

Role Play

Scenario 1: Freedom of Association violations

Instructions for the group

Scenario:

A group of workers comes to the office of your union federation seeking advice. One week after they submitted a petition to the Ministry of Labour for registration of their union, all but one of the leaders of the union has been dismissed, along with five other non-union members. The reason given for their dismissals is “a lack of orders from the brands”. However, the workers believe they have been fired for organizing a union and that the employer was informed of their involvement either by someone at the Ministry or the one union leader who was not fired. As a result, they don’t trust the Labour Ministry to make a finding of wrongful dismissal. Asked what brands they have been producing for, they answer Nike, Walmart and Target. One of the workers also notes that some of the Nike t-shirts have the names of what she thinks are US universities on the front.

Instructions for the group:

You have written to the three brands identified and received a response by email from a regional Nike representative. The representative told you that Nike has been in touch with the factory and wants to share what they’ve learned with you. The representative would like to meet with you at a nearby hotel to better understand the issues. You’ve set up the meeting for this afternoon.

Before the meeting you will need to prepare your strategy in your group, including:

- Who is going to present your case and what are the essential points you want to make?
- What questions will you want to ask Nike about this case?
- What will you urge Nike to do?
- How will you convince Nike that it should take these actions?
- How will you hold the brand accountable for the actions you are requesting, and what will you tell its representative about that?

Scenario 1: Freedom of Association violations

Instructions for Nike representative

You are a regional social responsibility representative for Nike. A union federation has approached Nike about a factory producing clothes for your company. The federation says that one week after workers submitted a petition to the Ministry of Labour to form a union, all but one of the leaders of the union were dismissed, along with five other non-union members. They say the reason given for their dismissals is “a lack of orders from the brands”. However, the workers believe they have been fired for organizing a union and that the employer was informed of their involvement either by someone at the Ministry or the one union leader who was not fired. As a result, they don’t trust the Labour Ministry to make a finding of wrongful dismissal.

You’ve checked with the factory. 20% of its annual production is for Nike, all of which is university-licensed apparel. A larger share is devoted to Wal-Mart and Target. The factory denies that this was an anti-union measure, saying it was purely a business decision. Nike has not reduced orders generally, but this is a slower period for Nike’s university apparel orders. You assume that production will increase later in the year, although your company has not made any firm commitments.

You have contacted the federation by email. You told its representatives that you have been in touch with the factory and want to share what you’ve learned with them. You’ve arranged a meeting with them at a nearby hotel to better understand their perspective on the issues. You’ve set up the meeting for this afternoon.

You plan on telling the group the following things:

- Violations of FOA are violations of our code of conduct and we take them very seriously.
- The factory, however, is telling us that the dismissals had nothing to do with the union.
- We will investigate further and let you know what we find.
- We would welcome any evidence from you that would indicate that workers were fired for their union activity.
- We have not reduced our orders to the factory, there is only a normal seasonal variation in volume of orders.

You do not have the authority to commit to anything more than further investigation by Nike at this time. If the union asks for more, you’ll have to get back to its representatives after discussing the matter with senior Nike staff.

Scenario 1: Freedom of Association violations

Planning your strategy: Engage or not?

Response from Nike

Following your meeting with the company, you have received the following letter from Nike:

Thank you for bringing this issue to our attention. Following our meeting, we completed an audit into the allegations of dismissal of union organizers. The investigation was unable to definitively confirm that the dismissals were union-related and not simply a normal business decision. At the time of the dismissals, a number of other workers were also let go and there was no evidence that the factory management solely targeted members of the union.

Nonetheless, we have discussed the matter with our supplier and have jointly decided to conduct freedom of association trainings for all upper-level management at the factory to ensure that management is fully aware of our policy on freedom of association as well as national law.

Developing a plan on how to move forward in engaging with the brand

Questions to consider when developing your strategy:

- Should you continue engaging with this brand?
- Have your demands changed based on the brand's response?
- Do you need more information in order to back up your demands?
- Do you need to be in touch with allied organizations? If so, who would you contact?

Role Play

Scenario 2: Child Care Centres

Instructions for the group

Scenario:

A group of ten workers that are all attending trainings sponsored by a women's organization have learned that, by law, employers of more than 200 workers must provide childcare facilities at the workplace for young children of employees. There are 500 employees at their factory, which produces underwear for Hanesbrands. They contact you, as leaders of their union, asking what the union will do to defend their right to a childcare centre. The issue of childcare is an area of concern for many of the unions and women's organizations in your area and there has been some research done on the issue by a national women's organization. Although the study indicated that workers have differing opinions about whether workplace or community-based childcare is preferable, all of the workers interviewed agree on the pressing need for childcare facilities that are accessible and affordable and that their employers must assume part of the responsibility for the provision of this kind of care.

