reluctance towards the formation of trade unions. **PVH** said it was in touch with its supplier in relation to the allegations and would work with its supplier to remediate any violations. **Fanatics** said it was deeply concerned by the issues reported by Dabindu, but that **Nike** (of which it is a licensee) is responsible for managing compliance engagement with supplier facilities. **Nike** said it believes MAS to be compliant with its code of conduct's commitment to freedom of association. Full responses are available on the [Resource Centre's website](#).

Key takeaways for brands

- ➔ Brands must ensure union busting is minimised so trade unions, especially those representing the needs of women at work and in the community, are able to build density and collectively bargain.
- ➔ Stakeholder mapping should allow brands to identify worker groups and trade unions engaging with workers, especially women, inside and outside of the factory.

Privileging alternative structures while punishing unions

As [recognised by the ILO](#), the provision of facilities time – including the right to on-site trade union meetings, union access to the workplace and time off for trade union representatives – is linked to the right of workers to organise and the core ILO Conventions. Yet, interviewees described clear differences between the “facilities” afforded to alternative structures but denied to independent trade unions.

Among survey respondents, **73%** said denial of factory access for trade union activities occurred at their factories while **64%** said independent trade unions are not allowed to recruit during work hours. Interview participants backed this up. Martua Raja, treasurer of the Indonesian trade union FSB-Garteks, said: *“Employer-backed unions are given greater access and preferential treatment, such as: more credit for the savings cooperative; more accessible offices; and permanent contracts for those workers that join.”* Meanwhile, at **Chiefway Katunayake** in Sri Lanka, workers reported a lack of facilities time for trade union representatives, while the president of the factory's yellow union was given “perks” visible to the wider workforce, including time off to play cricket.

At **PT SAI Apparel** in Indonesia (supplying **AEO** and **H&M**) there is apparently a clear difference in how management provides facilities to the multiple structures within the workplace. Representatives of SP Spring, the independent facility-based union affiliated to Grobogan Labour Union (PUBG), say they are not provided with office facilities to conduct union work, while representatives from the SAI Apparel Workers Union (KSPS), the union favourable to management, are. Likewise, SP Spring is prohibited from distributing membership forms in the workplace, but KSPS is permitted to. As a result, the yellow union has been able to build higher membership density (around 50% of the workforce) than the independent trade union (whose density lags at 40%). According to Riefqi Zulfikar, programme officer at the Trade Union Rights Centre (TURC), an NGO supporting workers, this misleads new joiners into believing the yellow union is the best structure to represent their interests.

These practices drain the already limited capacity of independent trade unions as they are forced to resist union busting by employers and the influence of alternative structures, while building membership despite these barriers. This ultimately hinders their ability to sustainably organise and takes unions away from their core work of representing workers. Moreover, this unlevel playing field promotes a vicious cycle whereby management is able to claim alternative structures are more representative and suggest to workers that independent trade unions are not effective advocates for their interests – further limiting unions' ability to build their membership and effectively advocate for workers. Management's preference for alternative structures can present independent trade unions with a strategic dilemma. While some trade unions try to work through workplace committees by standing their representatives for election, others boycott them altogether in the face of widespread co-option by management and fear of legitimising these structures by engaging with them.

Case study: Privileging yellow unions at JS Leather Collection, Cambodia

Background

There are three unions at **JS Leather Collection** in Phnom Penh (supplying **Guess**): an INTUFE local union and two further unions considered favourable to management. The INTUFE affiliated union has been organising in the factory and trying to recruit since 2021. INTUFE's president Sithyneth Ry outlined his account of the challenges the INTUFE local union has faced throughout this process. JS Leather Collection's management and Guess were contacted for their response.

Case details

Retaliation against union members: INTUFE alleges that every time it instigates an organising drive and tries to build membership, there is retaliation from management, with workers who join the independent union harassed, intimidated and threatened, while workers can freely join the pro-employer unions. According to Sithyneth, there are instances of reprisals from management for joining the independent union. As a result, between April and June 2021 dozens of INTUFE members left the union to join the other unions in the factory after management threatened to suspend contract renewals of INTUFE members. Other members left the factory altogether because of the sustained threats of contract non-renewal from management.

Since February 2023, INTUFE assesses at least 15 workers have had their contracts terminated for attempting to join the INTUFE union.

Discriminating against union leadership:

On 22 February 2023, the INTUFE members at the factory elected new representatives. INTUFE alleges management undertook a sustained campaign to remove the secretary by punishing his relatives who also worked at the factory: refusing to renew his wife's contract and moving another relative to a different branch. According to INTUFE, the factory's management made it clear that "anyone associated with the secretary would not be welcome at the factory". In a further display of discrimination against the independent union, three officials – the president, vice president and secretary – from the yellow unions

are invited to attend factory meetings about working schedules, shifts and other workplace matters, but only the president (not the vice president or secretary) of the independent union is. **This makes it more difficult for the independent union to effectively advocate for workers and reduces the vote share of the independent union, as compared to the management-affiliated ones.**

Because of these practices, the independent union is unable to grow its membership and, as of June 2024, had 90 members – compared with the 600 workers who belong to the factory's two yellow unions.

