

Laid-off during the pandemic: A case-study of the closure of a garment factory

Executive Summary

Introduction

The case study documents the events around the closure of the **Euro Clothing Company–2 (ECC-2)** of Gokaldas Exports Limited, located at Srirangapatna city in Mandya taluk in Karnataka. The factory had been operating since 2010 and in the recent years had been only producing for the transnational apparel corporation Hennes and Mauritz, better known as H&M. The factory declared a sudden lay-off on June 6, sparking off one of the longest protests from garment factory workers in recent memory. The lay-off was illegal because the management had not sought permission from the state government under relevant provisions of the Industrial Disputes Act, 1947. When the lay-off was announced in the evening after working hours, all 1300-odd workers from the factory stayed back to protest at the factory premises. Over the course of the next few weeks, over 50 percent of the workers were pressurised into resigning because of various strategies of force adopted by the management. But what is remarkable is that until the end of the protests 50 days later, nearly 600 workers stood their ground, demanding that the factory be reopened. These protests were led by the **Garment and Textile Workers Union (GATWU)**, which had been unionising workers in the factory since 2014. Such long protests are rare in the garment industry, where most workers succumb to pressures and threats by the factory management and to the fears of losing their legal dues, and end up tendering their resignations. That workers at the exploited end of the global supply chain held out against the management during a world-wide pandemic makes these protests even more noteworthy.

Overview of the study

This case study, undertaken by the **Alternative Law Forum**, looks at what the intended closure of a factory means for individual women workers. In doing so, the case study attempts to explore work in the garment industry through frameworks other than that of exploitation. It does not discount ‘production torture’, aspects of which workers we spoke to mentioned. Faced with imminent closure of the factory they depended on so much, workers emphasised how much the prospect of steady employment meant to them, how much *base* they had built around it. These explorations are crucial to understand why lakhs of women enter, and continue to remain, in the garment industry.

The case study highlights the challenges unions face in sustaining protests while factory managements use the COVID-19 pandemic as a fear and an excuse to pressurise workers into resigning. By documenting strategies used by workers and their union to counter management tactics, the case study demonstrates how sustained organising at the factory by a union over the years—which included intervening to negotiate and bargain in favour of the workers with the management in small and big matters—is essential for workers to challenge arbitrary and illegal actions of the management. Especially, in times of crises as faced by workers at the ECC-2 factory, the strength and resolve of the union, built over the years, was

the primary factor that enabled workers to receive enhanced compensation packages or transfer to another unit of Gokaldas Exports.

Chapters

In the **first** chapter, the study lays out the **textile policies** of the Karnataka state government over the last several years. The policies set the targets of generating employment of five lakhs and bringing in investment of about Rs. 10000 crore into the state. It also divided the state into three zones, depending on the extent of incentives that were to be provided. Incentives included credit-linked capital subsidies, reimbursements of entry tax and stamp duty and other subsidies in power, treatment plants, among others. The rationale underlying the division of state into zones was to encourage the **dispersal of industries into non-metropolitan areas**. Srirangapatna was in Zone I with the maximum number of incentives for industries seeking to establish themselves in the taluk in the period between 2008 and 2013. It was moved to Zone II with lesser incentives for industries seeking to establish themselves in the taluk in the period between 2013 and 2018.

The chapter also looks at the **minimum wage regime** in the state and argues that among other factors, the lower minimum wages in zones away from Bangalore also act as incentives for factories to consider moving into non-metropolitan centres. Minimum wages are crucial for garment workers because it sets the standard for wages in the industry; garment factories do not pay more than minimum wages to workers. The state's failure to revise minimum wages has meant that workers continue to work for less than living wages. By failing in its legally mandated duty to revise wages, the state has continued to favour employers over workers.