Instructions for the group:

You have written to Hanesbrands and received a phone call from a national Hanesbrands representative that deals with corporate social responsibility. The representative has asked to meet with you "to discuss your concerns". You've set up the meeting for this afternoon.

Before the meeting you will need to prepare your strategy in your group, including:

- Who is going to present your case and what are the essential points you want to make?
- What questions will you want to ask Hanesbrands about this issue?
- What will you urge Hanesbrands to do?
- How will you convince Hanesbrands that it should take the actions you are requesting?
- How will you hold Hanesbrands accountable for the actions you are requesting, and what will you tell its representative about that?

Scenario 2: Child Care Centres

Instructions for Hanesbrands representative

You are the national social responsibility manager for Hanesbrands. A union has written to Hanesbrands alleging that, by law, employers of more than 200 workers must provide childcare facilities at the workplace for young children of employees. There are 500 employees at the Hanesbrands supplier factory they identified.

You're aware of the law requiring child care facilities, but you also know that none of the factories in the Free Trade Zone follow this requirement. In fact, there is a debate about whether the company or the government is required to provide the childcare facility.

You have contacted the union by phone. You told its representatives that you would like to meet to discuss their concerns. You've set up the meeting for this afternoon.

You plan on telling the union the following:

- Although child care facilities are a requirement under the law, it isn't clear whether it is the responsibility of the Ministry of Labour or the employers.
- As well, it isn't clear whether workers would use a childcare centre if it were installed in a factory.

Your hope is that this will satisfy the union, or at least get them to focus on the government rather than your company. If pressed, you will have to tell them that Hanesbrands can't resolve this on its own – that it requires collective action by all the manufacturers and the government. If the union presses you further, you can suggest that it bring together additional companies and the government to discuss the issue, and that you might support that process.

You do not have authorization from your company to offer anything more than this at this time.

Scenario 2: Childcare Centres

Planning your strategy – Engage or not?

Response from Hanesbrands

Following your meeting with the company, you have received the following letter from Hanesbrands:

Thank you for bringing this situation to our attention. We have consulted with a number of experts and had internal discussions on the matter and, while the labour law does reference t provision of childcare, it is unclear on whether the employer or the government bears primary responsibility for providing this service to the workers.

Our company has less than 40% of production at the factory in question and so don't have the leverage to demand that our supplier go beyond what the law stipulates at this point in time.

However, we do recognize that adequate support for working mothers is a matter that should be addressed. We have therefore been in discussions with the Fair Labor Association (FLA), of which we are a Participating Company, about engaging an expert to investigate the problem and advise the FLA of steps that might be taken to improve support for working mothers in your country. We believe that multi-stakeholder dialogue is the best way to find sustainable solutions to an issue that affects the entire industry.

Developing a plan on how to move forward in engaging with the brand

Questions to consider when developing your strategy:

- Should you continue engaging with this brand?
- Have your demands changed based on the brand's response?
- Do you need more information in order to back up your demands?
- Do you need to be in touch with allied organizations? If so, who would you contact?

Role Play

Scenario 3: Precarious Employment

Instructions for the group

Scenario:

Three years ago, the government approved a reform to the national labour law that allows employers to hire workers on short-term employment contracts. One month after the law was passed, the employer at your factory began to hire new workers exclusively on three-month contracts. At the end of each three-month period, the workers are being rehired on another three-month contract. As a result, they never gain seniority rights and are never registered for social security. You believe the employer is hiring workers on consecutive short-term contracts in order to avoid making social security contributions and to weaken or eliminate the union. You consulted the union federation's lawyer who told you that, unfortunately, this is legal under the new law. A number of well-known US clothing brands have their products made in your factory, including Target, Under Armour and Gap. You've heard that the code of conduct of the FLA, of which some brands are members, prohibits employers from using short-term contracts as a tool for violating workers' rights.

Instructions for the group:

Your union wrote letters to the three companies. Only Under Armour offered to have its regional social compliance staff person meet with you. Gap also replied, but stated that the use of short-term contracts is not a violation of its code of conduct unless it violates local law. Target did not respond to your letter.

In preparation for the meeting with the PVH representative, you need to develop a strategy to convince the company that while this may not be a legal violation, it is a violation of its code of conduct and/or the FLA Code.