Brand engagement: In November 2023, INTUFE filed a complaint to Guess, a buyer from the factory, regarding the contract terminations and deduction of union leaders' pays for attending mandatory meetings and trainings with the ILO and NGOs, as well as other workplace matters. As of June 2024, it had not received a response.

The Resource Centre sought a response from **JS Leather Collection** and **Guess** in relation to the allegations outlined. Neither responded.

Key takeaways for brands

- ➔ In the context of widespread union busting, even where an independent union does exist, it might struggle to build membership density and have influence commensurate with its support within the workforce. Brands must do their due diligence to understand these complexities and not rely on membership numbers alone to indicate "representativeness".
- ➔ Brands must also pay attention to the conditions of economic vulnerability characterising the garment sector – driven in part by their own purchasing practices – and how these can be powerfully exploited by employers to deny workers the right to organise.
- ➔ By not intervening in cases of union busting and privileging alternative structures, brands are perpetuating the denial of workers' right to be represented in the workplace.

Case study: Using the employee committee to undermine the trade union at Chiefway Katunayake, Sri Lanka

Background

In 2020, a new branch union of FTZ & GSEU formed at **Chiefway Katunayake** (supplying **J. Crew** and **Mountain Khakis**). As of October 2023, the union had approximately 450 members out of a total workforce of 700. At the time the union formed, there was already an employee council (EC) established at the factory, a requirement under Sri Lankan labour law. However, after the union was formed, FTZ reports management began to increasingly promote and privilege the EC. This included inviting EC members to negotiation meetings with management, a potential violation of national guidelines stipulating that where a trade union is present in a factory, it should take precedence as the negotiation body over the EC. There are now parallel processes within the factory, as both the EC and the trade union raise issues and demands with management. Yet workers report that management only discusses these worker concerns with the EC, including those raised by the trade union. Management also uses the EC as a conduit to communicate the resolution of issues. **The result of this, says FTZ, is that the EC can take credit for achieving gains that were in fact the result of effort on their part – bolstering its credibility among workers as a body that can represent them, and undermining the role of the union.**

Union approach to the employee committee

Initially, FTZ ran in EC elections with some success, holding the committee's roles of secretary and president. However, once elected, FTZ reports that management declared that with FTZ members represented on the EC there was no need to also be in separate dialogue with the union itself. FTZ therefore made the choice to boycott the EC, to strengthen their call for trade union recognition and the right to collective bargaining on behalf of workers. At EC elections held in June 2023, the representatives were all management appointees.

Case details

To minimise costs related to two official public holidays in September 2023, which workers were entitled to take off work, management demanded that all workers undertake two hours of unpaid overtime during that month, a violation of workers' entitlement to leave and paid overtime. After negotiations with – and pressure from – FTZ, management agreed to only demand one hour of unpaid overtime, yet communicated this decision through the EC rather than the union. One week later at management's behest, EC members attempted to collect signatures from employees agreeing to revert to two hours of unpaid work. FTZ says that in response to it raising concerns, human resources failed to act and EC members attempted to physically assault branch members for raising the issue.

The Resource Centre sought a response from **Chiefway Katunayake, J. Crew** and **Mountain Khakis**. **Chiefway Katunayake** strongly denied the allegations, which it described as “baseless”. **J. Crew** also refuted the allegations, adding the decision regarding overtime hours was announced through the factory's public announcement system (as opposed to the EC) and that no physical assault was reported to management or human resources. **Mountain Khakis** did not respond prior to publication of this report. Full responses are available on the [Resource Centre's website](#).

Key takeaways for brands

- ➔ Employee councils do not have the same legal mandate in Sri Lanka for collective bargaining as unions – and given their frequent co-option by management, generally cannot be relied upon to “represent” workers in good faith.
- ➔ Where an employee council and independent trade union exist in a supplier factory, brands must ensure its efforts to support worker representation are directed towards the trade union, and undertake active monitoring and due diligence to ensure the committee is fulfilling its limited function as defined in law, rather than overreaching its remit and acting as a substitute for the union.

Inadequate enforcement of the law

These factory-based dynamics, which discriminate against the formation of strong independent trade unions and privilege alternative structures, are compounded by patchy implementation and enforcement of the relatively robust laws for the protection of freedom of association that exist across the six countries. Many research participants cited the complicity of governments in the undermining of independent trade unions through alternative structures – from the failure of labour departments to register trade unions to underfunded and compromised labour inspectorates which fail to identify and mitigate freedom of association complaints. Zehra Khan, general secretary of Home-based Women Workers' Federation (HBWWF) in Pakistan, described a “holy alliance” against workers in the form of collaboration between the labour department, political parties, brands and factory management. Likewise, in Cambodia, trade union registration is increasingly difficult, as the Ministry of Labour and Vocational Training (MoLVT) rarely approves applications made by independent trade unions. *“There are so many administrative hoops to jump through ... applications get rejected for the colour of the ink or the spelling of particular words and at the same time, yellow unions get registered easily,”* said Brandy York of CENTRAL – highlighting that of the seven independent unions CENTRAL tried to register in 2022, only one was successful, and even that took one year. Interviewees in the country also reported that MoLVT arbitration councils with the remit for resolving labour disputes are often ineffective and obstructive – mischaracterising collective labour disputes as individual ones, for example.

