

THE KINGSLAND CASE – CAMBODIA



1. BACKGROUND

In December 2012 H&M adopted a human rights policy, based on the UN Guiding Principles on Business and Human Rights. Among its policies, H&M forbids the use of undeclared production units by its suppliers. In brief:

- In spring 2012 H&M placed an order with a supplier.
- The supplier subcontracted to Kingsland without informing H&M.
- Order finished and shipped in June.
- Kingsland suspends production in September/October and illegally lays off 200 workers.
- Kingsland fails to pay compensation during suspended production, and subsequently closes permanently and fails to pay outstanding wages and legal severance pay.
- This triggers workers' protests, including strikes, blocking of the factory gate, temporary blocking of the main road and of the machines in the factory for 4 months.
- Also there are additional local and international advocacy actions.
- A Cambodian NGO, CLEC, informed H&M of the situation at Kingsland.
- Workers, CLEC and the Workers Rights Consortium in Cambodia sent letters to H&M requesting that the company compensate the 200 workers, after proving that Kingsland indeed produced garments for H&M via the suppliers.
- H&M also received external questions from media outlets.

H&M then started thinking about their responsibility on this case through a human rights perspective, and contacted human rights experts to get their advice. H&M contacted their supplier, who said they were willing to contribute to workers compensation. A stakeholder meeting was then organised in March 2013, involving BFC and ACILS, while at the same time protests by workers are carried out outside H&M offices and the Swedish embassy in Phnom Penh, as well as outside Kingsland factory; this included hunger strikes by some of the workers.

The stakeholder meeting concluded that factory assets and contributions from the suppliers will cover the workers compensation. A committee with government representatives formed to clear out details. Workers received the compensation in mid-March. After this, H&M met with Cambodia Government to address the lack of social security systems.

2. KEY HUMAN RIGHTS ISSUES

Cambodia has been for a number of years a destination for apparel brands looking for cheaper suppliers. A variety of factors have contributed to labour rights problems in factories in Cambodia.

The wage level in the industry is under continuing dispute and debate. There are also industrial practices which may restrict the right to freedom of association, a fragmented trade union community together with multi trade union representation at garment factories, and challenges with working conditions at factories.

While the brands can control to some extent what happens at their directly contracted suppliers, sometimes these suppliers sub-contract to other suppliers and this may get out of control, as in the Kingsland case.

3. LINK TO “PROTECT, RESPECT AND REMEDY”

All aspects of the “Protect, Respect, and Remedy” Framework were in play in this case. H&M accepts that their responsibility can apply regardless of contractual terms and business relationships, and goes much further in the eyes of the NGO’s. The UNGPs give scope for this broad application of business responsibility. H&M therefore correctly ensured that they assessed their responsibility with a perspective of their human rights policy and the UNGPs.

One important lesson learnt for all companies is that when big brands play the role of facilitators in remediation, early engagement with stakeholders is key. In the Kingsland case, taking an active role allowed H&M to be seen as more responsible than other brands. It also presumably helped keep the protests and disruption to a limited extent. Proactively identifying local stakeholders and keeping up a dialogue is not only positive, but necessary. Also engaging with the government is imperative.

Preventive actions taken by H&M after the Kingsland case:

- Workshop with all suppliers in Cambodia concerning H&M’s policy of using subcontractors.
- Whistleblowing system: Lists with all factories in Cambodia distributed to the trade unions so their members that produce H&M garments without being on the list can report back to H&M.

Speakers:

- Lars Åke Bergqvist, H&M
- An Nan, Workers Rights Consortium & Arbitration Council of Cambodia
- Susan Hayter, ILO