In the **second** chapter, the study looks at the **three stakeholders** in the industrial dispute. **Gokaldas Exports** has been a mostly-Bangalore based, public-listed, export-oriented apparel-manufacturing company. From 2009 onwards, the annual reports of the company indicate that rising costs of wages, rentals and operational costs were a concern for the company and they were planning to move to smaller towns such as Mysore, Tumkur among others. Nearly a decade later, it had started nine units outside of Bangalore. However, the total number of units run by Gokaldas Exports had reduced from 54 to 21, according to the company's annual report in 2018-19. Despite its stated intention in moving out of Bangalore, why the company chose to shut down one of its non-metro units is a matter worth probing. The company has claimed a lack of orders from H&M and that the lay-off in the factory was essential because it has resulted in wage cost savings of Rs. two crores per month. But the fact that it chose to shut down the only factory with a unionised workforce is evidence that its motivations were not simply financial. This move by Gokaldas Exports needs to be understood against the larger context of supplier factories in other garment-exporting countries targeting unionised workers with unfair dismissals.

GATWU began unionising workers in 2014 and slowly grew in strength to a worker membership of around 900, in a factory with 1300 workers. At the factory level, it took up issues such as payment of overtime wages, instances of unfair dismissals and humiliating treatment meted out to workers. At the industry level, the union mobilised workers from

the factory for protests regarding increase in minimum wages for garment workers and on other issues regarding worker rights. The chapter briefly studies the work undertaken by GATWU prior to the announcement of the lay-off, including various strategies by the management to break up the union. The trust built up over the years from the pro-worker action it undertook was crucial to sustaining the protests for over 50 days in the period of the pandemic.

The third stakeholder in the dispute is **H&M**, a Swedish transnational apparel corporation, with sales amounting to 288 billion Swedish krona. Although it has tried to downplay its role when the industrial dispute, the corporation had previously been active in the affairs of the factory. One evidence of its involvement is the works committee that it insisted be set up in the factory which would act as a forum for workers to negotiate and resolve issues with the management. The chapter provides an overview of the voluntary commitments H&M has signed up for to protect workers' rights to freedom of association and collective bargaining throughout its supply chain. This voluntary commitment also includes a Global Framework Agreement (GFA) that the corporation has signed with the global trade union IndustriALL. Under this agreement, a National Monitoring Committee (NMC) was formed where disputes taking place in supplier factories of H&M can be discussed and resolved. The lay-off at ECC-2 unit was to be a testing case for the much-hailed agreement between a global brand and a global trade union.

The *third* chapter lays out the **context of Mandya**, in order to provide an understanding of the economy of the region and the possibilities of work in the region for women. Agriculture is the predominant occupation but farming has increasingly turned unviable due to increased fragmentation of landholdings. Over 95 percent of agricultural land is being cultivated by small and marginal farmers, with 63 percent of operational landholdings being less than 0.5 hectares in size. Incomes from farming are on a decline and are more prone to risks and uncertainties of climate and market. Mandya, despite being close to Bangalore, has remained neglected with successive governments not intervening either with measures to make farming viable or to generate other forms of employment. State neglect is reflected in various development indicators: six out of seven taluks in the district have been designated backward or more backward; nearly 30 percent of households in the district fall below the poverty line; and prosperity where visible is primarily through remittances from migrants who have left the district in search of employment. These are the economic conditions that structure the lives of women who had been working in the ECC-2 unit of Gokaldas Exports. Women who had taken up paid jobs before joining the factory invariably worked on their own bit-sized farms and/or as agricultural labourers. In 2011, the stated agricultural wages for a woman worker ranged between Rs. 100 and Rs.145 per day, while, for men, it ranged between Rs. 225 and Rs.275. Women workers we spoke to reported much lower wages as agricultural labourers. In any case, the low wages for a female agricultural labourer, received only seasonally and not throughout the year, were not enough for women to run households. These were facts Gokaldas Exports likely knew when they started their unit in Srirangapatna. The paltry but steady wages they offered were more than what women could ever earn in a predominantly agricultural district where gender-unequal wages were the norm.

The **fourth** chapter delves into **the lives of the women workers from the ECC-2** factory as it explores the **meanings** they attributed to their employment. The actual work conditions may have been exploitative but steady wages in the factory opened up possibilities—or *aase*—of putting children in better schools and colleges, of buying a scooter, of buying a plot of land, of small accumulations. The meagre wages at the factory is not what enabled women to aspire. Rather, it was the steadiness of wages that gave them the courage to take loans from microfinance institutions in the village. Women spoke of how the lay-off at the factory had snatched away their ability to meet their ‘commitments’—a term women often used to refer to debts and interest on loans they had to repay. The lay-off had shaken their faith that they could plan for themselves and their families and many expressed a deep sense of abandonment when the lay-off was suddenly declared.