The frequent overreach of committees into territory that should be the remit of unions provides further evidence that a robust legal framework alone is insufficient to ensure independent trade unions are protected in practice, and that loopholes and enforcement gaps are easily exploited by employers seeking to limit their role and the challenge they present to the fast fashion business model. Labour law in all six countries establishes trade unions – as opposed to committees – as the body with which employers should engage in bargaining. And where the remit of committees is defined in law, it is limited in scope. Yet, according to interviewees, employers frequently say that there is a workplace committee in the factory, there is no need for a union. In Bangladesh, for example, labour law states that a participation committee can carry out activities related to the interests of workers until a trade union is formed. But despite this clear restraint on the use of workplace committees, employers across the sector continue to defer to committees as the representative structure in factories even after a trade union has formed. This further allows employers to build an impression among the workforce of the proactive role of committees, while at the same time using those committees to undermine trade union structures and their ability to meaningfully represent workers.



“Brands everywhere are silent”: The role of international buyers

Only **9%** of survey respondents agreed with the statement: “In general, international brands respect freedom of association and I trust them to intervene when management undermines or threatens independent unions.” On the other hand, **50%** said: “International brands say that they respect freedom of association but it’s just for show – they rarely intervene when there is an issue,” while **two thirds** indicated it depended on the brand. Interviewees reported that in general, brands fail to ensure independent unions can form, organise and bargain on behalf of workers, and to interrogate the use of alternative representative structures in their supply chains.

“Some brands play dumb – they say ‘we don’t know which unions are good, which are bad, there are many unions in the factory’ ... They don’t want to really invest in this, to build an accurate understanding”

Athit Kong, president, Coalition of Cambodian Apparel Workers Democratic Union (C-CAWDU), Cambodia

Ticking the freedom of association box

Interviewees reported yellow unions and workplace committees are often established or encouraged by management with the specific intention of “demonstrating” to brands that workers are represented. Some interviewees report brands are too happy to accept this without further due diligence: “Brands don’t care if the union is an independent or yellow union, as long as the ‘freedom of association’ box has been ticked,” said Martua Raja, (FSB-Garteks).

Brands have a responsibility to use their leverage to ensure adherence to human rights in their supply chains, including in relation to freedom of association. Amid such a complex landscape, it is not enough for brands to say freedom of association must be respected and then walk away, or rely simply on audits to detect violations of this right. According to Kalpona Akter, the executive director of the Bangladesh Centre for Workers Solidarity (BCWS) in Bangladesh: “Employers can provide brands and auditors with the documents that show there are workplace participatory committees in the factory – so on paper there appears to be ‘participation.’”

Yet this does not mean there is participation in any meaningful sense. Even audits supported by engagement with workers and/or representative structures cannot be relied upon to provide a true picture. As Nasir Mansoor, general secretary of the National Trade Union Federation (NTUF) in Pakistan explained: “The auditing companies hired by brands inform management when they’re coming, so all auditing is done under the umbrella of management. They never go to workers independently – so workers don’t talk openly.” The survey findings back this up: no respondents reported frequent engagement between the independent unions and auditors and brands, while **59%** said yellow unions were “always” or “often” engaged, and **50%** said the same for workplace committees.

Where brands use their leverage, it has an impact

Some interviewees said brands claim not to have leverage, but were sceptical about the veracity of these claims: many factories supply to just one or a small number of very large international brands, who in turn have huge influence in sourcing markets to influence standards at factories and encourage governments to promote worker rights alongside the encouragement of foreign investment. The case studies in this report (see [JS Leather Collection](#), [Dekko Designs](#) and [SAPL](#)) demonstrate numerous examples of brands failing to adequately respond to trade unions' concerns about the suppression of the right to freedom of association and the privileging of alternative structures. An example reported by BIGUF from a factory in Bangladesh demonstrates why brands must undertake thorough due diligence to ensure they do not perpetuate these practices, even inadvertently. In this case, representatives from a supply chain management company contracted by **Tchibo** visited the factory in mid-September 2023 after receiving a complaint about management presenting a negative picture of trade unions to workers to discourage them from joining one. Rather than support the supplier to implement policies and practices to ensure respect for freedom of association, it rather supported and communicated to management the line that workers' jobs might be at risk if they joined the union.

At the same time, labour organisations engaged for this research emphasised that where brands do intervene to protect the right to freedom of association in their supplier factories, it has a positive impact. For example, at **Eastcrown** factory in Cambodia [workers dismissed](#) for trying to establish a union in the factory were reinstated and compensated after intervention from the factory's sole buyer, **Puma**. There is widespread frustration, therefore, that this is not the norm. Rukmini V P (GLU) said: "If [brands] did use their power, they would be able to create change ... But usually they don't want to do it, they just want the profit." Unions stressed they would like to engage more with brands as active stakeholders and thought partners. Yet unfortunately, as Saluddin Shapon, president of the Bangladesh Revolutionary Garment Workers Federation (BRGWF) highlighted "there is very little scope for direct interaction between workers and brands."



