



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

No. 555, West Cross 4th Street, K.K.Nagar, Madurai - 625 020, Tamil Nadu, India.

Mobile: 99943-68540

E.mail: hrda.india@gmail.com Web: www.hrdaindia.org

HRDA/UA/SOUTH/TN/02/10/2024

10 October 2024

To,
Mr. Indrajeet Kumar,
National Focal Point - Human Rights Defenders & Deputy Registrar,
National Human Rights Commission,
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA, New Delhi -110 023
Email: hrd-nhrc@nic.in

Dear Sir,

Sub: HRD Alert- Urgent Appeal for Action-850 workers detained by Tamil Nadu police for peaceful protests demanding their rights for better working conditions.

Greetings from Human Rights Defenders Alert!

HRD Alert -India is a forum of Human Rights Defenders for Human Rights Defenders. It endeavours to initiate actions on behalf of Human Rights Defenders under threat or with security concerns. We are writing to express our concern regarding the detention of around 850 Samsung Electronics workers and union members for organising a street protest, as a strike at the South Korean firm's home appliances plant in Tamil Nadu state entered its fourth week

About the Human Rights Defenders:

Samsung workers at the electronics giant's facility in India's southern state of Tamil Nadu are on a prolonged strike demanding improved wages, union recognition, and better working conditions. These are workers who are fighting for the labour rights, the right to association upheld by the ILO (International Labour Organisation), upheld by the UN Special Rapporteurs on the freedom of Association and Assembly and enshrined in our constitution Art.19. As a collective therefore of the workers, they are Human Rights defenders.

Samsung workers from nearby towns spend three hours commuting to and from work by company bus. They leave home at 5 a.m. to start at 8 a.m., often working overtime without

notice, finishing at 7 p.m., but the bus doesn't leave until 8 p.m., reaching home by 11 p.m., leaving little time to rest. If they take a sick day, the HR manager pressures them through video calls. If a task of nailing the machines takes longer than 9.3 minutes, wages are deducted, and they receive negative reviews. They aren't allowed to talk to co-workers, and management ignores their grievances. Frustrated, they formed the Samsung India Workers Union, affiliating with CITU (Centre of Indian Trade Union) to demand fair wage hikes and "equal pay for equal work, freedom from discrimination." Their factory experience united them in this cause. The workers have written to the Labour Department to recognise the Samsung India Workers Union. It has been 90 days since they have given their application but so far there has been no response. As per the Law, it should have been done within 45 days. Mr.A. Soundararajan, President of the Centre of Indian Trade Unions (CITU), backed by the Communist Party of India (Marxist) has backed the new union in the factory

Source of Information:

- Newspapers
- Media Reports
- Direct Information from Mr. Aseerwatham, the State coordinator of HRDA

Perpetrators:

Police officials of Tamil Nadu state police, Chennai

Date of Incident:

Sept 9, 2024 - 6th October, 2024

Place of Incident:

- Makeshift tent close to the Samsung's Sriperumbudur factory near the city of Chennai
- In Samsung plant at Sunguvarchatram in Kancheepuram district.

Background:

The South Korean firm's home appliances plant in Chennai city, one of Samsung's two factories in India, employs nearly 1,800 workers and produces home appliances, contributing about a third to the company's annual \$12bn (£9bn) revenue in India. More than 1,000 workers have disrupted operations and protested in a makeshift tent close to the factory near the city of Chennai since Sept. 9. The workers have decided to strike indefinitely till their demands are met. Mr.A. Soundararajan, State President of the Centre of Indian Trade Unions (CITU), backed by the Communist Party of India (Marxist), has backed the new union in the factory.

The protesting workers have three key demands:

- Samsung must recognise the new union,
- Samsung must allow collective bargaining, and
- Samsung should reject competing unions, the Samsung India Labour Welfare Union (SILWU) which is newly formed labour union and recognised by Samsung Company.

CITU also alleged that workers at the plant were being "pressurised to finish each product - like a refrigerator, washing machine, or TV - within 10-15 seconds", work non-stop for four to five hours at a stretch, and do their jobs in unsafe conditions.