The **fifth** chapter **documents the protest** through the course of the 50 days. It details the various ways in which **Gokaldas Exports sought to force workers into resigning**, in some cases successfully. Former supervisors and other staff at the ECC-2 factory were deployed to go into villages of workers and pressurise workers into resigning, sometimes, late in the night. Workers and their spouses were threatened with loss of settlement dues if resignation was not tendered on the spot. Management staff attempted to scare workers when they told them that the case may drag on for years if it moved into courts, that a nationwide lockdown might happen again and workers would have no office to tender their resignations and receive their dues. **Union leaders from GATWU countered all this and more propaganda** from the management by confronting management personnel in villages and filing police complaints against the illegal use of force in getting workers to resign. As the days wore on and Srirangapatna also started to report COVID-19 cases, movement in the district and gathering at the factory premises became difficult. Union leaders started alternate channels of communication through whatsapp groups where updates about conciliation proceedings with the Labour department, negotiations with H&M through the NMC, and support pouring in from other parts of the world for them were shared with workers.

While local administration and the elected area representative stood in support of workers and did not entirely ban sit-in protests, **workers were failed both by the state labour department and by the transnational apparel corporation H&M**. If the labour department did not penalise Gokaldas Exports for announcing an illegal lay-off, H&M refused to get involved in the dispute raised by the union, preferring to call itself a ‘facilitator’. Upon being pushed by GATWU to take on a more active role, given its voluntary commitments to worker rights, H&M organised an NMC meeting with GATWU and Gokaldas Exports, a month after the protests had begun. Over the course of the protests, H&M has failed to address the workers’ demands to have the factory reopened; it has not been forthcoming on whether it has reduced its orders to an extent that has made Gokaldas Exports shut down ECC-2 unit; finally, it did not act upon GATWU’s allegations that the lay-off at the factory was a union-busting measure, until after most workers had already resigned.

Despite these abdications, it is important to note that the strength and duration of the protests led to a **better compensation package** at the end of 50 days. Depending on the number of years of continuous tenure, workers received two to four times more than what they would have received had they resigned through the course of the protest. Another remarkable outcome of the protest was that Gokaldas Exports offered transport services to workers who opted for a transfer to their unit in Mysore; most workers who did take the transfer were core members of GATWU, thus allowing for the union to continue its work among garment workers in the region.

The demand from both GATWU and the workers to restart the factory may not have happened. But the fact that a garment factory paid a significantly higher compensation after the nearly two-month protest and offered transfers to workers who opted for it is evidence of how sustained pro-worker unionising is essential to organising workers and challenging arbitrary and illegal actions of garment factory managements. This is a remarkable victory in an industry where managements are known to force workers into resigning and/or closing units over a weekend.

The **conclusion** points to some important questions for governments and policy makers, domestic companies, and transnational corporations that this episode of the lay-off at ECC-2 factory raises.

Governments and policy makers: Arguably, the ECC-2 unit of Gokaldas Exports was enabled by the incentives provided by the policies. Given these direct and indirect subsidies that the company profited from over the years, should the state not hold the company to its 'public responsibility'? Further, given such practices of sudden closure that private companies resort to with great alacrity, how feasible is it for states to depend largely on private enterprises to promote balanced regional development? Finally, the abdication of labour department in the matter of workers, its inability and reluctance to hold companies accountable to labour laws, has heightened consequences for laid-off workers in distressed rural economies. It has ensured that capital can be irresponsibly mobile and continue its dominance over labour.

Domestic companies: The question of what constitutes the responsibility of a private enterprise, especially one that benefits from state resources and subsidies needs greater and more public examination. This is particularly relevant in a COVID-19 world marked by economic distress. Should a unit that has received subsidies for nearly a decade be able to shut shop without providing evidence of any economic distress it is facing?

Transnational apparel corporations: Given the manner in which H&M refused to take responsibility for the industrial dispute and act in pro-worker ways, this episode at ECC-2 factory raises serious questions on the efficacy of these voluntary governance structures that transnational corporations submit to and whether they can come to the aid of workers in times of crisis, such as during the pandemic.