Case study: Positive resolution when brands used their leverage at Dekko Designs, Bangladesh

Background

An affiliate union of BGIWF called Dekko Designs Ltd. Sromik Union formed an organising committee at **Dekko Designs** (supplying **ASOS**, **BESTSELLER**, **H&M**, **Inditex (Zara)**, **Marks & Spencer** and **Tchibo**) on 3 September 2021, and applied for registration on 12 December 2021, with 1,602 union members listed. This equated to approximately 30% of the factory's total workforce at the time – well above the 20% legal threshold for registration. BGIWF's program coordinator, Syeda Moontaha Ahmed, outlined the union's struggle to get registered at Dekko Designs, while a union reportedly preferable to management and the government was registered quickly and easily.

Case details

Union busting tactics from management: In response to the union's attempt to organise, management undertook a range of retaliatory tactics, including harassment, intimidation, punitive workloads and dismissal of union members: 19 workers, including the union's proposed [general secretary and president](#) and three other union committee members, had their contracts terminated for their role in organising and were subsequently reinstated after BGIWF took the case to ACT, and with the support of IndustriALL and the factory's international buyers, came to an agreement with management.

Risks of relying on inspections and audits: Representatives from the Department of Labour visited the factory for an audit, following submission of the first registration application, on 17 January 2022. According to BGIWF, union leaders and workers were not informed about this visit in advance, and management told workers not to communicate with the audit team – giving them additional work on that day so they did not have time to sign the consent form confirming they were members of the union. BGIWF reported that management threatened union leaders who were collecting signatures from workers, forcing them to stop, and that this was ignored by the audit committee.

BGIWF said the government audit team reported having talked to the whole factory and concluded the union only had 716 members – not enough for it to be registered. Eight days later, on 25 January 2022, the application was rejected. The union submitted a further application on 5 January 2023 which was also rejected – again on the basis of insufficient membership.



In trying to understand why the registration process had repeatedly been unsuccessful, BGIWF discovered there was already a trade union registered in the factory, and that this union had been registered very quickly: the application was submitted on 6 February 2022 and accepted on 7 March 2022, without a government audit. BGIWF alleges management used workers' names and personal information without their consent to meet the membership list for its preferred union on paper, and that the dual membership which resulted was a reason for the Department of Labour's rejection of Dekko Design Ltd. Sromik Union's application. BGIWF has filed a case against the Department of Labour, which remained pending in May 2024.

Brand engagement: In 2022, the union sent a letter to the factory's largest buyer, **H&M**, outlining severe concerns about management's attempts to prevent registration of the independent union, and promote its preferred union. According to BGIWF, H&M did not respond to the letter for several months. All of Dekko Designs' buyers were then contacted by global union federation IndustriALL in November 2022 after BGIWF raised a complaint through the ACT initiative. In line with the joint dispute mechanism (DRM) procedure established by the initiative, the brands facilitated negotiations between the factory and BGIWF which resulted in a memorandum of understanding (MOU) signed between the two parties on 26 November 2023. The MOU led to the dismissed workers being reinstated or compensated, and after nearly two years of negotiations, management has agreed to recognise Dekko Design Ltd. Sromik Union once it has registered. The union intends to register after a membership drive in July and August 2024, which after brand intervention and the signing of the MOU BGIWF hopes will be free of trade union busting. The management-backed union is now inactive.

The Resource Centre contacted **Dekko Designs** as well as the brands sourcing from the factory for comment. **Dekko Designs** did not respond prior to the publication of this report. **Marks & Spencer** acknowledged receipt of the request but did not provide a response prior to the publication of this report. **ASOS** did not respond prior to the publication of this report. **BESTSELLER**, **H&M** and **Inditex** highlighted their involvement through the [ACT](#) Interim Dispute Resolution Mechanism. **Inditex** and **Tchibo** highlighted their [Global Framework Agreements](#) with IndustriALL.

Key takeaways for brands

- ➔ Brands must pay attention to enforcement gaps and the challenging context in which independent unions are operating, with hostility towards trade unions not just coming from employers but also, in some cases, with the support of the government.
- ➔ Brands have influence and can use their leverage – especially in collaboration with other buyers – to ensure freedom of association is protected.



Case study: The role of brands in perpetuating freedom of association violations and the privileging of alternative structures at SAPL, India

Background

Garment Labour Union (GLU), a women-led union, initiated efforts to organise workers at Unit 1 of **Sonal Apparel Private Limited** (SAPL) factory in Bangalore (supplying **BESTSELLER**, **Primark** and **The Children's Place**) in 2016. GLU representatives outlined their years-long attempts to organise and gain recognition in the factory, and their frustration at a perceived lack of supportive action from brands.