Details of the Incident:

Workers at the electronics giant Samsung's Sriperumbudur factory, near Chennai, have been on an indefinite strike since September 9, 2024, demanding improved wages, union recognition, and better working conditions with the Confederation of Indian Trade Unions (CITU) calling for government intervention to resolve the dispute. This is the first stir in the factory's 16-year history, according to CITU Tamil Nadu unit chief A Soundararajan. The protest has gained momentum, with [CITU](#)-affiliated trade unions joining in solidarity. Workers have written to the Labour Department to recognise the Samsung India Workers Union. It has been 90 days since they have given their application but so far there has been no response. As per the law, if the registrar of trade unions does not register a trade union within three months of the application, an appeal can be filed to the High Court under Article 226 of the Indian Constitution.¹

On September 16, 2024, tensions escalated when police reportedly detained approximately 120 employees, including Mr. E.Muthukumar, the CITU District Secretary.

On 1st October 2024, around 850 Samsung employees and 60 workers linked to labour group CITU, which is leading the protest, were detained alleging that their protest march near Chennai was inconveniencing the public. Soundararajan criticized the police action and subsequent warnings against protests in Chennai. The police personnel said the employees should not come (near Valluvar Kottam in Chennai city), and leaders of CITU affiliated unions should not take part in the protests.

Corporates hire young, unskilled workers, especially from rural areas, by attracting them with a good starting salary. These 'trainees' are promised to be made permanent employees after a couple of months, but this does not happen. The salaries too, stay stagnant or have very low increments. The rapid growth of "flexible workers" - employees hired on contract - has become

¹ Section 8 of the Trade Union Act of 1926

a key strategy of multinational corporations to stop unionising by ensuring a pliant workforce. According to the latest government statistics, every two in five workers employed in factories in India in 2022 were contractual labourers, making up about 40% of the workforce in industrial establishments. Companies use the threat of re-location or non-expansion to discourage state governments from enforcing labour laws.

Samsung has warned the striking workers that they risk losing their jobs and also CITU members in court saying the strike is illegal, but the employees disagree and say they will continue to protest until their demands are met. So far, Samsung has not agreed to recognize a union backed by a third-party group like CITU, resulting in an impasse.

HRDA strongly believes that the detention of the striking workers is an act of reprisal against the human rights defender's legitimate right to expression, uphold freedom of Association and their human rights work. Furthermore, the allegation of unsafe working conditions must be investigated thoroughly.

The detention of workers amounts to violation of multiple Constitutional rights that include freedom of speech and expression (Article 19(1)(a), freedom of assembly (Article 19(1)(b), freedom to carry his profession as a human rights activist (Article 19(1)(g) and right to life and liberty (Article 21) without any fear of intimidation and harassment.

Freedom of association is a fundamental human right, allowing individuals to come together to form and join groups, including trade unions, to pursue common interests. In the context of international labor standards, this right is strongly supported by the International Labour Organization (ILO) and other international frameworks. India has recognized and ratified key international laws that uphold the principle of freedom of association, particularly in relation to labour rights.

ILO Conventions

India, as a member state of the International Labour Organization (ILO), has ratified several conventions that uphold **freedom of association**:

ILO Convention No. 87 (Freedom of Association and Protection of the Right to Organise Convention, 1948):

- This convention guarantees workers and employers the right to form and join organizations of their choice without prior authorization.
- While India has not ratified this specific convention, it is influential in shaping national and international labor standards, including India's own labor laws.

ILO Convention No. 98 (Right to Organise and Collective Bargaining Convention, 1949):

- India ratified this convention on **June 4, 1950**.
- It provides protections for workers against anti-union discrimination and promotes collective bargaining.
- It mandates that workers have the right to organize and form trade unions, and safeguards against interference from employers or the government.

International Instruments Ratified by India

a) Universal Declaration of Human Rights (UDHR), 1948:

- Article 20 guarantees the right to freedom of peaceful assembly and association.
- Article 23 recognizes the right to form and join trade unions for the protection of one's interests.

b) International Covenant on Civil and Political Rights (ICCPR), 1966:

- Article 22 ensures the right to freedom of association with others, including the right to form and join trade unions.
- India ratified the ICCPR in 1979, making this a binding obligation in international law.

c) International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966:

- Article 8 of the ICESCR protects the right of individuals to form and join trade unions.
- India ratified the ICESCR in 1979.