Recommendations

Our recommendations are geared towards measures that the state and transnational apparel corporations should be undertaking in this period of the pandemic. Towards the state, our recommendations are as follows:

1. **Making Mental Health a Public Health Priority:** Counselling services for workers' mental health must be made a public health priority. Among other measures, the state government must setup a helpline to address the desperation and distress of women workers.
2. **Empowering Workers through greater awareness of their rights:** Wide publicity on rights of workers against factory management exploitation must be undertaken by the Labour Department. Training on labour laws and anti-sexual harassment laws must be undertaken for all garment workers through the Department of Women and Child Development. These measures should be evolved and implemented with the help of existing trade unions.
3. **Strengthening Labour departments:** The Labour Department needs to become proactive in terms of undertaking inspections, examining terms of agreement and compensation where factory closures have taken place and act in ways that increase the confidence of workers and unions that the state is protecting their rights. All labour disputes pertaining to lay-off, retrenchment, closure, payment of lockdown wages, etc. must be expedited in the interest of justice and equity. The infrastructure and personnel strength of the labour department must be enhanced to meet the needs of the current situation where violations are widespread. In particular, labour inspectors must ensure that factories are COVID-compliant and that workers do not lose out on wages because they get infected.
4. **Universal Income and Food Support must be provided to workers:** The state government must undertake an urgent survey of working-class households, identify key issues around income, health and food security and implement measures to address the same. With regard to garment sector workers, international brands can be roped in to provide funds as an urgent COVID-19 relief measure.
5. **Increase in Minimum Wages:** The state must ensure payment of minimum wages and also undertake an upward revision to reflect new uncertainties and risks being undertaken by the workers. A Living Wage Tribunal must be immediately constituted for the garment industry by the State, especially given that reports of exploitative financial practices of the management are flowing in. This is also the appropriate moment to ensure that legal provision of profit-sharing bonus to all workers is implemented.
6. **Strengthening Trade Unions:** The Industrial Disputes Act, 1947 should be amended to provide for compulsory registration of union representing a requisite percentage of the workforce. The provision should be kept low in the garment industry which has a high labour turnover as well as a growing proportion of migrant workers.

7. **Introducing structural reforms to make agriculture sustainable:** The state needs to address this fundamental economic issue and create conditions for women workers to make a dignified choice regarding where they want to take up employment.
8. **Reimagining the factory and the position of the worker:** The state needs to work towards actualising the vision of the Indian constitution. Article 43A asks that the state should work towards securing participation of workers in the management of undertakings. Article 39 asks the state take steps to ensure that wealth and means of production are not concentrated, that men and women have the right to an adequate means of livelihood, that there is equal pay for equal work among all genders. A state government that seeks to encourage industries in non-metropolitan areas needs to undertake this exercise of reimagining the factory and the position of the worker such that exploitative practices do not travel along with industrial expansion.

With regard to transnational apparel corporations, our recommendations are as follows:

9. **Abandon Neutrality in favour of Trade Union positions:** Brands such as H&M which have submitted themselves to voluntary codes of conduct to respect pro-worker practices need to abandon neutrality and treat both union and management as equal partners. Brands must act in favour of the union and its position at all costs and expeditiously.
10. **Increasing Inspections to Ensure Compliance of Labour Laws:** Brands needs to recognise that they have an additional responsibility to ensure international and national labour laws are being followed. In particular, where a manufacturing unit is being closed by one of its suppliers, brands have to take a proactive role, especially when union provide evidence of unfair labour practices. Brands also need to disincentivise supplier factories which are seeking to move towards contractual forms of employment.
11. **Working to Increase Wages across the Industry:** Brands need to take the lead in calling for living wage tribunals across supplier countries. Given the massive hit to worker livelihoods and increased costs after the pandemic and its lockdowns of varying intensity in several countries, brands need to work towards actualising the concept of living wages and be implement across their global supply chain.
12. **Working with and Increasing Support to Trade Unions:** Brands need to increase engagement with trade unions in its supplier factories by reaching out to understand if there are any unfair labour practices supplier factory managements are indulging in. It needs to incentivise supplier companies to ensure that the latter do not undercut and harass trade union members and infact encourage the formation of independent trade unions.