Case details

Failure to recognise the union and protected workmen – and ongoing discrimination against union members: According to GLU, six years of regular meetings with SAPL's management has yielded little progress on key issues facing workers, including sexual harassment, verbal abuse, and a salary system seen as unfair. GLU has sought to formalise this industrial relationship by gaining recognition as the collective bargaining agent for the factory, and to have its representatives protected from victimisation through recognition of its list of "protected workmen". However, management has repeatedly opposed both. It justified its refusal to recognise protected workmen by stating that "all employees are considered equal", both a misrepresentation of the labour law, and contrary to SAPL's pattern of discrimination towards union members. This includes threats and harassment, with some union members feeling forced to leave the factory as a result, and in January 2023, management explicitly declared its intention to drive GLU out of the factory. GLU demonstrated in September 2022 that its membership (268 out of a total workforce of 400 at that time), exceeded 50% of the workforce – far beyond the 10% threshold outlined in national law for trade union registration and recognition. Yet management refused to recognise the union, holding individual meetings with GLU's members to try to intimidate them into leaving the union. As a result of continued union busting, GLU's membership now stands at 26% of the workforce. This is still a substantial figure in a difficult organising environment, and there is nothing in law to prevent management recognising GLU.



Photo by Kathleen McTigue / uusc4all

Privileging of alternative structures: Management has consistently highlighted the existence of five workplace committees as a substitute for a union, and in the GLU's view over-relies on external bodies like NGOs to conduct workplace engagement and trainings, to the exclusion of the union. At the same time, according to GLU, management has attempted to minimise union members' participation on the committees, including through what GLU sees as a biased election process. The suggestion by SAPL's management that workplace committees negate the right of an independent trade union to organise and gain recognition goes against national and international law and the policy commitments of the brands buying from the factory, which affirm the collective bargaining remit of trade unions over workplace committees. Moreover, the workers themselves see the committees as a token gesture to display worker engagement to brands and other interested stakeholders rather than a body which facilitates genuine grievance resolution and dialogue – especially without union representation in committee positions.

The role of brands

The brands' correspondence with CCC between September 2023 and April 2024 indicates gaps in their approach to addressing freedom of association concerns at their supplier factory.

Promoting alternative representative structures: All three brands have referenced workers' committees in response to specific questions from CCC on trade union rights and freedoms. Both BESTSELLER and Primark implied that bolstering the workers' committee was part of the solution to the systematic undermining of the independent trade union and workers' right to freedom of association at SAPL. This illustrates what is explored throughout this report: brands defaulting to alternative structures instead of using their leverage to support the conditions for independent unions – as the proper avenue for collective bargaining defined by the ILO and in international law and standards – to flourish. In relying on workplace committees as “representative” structures in this case, brands also ignore the reports from workers of management's interference in the composition and activities of committees, and that they are not trusted by workers as an avenue for resolving their issues.

Misinterpretation of law and defaulting to legal minimum standards: The brands' responses to GLU and CCC on to the issue of recognition demonstrate, variously, a lack of understanding of the national law, and recourse to legal minimum standards over proactive promotion of freedom of association and collective bargaining. The Children's Place stated that “the requirements for union recognition have not been met”. Yet the 10% minimum threshold for recognition has consistently been met by GLU. And indeed, BESTSELLER has acknowledged GLU's high membership, stating that it constitutes a “considerable percentage” of the workforce – while still failing to use its full leverage to ensure trade union recognition. Primark stated that it “will not accept a supplier's failure to recognise formally a union which has met the respective threshold for mandatory recognition. In this case the union has not met this threshold”. Yet as outlined above, GLU has met the minimum threshold for recognition under Indian labour law. To implement their codes of conduct, brands must take more assertive action to ensure their suppliers uphold the right to trade union recognition. Additionally, none of the three brands have acknowledged the challenges for the union in building its membership against a backdrop of union busting and discrimination.

Failure to contextualise investigation findings: While all three brands conducted investigations in 2023 after being contacted by CCC and GLU in relation to the concerns outlined, none acknowledged the need for further interrogation of discrepancies between their findings and the situation reported by GLU and CCC. The Children's Place gave no indication it had engaged with workers or their representatives as part of its investigation. Primark and BESTSELLER said they had spoken to workers onsite. However, neither indicated consideration that workers – who had previously reported being victimised for speaking to brands – might not have felt able to speak freely, a risk established standards such as the [OECD Responsible Supply Chains in the Garment and Footwear Sector](#) explicitly call upon brands to take account of.

Reluctance to use leverage to ensure implementation of policy commitments on freedom of association:

Finally, the brands have repeatedly stated their belief that matters must be resolved between GLU and management, despite a lack of bilateral resolution for nearly a decade. And in its correspondence with CCC, BESTSELLER attributed equal responsibility to management and GLU for “the success of...rebuilding the bilateral relationship”, overlooking the clear power imbalance between the two parties, in a context where workers are unable to build their bargaining power. Brands’ reluctance to take more assertive action is particularly frustrating given that on the limited occasions they have done so, it has made a difference. Their intervention helped to bring about the first meeting in nearly a year between SAPL and GLU in February 2024, and further meetings in April and May 2024, and to ensure meeting agendas and the minutes are agreed upon by both parties. These meetings have yielded some progress, with management allowing GLU to conduct training sessions with workers, for example. However, the core issues of union and protected workmen recognition remain unresolved.

