Rejoinder Clean Clothes Campaign

19 March 2018

In its response to our press release, in which we announce the filing of an OECD complaint against adidas, the company claims there are no justifiable grounds for this route to obtain justice for the 327 workers still fighting for their rights in Indonesia.

Adidas basically refers to three arguments:

1. that Adidas did not have a sourcing relationship with the factory where the worker rights violations took place at the time of the strike or thereafter, and therefore does not have a responsibility to mitigate the adverse human rights impacts;

2. that Adidas did more to encourage a resolution in this case than could reasonably be expected; and

3. that when the supported mediation failed, the union should have resolved the case through either the courts or the government

Clean Clothes Campaign as one of the complainants in this case, objects against these arguments, and argues that the global sportswear brand is responsible to ensure adequate remediation for the 327 workers for the following reasons:

1. Adidas’ supply chain in Indonesia is set up to ensure that its famous sports shoes can be produced without delays. Its core supplier Panarub Industry therefore used its subsidiary Panarub Dwikarya to ensure overflow orders could be finished in time. This has been acknowledged by Adidas. For Panarub this arrangement is profitable since profits from production at both facilities is going to the same owners.

2. Adidas, alerted to human rights abuses at the Panarub Dwikarya factory, should have taken adequate measures to stop the human rights abuses, prevent further violations and mitigate the negative impact. However, to order their key supplier to no longer produce Adidas’ products in this particular factory cannot be considered an adequate response, when further violations are neither prevented nor mitigation achieved for the workers concerned. This is proven by the fact that eventually 1,300 workers were dismissed for participating in a strike.

3. Adidas has acknowledged that the strike, and therefore the dismissal of 1,300 workers, directly rooted in the prior dismissal of union leaders in February 2012 and the non-payment of the minimum wage, both violations taking place when Adidas production took place in the Panarub Dwikarya factory. Therefore the expectation to Adidas to mitigate the negative human rights impacts after the strike are justified.

4. Although Adidas did engage with the union and factory management at the time of the strike, and facilitated mediation towards the end of 2012, the fact that these actions did not result in the intended outcome should have motivated Adidas to increase their leverage over their key supplier. But although Panarub management refused to negotiate in good faith, Adidas did not attach any serious consequences to the recalcitrant attitude of their supplier. It therefore did not use its leverage to make their key supplier understand the absolute need to pay the workers full severance in order to align the practices of their supplier with local and international norms, as well as the norms Adidas espouses for its suppliers.

5. Even more, the continuing of business under the special relationship between Adidas and the Panarub-Group meant that the ongoing rights violations where without negative consequence. On the contrary, even after the initial violations, the Panarub-Group continued to benefit substantially from its relationship with Adidas, attracting new orders and new models from Adidas, as well as other clients such as Reebok.

6. This relationship which continues to date gives Adidas sufficient leverage over their supplier to ensure that remedy is provided in this case, which under the current circumstances is defined as the workers receiving adequate and full compensation.

7. Finally, whatever the responsibilities are of the Indonesian government in this case, or whether the union did or did not file cases in the Indonesian labour court, the UN Guiding Principles are firmly stating that companies like Adidas have an independent responsibility to ensure human rights are upheld throughout their supply chains, and that they use their leverage to mitigate negative impacts that are linked to their business.

This case illustrates that currently multinational companies, operating through complex supply chains, allow for too many loopholes to evade their responsibility for ensuring workers’ rights are respected at their suppliers and remediation is provided when rights have been violated. Bringing this case to the German National Contact Point for the OECD Guidelines, therefore, is a justified step to further pursue justice for the 327 workers who up to date remain without proper remedy.