

## Letter to the Editor:

Stephen Frost's article "Suing the stakeholder: Solution or setback" in *CSR Asia Weekly* (volume 3, week 33) elicited a response from Robert Teunissen (vol. 3, week 36). The following letter responds to some of Robert Teunissen's claims.

**Background:** Two prominent European NGOs have been sued by an Indian garment company for cyber crime. In what appears to be an unprecedented legal move, *Fibres & Fabrics International (FFI)* and its subsidiary *Jeans Knit Pvt. Ltd. (JKPL)* in Bangalore have accused Dutch-based *Clean Clothes Campaign (CCC)* and the *India Committee of the Netherlands (ICN)* of "cyber crime, acts of racist and xenophobic nature and criminal defamation." According to a press release earlier this year, the CCC and the ICN were summoned to appear in a Bangalore court on 25 June 2007. This is the first time that a factory has filed suit against the CCC and the ICN for publishing information on working conditions in the garment industry on their respective web-sites.

Stephen's original article on the case drew a response from Robert Teunissen, who took issue with several points. This week, we publish a rebuttal of Mr. Teunissen's arguments from CCC coordinator Esther de Haan.

As one of the accused named in the lawsuit filed by FFI/JKPL against the Clean Clothes Campaign and the India Committee of the Netherlands, I feel obliged to react to the letter to the editor from Mr. Teunissen, commenting on the events leading up to this legal action and recent developments in the case. As we are talking here about allegations of law-breaking it is important to differentiate between facts and opinions and to be clear on whose behalf statements are made. Regrettably, Mr. Teunissen's letter contains numerous factual mistakes and insinuations and importantly Mr. Teunissen fails to disclose the fact that he is actually a paid consultant to FFI/JKPL.

FFI/JKPL has deemed it necessary to start two different court cases against labour rights organizations both in India and the Netherlands. Contrary to Mr. Teunissen's opinion, the City Civil Court in Bangalore has not yet reached a conclusion in the case against the unions GATWU and NTUI, and the labour rights organizations Cividep and Munnade. On February 19, 2007, the court prolonged the temporary restraining order, but made clear that "the court must avoid holding a mini trial and giving a finding". Mr. Teunissen follows on from this with unfounded accusations (perhaps even slanderous), in the direction of the vice chairman of GATWU and seems to be unaware of the fact that GATWU is a union duly registered since March 2006 and affiliated to the NTUI. Its recent success in reaching a tripartite agreement at neighboring factory *Texport Creations*, aimed at improving industrial relations between the union and management, shows that GATWU is seen by others as a legitimate negotiating party that fulfills its task as a worker representative.

The effect of the restraining order placed on Bangalore-based NGOs at the request of FFI/JKPL is that the "normal" path towards resolving labour issues cannot be traveled anymore. GATWU has always called for a dialogue with FFI/JKPL in order to address the labour concerns as reported by workers in 2005 and 2006. The only time a meeting was scheduled between workers and FFI/JKPL's legal advisor, the meeting was cancelled because FFI/JKPL's legal advisor did not show up. Public communications by the CCC and ICN regarding this case have centered around the demand that FFI/JKPL should start a dialogue with GATWU in order to resolve outstanding labour issues.

The fact that the published reports of worker interviews are quoted anonymously indicates that workers are afraid of the repercussions should they openly speak out. Workers' statements were confirmed by a fact finding mission, consisting of local human/women's rights organizations in 2006. This same fact finding mission also indicated that reported violations such as physical violence and unpaid overtime occurring at the time of the first worker interviews had come to an end in August 2006.

The core issues currently at stake at FFI/JKPL are the right to freedom of association and speech. The fact that FFI/JKPL does not allow its workers to join a union of their own choice is a breach of the right to organize. The report of the fact finding mission concludes with the remark that workers who raised questions were transferred to the brushing department as punishment, indicating that workers are not free to speak out about labour issues. When a union and workers' rights organization is gagged by the court at the instigation of an employer you can imagine that workers will not be volunteering to sign up with a union!

Contrary to what Mr. Teunissen believes, other labour rights advocates who are not covered by the restraining order also have to fear legal persecution when they speak about their investigation into labour conditions at FFI/JKPL. When the Dutch radio program *Argos* interviewed two independent members of the fact finding mission, neither of which belonged to the organizations gagged by the restraining order, both were accused of "contempt of court". Instead of trying to silence everyone who speaks about labour conditions at FFI/JKPL, the company should start dealing with the issues.

Mr. Teunissen objects to watchdog organizations casting a critical eye on the CSR industry, of which he is a part. The CCC has and will continue to bring information to the public about the shortcomings of any of the initiatives that claim to work towards improved labour conditions in the global garment industry. The CCC does take up cases including *Fair Wear Foundation* members and to suggest otherwise is simply untrue. *Mexx* for example, a brand sourcing from FFI/JKPL and member of the FWF, has not escaped CCC's attention and criticism. Finally it should be noted that FWF was founded by NGO's, companies and unions, who to date all reside in its board.

In concluding, it should be clear that freedom of association is about the right of workers to organize without employer interference. The employer, in this case FFI/JKPL, should in no way try to prohibit, repress, intimidate or obstruct workers who want to join a union. Unions should be able to present themselves to workers and able to promote their interests. It is clear that FFI/JKPL, through their persistent refusal to engage in a dialogue – in good faith - with local labour rights organizations, does not understand how vital healthy industrial relations are in order to have a business that can compete in the global market. Maligning local and international labour rights organizations does little to instill confidence among any stakeholders, including clients, that FFI/JKPL can operate as a socially-responsible enterprise.

Esther de Haan is coordinator of the Clean Clothes Campaign, an international network focused on improving working conditions in the global garment industry. ■