The Resource Centre sought a response from **BESTSELLER**, **Primark** and **The Children’s Place** in relation to the situation outlined by GLU and CCC. **The Children’s Place** did not respond. **BESTSELLER** refuted the suggestion it has failed to ensure issues are resolved in a timely manner and that freedom of association is respected and stated that the code of conduct violations identified by its investigation had been addressed through a corrective action plan. **Primark** stated that its efforts to ensure freedom of association and adherence to the code of conduct are a continuous process, and that it would continue to monitor the situation. Both brands cited their alignment with international standards on responsible business conduct such as the UNGPs (**Primark** and **BESTSELLER**) and OECD guidance (**BESTSELLER**). Both brands reaffirmed their view that recognition of the union is at the discretion of SAPL’s management. Full responses are available on the [Resource Centre’s website](#).

Key takeaways for brands

- ➔ Worker committees are not a substitute for trade unions, and where a trade union exists, especially with significant membership, brands’ energy should go into supporting this.
- ➔ Brands with codes of conduct which purport to support collective bargaining must follow the position taken by ILO Conventions, and their interpretation in international jurisprudence: that workers’ committees are no substitute for, and must not be used to undermine, independent trade unions, and where both an independent trade union and workers committee exist, collective bargaining must be with the union.
- ➔ Understanding national law and local context must be a core part of brands’ due diligence and sourcing decisions.
- ➔ Brands cannot assume freedom of association and workers’ right to organise will be protected without proactive, ongoing intervention and due diligence.
- ➔ Defaulting to legal minimum standards is not sufficient: brands can and should ensure their suppliers recognise trade unions, where it is legally in their discretion to do so, and permit unions to freely organise within the workplace.
- ➔ In the context of widespread union busting, the resource and power differential between employers and trade unions means that brands cannot simply claim they are equal partners with equal responsibility for and leverage to ensure successful outcomes. Brands must understand this, while supporting the conditions to ensure that they can be.

Conclusion and recommendations

In the challenging and complicated context for freedom of association set out in this report, fashion brands cannot expect that commitments to protect this foundational right will be implemented without proactive action on their part. The workers making the clothes which drive brands' profits deserve genuine representation and an avenue to defend their rights and secure decent pay and conditions. As this report shows, democratic, independent trade unions remain the most effective means for workers to challenge the unequal supply chain power dynamics that result in inadequate wages and poor working conditions. Yet alternative mechanisms for worker engagement are too often promoted where unions could and should be fostered instead. Course correction is urgently needed. Without it, there is no foundation for the robust social dialogue and meaningful stakeholder engagement essential to fulfil fashion brands' supply chain due diligence requirements and bring about a genuinely just transition to a fairer, greener industry. The recommendations below outline how fashion brands, as well as factories, investors and policymakers in both producing and sourcing countries, can play their part in breaking the vicious cycle of undermining genuine avenues for worker representation.

Recommendations

International fashion brands

Strengthen supply chain transformation through workers' freedom of association. Shift to active promotion and constructive engagement with trade unions, to support successful supply chain transformation, workers' rights and shared prosperity. Bring supply chain trade union representatives into the brand's consideration of supply chain transformation. This includes:

- ➔ **Develop robust policies** that assert freedom of association (FoA) as a key human rights commitment – including workers' right to join and form trade unions, free from harassment, intimidation and discrimination, and support for unions' role as collective bargaining agents. Policies should permit the use of alternative structures only in ways that are genuinely complementary to trade unions, within the limited remit established in law, or where there truly is no scope for trade unions to form and organise.
- ➔ **Put policies into practice:** Given pervasive union busting, neutrality and deferring to legal minimum standards rather than taking proactive action, means support for the status quo. Brands must use their leverage in sourcing countries – including through direct supplier relationships – to create an enabling environment for independent trade unions to organise and gain recognition. Brands must also respond promptly and substantively to unions' requests to support FoA and promote workplace dialogue at supplier factories. The legal framework and political context for FoA should inform brands' sourcing decisions.
- ➔ **Negotiate Global Framework Agreements and binding agreements for supply chains**, and ensure their principles are embedded throughout the business model, and especially purchasing departments.
- ➔ **Instruct suppliers of time-bound demands for freedom of association** and collective bargaining in factories, and support dialogue and costs around successful delivery of due diligence and net-zero targets.

- ③ **Human rights due diligence must be premised on the right to freedom of association and meaningful engagement with workers along supply chains.** This means undertaking stakeholder mapping along supply chains to identify those trade unions and allied groups with which to engage, consulting workers and their representatives throughout the due diligence process and ensuring that the right to freedom of association is identified as a high-risk priority in due diligence processes. Brands required to comply with CSDDD should utilise the opportunity it presents to develop good practice approaches to engaging workers and their representatives throughout the due diligence process, helping to build robust trade union structures and develop social dialogue.