Indian Constitution and National Laws

India's domestic laws are also aligned with international principles of freedom of association:

- **Article 19(1)(c) of the Constitution of India** guarantees all citizens the right "to form associations or unions."
- **The Trade Unions Act, 1926** governs the formation and functioning of trade unions in India, providing legal rights for workers to form unions and engage in collective bargaining.

Report of the Former UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr. Maina Kiai states,

12. “The rights to freedom of peaceful assembly and of association serve as a vehicle for the exercise of many other civil, cultural, economic, political and social rights. The rights are essential components of democracy as they empower men and women to “express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives, and elect leaders to represent their interests and hold them accountable”

63. The right to freedom of association obliges States to take positive measures to establish and maintain an enabling environment. It is crucial that individuals exercising this right are able to operate freely without fear that they may be subjected to any threats, acts of intimidation or violence, including summary or arbitrary executions, enforced or involuntary disappearances, arbitrary arrest or detention, torture or cruel, inhuman or degrading treatment or punishment, a media smear campaign, travel ban or arbitrary dismissal, notably for unionists.

The UN Special Rapporteur Mr. Maina Kiai highlights best practices worldwide that promote and protect the rights to freedom of peaceful assembly and of association². “Denying people space for peaceful, legal and constructive engagement does not make their feelings of anger, despair and dissatisfaction go away,” Mr. Kiai states in his report. “To the contrary, it simply pushes these feelings underground, where they can fester and turn violent. Extremism thrives in such environments, because it is the only option left.”³

Responsibility of the Companies to respect Human Rights

17. The UN Guiding principles on business and Human Rights-2014, states

a. “The second Pillar of the Guiding Principles sets out the corporate responsibility to respect human rights. A company must operate in a way that does not interfere

² [Former UN Special Rapporteur on the rights to freedom of peaceful assembly and of association \(2011-17\) \(freeassembly.net\)](#)

³ [Former UN Special Rapporteur on the rights to freedom of peaceful assembly and of association \(2011-17\) \(freeassembly.net\)](#)

with or have an adverse impact on the human rights of others, be they employees or consumers. This responsibility has been affirmed by the Human Rights Council, and has also been recognised by bodies such as the ILO, the organisation for an economic Co-operation and Development, and the United Nations Global Compact, and is increasingly reflected in the statements of companies themselves, too.⁴

b. The responsibility to respect Human rights requires companies to have policies and processes in place to prevent and mitigate any risk of causing or contributing to adverse Human Rights impact. In 2012, OHCHR Published an interpretative guide on the corporate responsibility to respect⁵, which detailed guidance on the meaning and intent of the guiding principles that apply to companies.

In the case of Madras High Court vs. Suryanelli Medical College Employees Union Case (2020)

There was a dispute arose between employees of the Suryanelli Medical College and its management regarding their right to form a union. The management refused to recognize the union and took punitive action against workers who were involved in the formation of the union.

The Madras High Court held that freedom of association is a constitutional right, protected by both national and international laws ratified by India. It emphasized that an employer cannot penalize employees for exercising their right to form or join a union. The court also directed the management to allow peaceful functioning of the union.

In the case of Arvind Mills Ltd. vs State of Tamil Nadu (2014) *The court ruled in favour of the workers, stating that the management's opposition to the formation of the union was illegal. The company was directed to recognize the union and engage in good faith negotiations with its representatives.*

Tamil Nadu has seen a wide range of judicial interventions to protect the **freedom of association** in both traditional industries, such as textiles and manufacturing, and newer sectors, like IT. The courts have consistently upheld the rights of workers to form unions and take collective action, even in the face of resistance from employers.

⁴ Book on frequently asked questions about the guiding principles on Business and Human Rights (2014). Pg:25-29

⁵ The corporate Responsibility to respect Human Rights: An Interpretive Guide (United Nations publications, Sales No. 13. XIV.4

The Supreme Court in the case of **S. Rangarajan v. P. Jagjivan Ram (1989)** held that:

“The freedom of expression is a legitimate constitutional right and cannot be compromised by intolerant groups. Freedom of expression is the rule and it is generally taken for granted. Everyone has a fundamental right to form his own opinion on any issue of general concern. He can form and inform by any legitimate means. Democracy is government by the people via open discussion. The democratic form of government itself demands its citizens and active and intelligent participation is a basic features and a rational process of democracy which distinguishes it from all other forms of govt. public discussion on issues relating to administration and positive value. We must practice tolerance to the views of others. Intolerance is as much dangerous to democracy as to the person himself.”

