

The Solidarity Trade Union of Myanmar (STUM) would like to provide a rejoinder to the Business and Human Rights Resource Center regarding Fast Retailing's response to the breach of worker rights at Myanmar Sunview Factory (Solamoda 2) which is located at number 11/12/13 on Daw Phwar Shin Street, No 18 quarter, Industrial Zone 2, Shwe Pyi Thar Township, Yangon, Myanmar.

According to Fast Retailing response on Business and Human Rights Resource Center's web page, we find several of Fast Retailing claim's not reflecting the real circumstances of the situation.

1) About the Hotline by Fast Retailing

Fast Retailing has admitted having no contact at all with workers on this issue which is why the company has no awareness about the functionality or existence of grievance mechanisms in the factory. All workers we asked from Myanmar Sunview Garment Factory (Solamoda 2) did not know about any hotline complaint programs inside the factory until now - even after factory burnt down last year. That is why, they did not receive any worker/representative reports, because all workers did not know where to complain and how to make a complaint via anonymous hotline numbers. None of the workers knew how to complain directly to the brand - Fast Retailing, the factory owner or any hotline complaint programs during the time while the factory was operating or after the factory burnt down. This is a failure of the brand's own code of conduct.

2) About the lack of fire insurance payout to the factory:

- (i) Does the Myanmar Sunview Garment factory owner have fire insurance? Did the company apply for fire insurance in past? If not, why did the factory owner not apply for fire insurance as basic risk mitigation and why did Fast Retailing as a buyer not ensure that this was the case?
- (ii) If the factory owner did apply for fire insurance in past, why he did not get it? Did the insurance company not pay because it is considered deliberately set on fire?

The STUM also would like to point out that whether Solamoda was paid fire insurance or not, it makes no difference in regard to the company's responsibility towards the workers under Myanmar labour law, and therefore to the responsibilities of Fast Retailing to ensure that these requirements are met.

3) Fast Retailing receipt of compensation from Solamoda:

Within the Arbitration Decision, one of the excuses provided by the Arbitration Body for not enforcing Myanmar law relating to workers' wages and severance, is that Solamoda experienced additional hardship because, "*The foreign businessmen who ordered the ready-made clothing from this garment factory, also claimed compensation for the damages.*" Please confirm if this means that Fast Retailing, being the main customer at the time of fire, has demanded compensation from Solamoda after the fire? If so, how much compensation has Fast Retailing received from Solamoda?

4) Myanmar's labour arbitration system is not accepted either locally or internationally as a credible arbiter of labour law since the military dictatorship was reimposed last year, why is Fast Retailing citing this decision rather than the labour law?

In the dispute between Solamoda-2 factory and 1681 workers including Thae Maung Tun, the Arbitration Council misconstrued the Labor Dispute Resolution Rules and related Myanmar Labor Laws. Arbitration Council review was not properly evaluated on Article (31) of the Labor Dispute Resolution Rule by giving undue favours to the factory owner side.

The law clearly states that the entrepreneur must give priority to the money owed to the workers among the debts to be paid in the case of delisting business or liquidation of the business according to the existing law.

Fast Retailing, by referencing the review of Arbitration Council's decisions which lack understanding of international labor standards and is based on biased and unfair decisions without grounding in the law, is demonstrating a serious failure to carry out human rights due diligence which should be done even more carefully now due to the political situation in the country.

In this case, even though the workers could not accept the Arbitration Council's order, at the time due to military coup, the Supreme Court blocked the right to file an appeal on the basic civil rights, so the workers still could not file an appeal by sending a writ to Supreme Court in Nay Pyi Taw against the Arbitration Council's order. Workers can get penalties or pay fine at least 10 million to 30 million MMK to Government if they do not take the money given by factory owner due to Arbitration Council's Decision according to article 48-a(b) of second amendment of Labor Dispute Settlement Law 2019.

The workers are already planning to continue in their struggle until they get the justice they legally deserve. We will continue to keep demanding for payment to the workers owed by the company until they get it and we aim for justice. By continuing to reference the biased Arbitration decisions, Fast Retailing and Solamoda is benefitting from the lack of freedom or rights in Myanmar following the military coup.

That the Arbitration mechanisms in Myanmar are biased and corrupt should not come as a surprise to Fast Retailing. For example, STUM together with another labor confederation FGWM boycotted Government tripartite Arbitration Council on 8th Dec 2020 precisely because Arbitration Council's Decisions are corrupt and bias on the employer side.

In conclusion, although Fast Retailing as international brand company, we would like to ask why you are only making considerations based on the Arbitration Council, which are inadequate and why did you not make consideration on the actual law and on International Labour Standard as your code of conduct states. We would like to know why Fast Retailing and Solamoda Factory do not follow the due diligence regarding on investor's ethic. We would also like to know transparently the response and review from Fire Insurance Company to Factory owner and the evidence of payment of compensation by Solamoda to buyers like Fast Retailing following the fire. Workers are struggling because of your inaction. Please respond promptly.