Supplier factories

- ③ **Assert commitment to freedom of association and collective bargaining** in policy documents made easily accessible to workers and translated into relevant languages. All workers should be provided with clear, unbiased and accurate information about the role of different representative structures in the workplace, including independent trade unions.
- ③ **Permit independent trade unions to form and organise in the workplace.** Employers must ensure FoA is protected at factory level. This includes allowing independent trade union representatives facilities and time to organise, without discrimination, and standing against union busting practices such as dismissal of workers who participate in union activities.
- ③ **Engage in good faith negotiations with independent trade unions as a key social partner.** It is incumbent upon employers, as per ILO guidelines and other international standards, to engage in social dialogue and collective bargaining processes with independent trade unions, rather than bodies like workplace committees.
- ③ **Comply with legislation on the remit of workplace committees** and ensure workers are aware of their role, can participate in free and fair elections for committee representative positions, and know who their representatives are. Committees should be used in a way that is complementary and supportive to that of independent trade unions, according to the limits defined in law, and never as a substitute.



Policymakers

In buying countries

- ➔ **Develop and implement mandatory human rights and environmental due diligence legislation** that ensures meaningful stakeholder engagement at all stages, and highlights freedom of association as a foundational and enabling labour right, alongside participatory approaches to due diligence that centre the expertise and voice of workers and their representatives.
- ➔ **Mandate corporate reporting and transparency** that allow workers, trade unions and their allies along supply chains to access the information needed to participate in meaningful dialogue and negotiations with local suppliers and international buyers.

At European Union level

- ➔ **Use the CSDDD as a springboard to strengthen freedom of association globally.** Ensure accompanying measures to the directive integrate programmes, engagement and adequate funding to capacitate workers, trade unions and their representatives to participate fully in the due diligence process, and provide European companies with the information they need to engage in meaningful stakeholder engagement.

In sourcing countries

- ➔ **Develop and enforce legislation on freedom of association** aligned with international standards and good practice, ensuring an active role for independent trade unions at a workplace, sectoral and national level – including by providing sufficient resources to relevant departments to ensure legislation is enforced.
- ➔ **Undertake tripartite negotiation and consult social partners** on legislation development and implementation, including independent trade unions and, where appropriate, groups supporting hard-to-reach and vulnerable groups (such as women and migrant organisations).
- ➔ **Develop national human rights due diligence legislation** applicable to local businesses and their own supply chains, where subcontracting is common and FoA risks even greater.

Investors

- ➔ **Integrate freedom of association as a key criterion** in the assessment of brands' material risks in this transforming supply chain landscape.
- ➔ **Set clear and time-bound expectations to businesses** regarding the consolidation of freedom of association, independent trade unions, social dialogue and collective bargaining in operations and supply chains.
- ➔ **Promote successful dialogue for a just transition.** Engage brands both individually and collectively to support the design and implementation of implementation of human rights and environmental due diligence and a just transition to net-zero value chains.

Annex 1:

Full methodology

This report is based on research conducted by the Business and Human Rights Resource Centre (the Resource Centre) between April 2023 and May 2024. Focus group discussions and interviews were held with trade union leaders and activists and other labour rights advocates from the six focus countries between October 2023 and March 2024.

The Resource Centre also conducted a survey of labour rights NGOs, factory-level trade unions, national trade union federations, and women and migrant worker organisations in the six countries between December 2023 and January 2024. The survey, designed by the Resource Centre, was administered with the assistance of Clean Clothes Campaign's global network. The survey data is held by the Resource Centre, which also conducted the data analysis.

The findings of the report are based on the perspectives and experiences of research participants in the countries of focus. In the context of widespread union busting and an increasingly repressive environment for freedom of association, this report provides an opportunity to share these points of view. All buyers and factories named in the report were contacted prior to publication for their response, with the exception of cases based on information already in the public domain. Buyers from the factories mentioned were identified through both union and worker testimony and publicly available supply chain data.

The six focus countries were selected as major garment producing countries in South and Southeast Asia. Bangladesh, Cambodia, India, Indonesia, and Sri Lanka featured in the Resource Centre's [2022 report on freedom of association](#). Pakistan was included following the signing of the [Pakistan Accord](#) at the start 2023.

Throughout the research, particular attention was paid to identifying groups advocating for women workers, given the gender composition of the sector and the specific challenges faced by women garment workers, as well as the fact women are often underrepresented in union leadership.

Extensive desk research was also carried out using information from open sources, including relevant international human rights standards, civil society reports, and domestic and international media. The legal profiles referred to in the report were produced by Resource Centre researchers in collaboration with legal experts in each of the six focus countries.

Limitations

- ➔ This research relies on the testimony of workers and leaders already connected to existing trade union and international solidarity networks, which might exclude some voices.
- ➔ While all factories named in the report produce for the export market, the list of international buyers is not definitive. A lack of transparency in the industry means it can be a challenge to identify buyers and workers themselves are not always aware of the brands for which they are producing.
- ➔ The names of some workers, researchers, factories and interview participants have not been provided in the report, where necessary.

Annex 2:

Worker representative landscape

This table outlines the worker representative structures and worker voice mechanisms highlighted by workers engaged throughout the Resource Centre's research, which are explored in the "Key findings and analysis" section of the report. It provides a guide to the names and forms of the main representative structures across the countries covered in this report. While other structures do exist, they are not the focus of his research.