The **Supreme Court** in *Mazdoor Kisan Shakti Sangathan v. UOI* 2018 17 SCC 32 held that:-

“54. The right to protest is thus recognized as a fundamental right under the Constitution. This right is crucial in a democracy which rests on the participation of an informed citizenry in governance. This Right is also crucial since its strengths representative democracy by enabling direct participation in public affairs where individuals and groups are able to express dissent and grievances, expose the flaws in governance and demand accountability from the state authorities as well as powerful entities. This right is crucial in a vibrant democracy like India but more so in the Indian Context to aid in the assertion of the rights of the marginalised and poorly represented minorities.”

The **UN Declaration on Human Rights Defenders 1999**, also seeks to protect the monitoring and advocacy functions of defenders by recognizing their right to obtain and disseminate information relevant to the enjoyment of human rights. According to Article 11 United Nations Declaration on Human Rights Defenders 1999 *“Everyone has the right, individually and in association with others, to the lawful exercise their freedom of association and assembly”*.

The **United Nations (UN)**, through its various bodies and special mechanisms, consistently emphasizes the importance of safeguarding the fundamental rights to **freedom of expression, peaceful protest, and association** as core components

of democratic governance and human dignity. These rights are seen as essential to fostering dialogue, accountability, and social progress.

The **Edinburgh Declaration of 2010** emerging from the 10th International Conference of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights devoted to the role of NHRIs in addressing Business and Human Rights to consider the practical functions they can fulfil in promoting enhanced protection against corporate-related human rights abuse, greater accountability and respect for human rights by business actors, access to justice for victims and establishing multi-stakeholder approaches including but not limited to the following initiatives,

(a) Promotion/Education / Research;

(b) Monitoring and documenting violations of human rights by corporations operating or registered under the domestic jurisdiction;

(c) NHRIs with complaint handling functions Handling complaints related to corporate human right abuse using their quasi-judicial powers, including through conciliation, mediation, and making recommendations or orders to improve the situation;

Mediate between enterprises, trade unions, governments and victims of business-related abuse;

The United Nations Declaration on Human Rights Defenders 1999 states the following: Article 12 (2) and (3) "*The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure, or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.*"

Appeal:

We urge the Hon'ble Commission to take cognisance of the above case and urgently:

- Direct the Director General of Investigation at the NHRC to initiate a transparent, independent inquiry into the violation of workers' rights and unsafe working conditions in Samsung Sriperumpudur, Tamilnadu, along with members of **NHRC's Core Group on Business, Environment and human Rights** and submit the report to the NHRC;
- Direct the **Director General of Investigation of the NHRC** to investigate the use of force against peaceful protesters;
- Direct the **Director General of Investigation of the NHRC** to investigate the allegations of unsafe working conditions at the factory.
- Direct the Government of Tamil Nadu to officially initiate talks with the the leaders of the CITU's Samsung workers union and the management of Samsung;
- Direct the Government of Tamil Nadu and its Director General of Police to ensure that their **right to peaceful assembly** and **freedom of association** are protected;
- Direct that the UN Guidelines on Business and Human Rights : Implementing the United Nations 'Protect, Respect and Remedy' Framework, 2011 are popularised by the NHRC through its special training programs for business undertaken along with member of its National Groups on HRDs and Business, Environment and human Rights ;
- Direct that the GANHRI's **Edinburgh Declaration of 2010** are popularised among all SHRIs in the country by the NHRC through immediate special programs.
- Recommend that local authorities monitor labour practices in all companies including those run by corporates and ensure that companies adhere to labour laws and human rights standards and pass any directions that this Hon'ble Commission deems fit and necessary in the circumstances of the case and thus render justice

We hope to hear from you soon,

Yours Sincerely,



(Henri Tiphagne)

National Working Secretary