▼ Term

▼ Also known as

Independent trade union

Description ▶ A trade union established by and in the interests of workers without management/government interference, with democratically elected representatives (ideally representative of the composition of the union).

Worker committee

Participation/participatory committee (Bangladesh),
LKS Bipartite (Indonesia),
Joint works council (Sri Lanka),
Employee council (Sri Lanka),
Work council (Pakistan),
Works committee (India)

Description ▶ A committee comprised of workers that comes together in a forum with management representatives, or a body that includes representatives of both management and workers. Throughout this report, the term worker committee is used to refer primarily to committees with a remit for discuss production, productivity and other workplace issues. Other workplace committees with a specific remit such as health and safety might exist alongside these. Worker committees have no legal remit for collective bargaining (except in some jurisdictions, where there is no trade union in a workplace).

Yellow union

Non-independent union,
Company union,
"Instant noodle union" (Cambodia),
Pocket union (Pakistan),
SPTP (Indonesia)

Description ▶ A trade union established by/unduly influenced by/functioning in the interests of management. This term might also be applied to state-backed unions.

Shop steward function

Worker representative(s)

Description ▶ An individual or group of individuals representing workers in dealings with management. This is often a trade union representative. In the context of this research, the term "shop steward" is used in relation to Cambodia, where the use of shop stewards – which can complement but primarily exist outside of union structures – is widespread. In workplaces with multiple shop stewards – and often shop steward assistants – the shop steward structure can be akin to a workplace committee. In law, the shop stewards should be appointed by trade unions but in practice they are often management appointees.

▼ **Term**

▼ **Also known as**

Worker voice technology

WoVo

Description ▶ Technology to enable direct communication with workers – most commonly taking the form of smartphone apps and surveys. Its uses include as an avenue for workers to report grievances and issues directly to brands or other actors like NGOs, for brands or management to deploy communications to the workforce and to gather general worker feedback (for example on workplace satisfaction).

Health and safety committee

**OHS/OSH committee,
Safety committee**

Description ▶ A workplace committee prescribed by law in most countries included in this report. A body usually made up of worker and management representatives, elected or nominated, tasked with responsibility for enacting health and safety measures in the workplace, ensuring factories comply with OSH legislation, recording accidents etc.

Sexual harassment committee

**Internal complaints committee (ICC) (India),
POSH committee (India)**

Description ▶ A workplace committee to receive, investigate and remediate cases of workplace sexual harassment specifically. These committees are mandated for factories in the labour laws of India, Bangladesh, and Pakistan (except Sindh province). These laws include specific requirements about the composition of these committees – including a minimum number of women that must be members of the committee.

Grievance redressal committee

Description ▶ A feature of Indian law – a grievance redressal committee hears and settles workplace grievances. The committee is comprised of an equal number of employer and worker representatives.



Business & Human Rights Resource Centre is an international NGO which tracks the human rights impacts of over 10,000 companies in over 180 countries, making information available on our 10-language website.

This research was conducted by Business & Human Rights Resource Centre, with support from the Clean Clothes Campaign.

LEAD AUTHORS AND RESEARCHERS:

Kate Jelly and **Natalie Swan**

RESEARCH SUPPORT:

Bhoomika Choudhury, Catriona Fraser, Anithra Varia,
BHRRC regional researchers

ADDITIONAL SUPPORT:

Michael Clements

SPECIAL THANKS TO:

Khalid Mahmood, Niki Gamara and Thiruvalluvar Yovel from the Clean Clothes Campaign; Imtiaz Ahmad Sajal; Natasha Van-Hoff; Law & Society Trust, Sri Lanka; Maya Thomas-Davis from Labour Behind the Label and all the representatives of trade unions and labour advocacy groups across the six countries of focus that participated in this research:

- ➔ **Bangladesh:** Bangladesh Center for Workers Solidarity (BCWS); Bangladesh Garment and Industrial Workers Federation (BGWIF); Akota Garment Workers Federation (AGWF); Bangladesh Independent Garment Workers Federation (BIGUF); Bangladesh Revolutionary Garment Workers Federation (BRGWF)
- ➔ **Cambodia:** The Coalition of Cambodian Apparel Workers Democratic Union (C-CAWDU); Center for Alliance of Labor and Human Rights (CENTRAL); The Cambodian Alliance of Trade Unions (CATU); Independent trade Union Federation (INTUFE)
- ➔ **India:** Garment Labour Union (GLU); Karnataka Garment Workers Union (KOOGU)
- ➔ **Indonesia:** Trade Union Rights Centre (TURC); Gabungan Serikat Buruh Indonesia (GSBI); FSB Garteks; Serikat Pekereja Nasional (SPN)
- ➔ **Pakistan:** Textile Power Loom and Garment Workers Federation; Home Based Women Workers Federation (HBWWF); National Trade Union Federation (NTUF)
- ➔ **Sri Lanka:** The Women's Centre; Dabindu Collective Union; Dabindu Collective; Free Trade Zones and General Service Employees Union (FTZ & GSEU); Progress Union