- Who is going to present your case, and what are the essential points you want to make?
- What questions will you want to ask of the brand?
- What will you ask the brand to do?
- How will you convince the brand to take these actions?
- How will you hold the brand accountable for the actions you are requesting, and what will you tell its representative about that?

Scenario 3: Precarious Employment

Instructions for the representative of PVH:

You are the Under Armour social responsibility staff person for the Central American region. You understand that the local government has made reforms in the national labour law to allow employment of workers on short-term contracts. While this is not a violation of your company's code of conduct, PVH is also a member of the Fair Labor Association (FLA), which has adopted a new provision in its code of conduct that prohibits the "use of contract, contingent or temporary workers on a regular basis for the long term or multiple short terms." Your company would rather not have a formal complaint made to the FLA and undergo an investigation on this issue since this could set a precedent for its other supplier factories in the country and, potentially, the region.

Your plan is to tell the union the following:

- Your company does not have a policy against the use of short-term contracts unless this is in violation of local labour law.
- However, you want to ensure that workers on short-term contracts have the same rights as permanent workers and you would welcome any evidence from the union that the short-term contract workers are being discriminated against.
- If they bring up the new provision in the FLA Code, you will assure them that Under Armour brand products are covered by the FLA Code and your company is making every effort to ensure compliance with the provisions of the code.
- Because you only have a small percentage of the production in the factory, you don't have the leverage to convince the supplier to make a fundamental change in how they contract workers.
- You hope the workers understand how difficult it is to convince the suppliers to comply with standards that go beyond what is required by law.
- You will suggest that they also contact other brands that have more production in the factory, such as Gap and Target and provide them contact information for their representatives.

Scenario 3: Precarious Employment

Planning your strategy: Engage or not?

After your meeting with the company representative, your union received the following letter from Under Armour:

Thank you for your interest in this important issue. As I explained at our meeting, our company's code of conduct does not prohibit the employment of workers on short-term contracts. However, we do insist that our suppliers refrain from using short-term contracts as a means of denying workers their legal rights. For example, workers employed on repeat short-term contracts for two years or more with no real break in employment should be registered with social security. They should also receive the same severance payments at the time of dismissal as employees on indefinite-term contracts with equivalent years of service.

For this reason, we will be sending a company auditor to the factory to determine whether there are any cases in which workers on short-term contracts have been discriminated against. We would therefore appreciate it if you would provide us with any evidence of discrimination that would be of assistance to our auditors.

Developing a plan on how to move forward in engaging with the brand

Questions to consider when developing your strategy:

- Should you continue engaging with this brand?
- Have your demands changed based on the brand's response?
- Do you need more information in order to back up your demands?
- Do you need to be in touch with allied organizations? If so, who would you contact?

Role Play

Scenario 4: Violations in subcontract facility

Instructions for the group:

Scenario:

Your labour rights organization has been doing interviews with workers in small subcontract facilities. Workers that you interviewed in one sewing workshop complained of a series of violations, including failure to register workers with social security, hiring of underage workers, sexual harassment against women workers, and forced overtime and failure to pay the legal overtime premium. According to the workers you interviewed, Walmart products are being made in the factory.

Instructions for the group:

You have written to Walmart about the problem. By chance, the company says that one of its Ethical Standards staff is in the country this week and can meet with you briefly today. This person has sent you a letter with a link to Walmart's code of conduct, which states that any supplier factory is expected to meet the terms of the code and will be audited using this standard.

You've set up the meeting for this afternoon.

Before the meeting you will need to prepare your strategy in your group, including:

- Who is going to present your case and what are the essential points you want to make?
- What questions will you want to ask Walmart about this issue?
- What will you urge Walmart to do?
- How will you convince Walmart that it should take these actions?
- How will you hold Walmart accountable for the actions you are requesting, and what will you tell its representative about that?

Scenario 4: Violations in subcontract facility

Instructions for Walmart representative

You are the regional Ethical Standards Manager for Walmart. You have been contacted by a labour rights organization that says workers at a sewing workshop producing for Walmart allege that management at the workshop has failed to register workers with social security, is hiring underage workers, has sexually harassed women workers, requires forced overtime, and does not pay the legal overtime premium. These are very serious allegations. However, when you checked into the supplier they named, you can't find any evidence that Walmart is using that supplier. You're not sure now whether the factory is an unauthorized subcontractor from one of your existing suppliers or if the factory is producing pirated goods. Your company does have a strict rule forbidding unauthorized subcontracting.

You have contacted the organization by email. You want to find out what evidence they have that this supplier produces for Walmart. To let them know that Walmart is serious about ethical standards, you have sent them a link to the company's code of conduct. You've set up the meeting for this afternoon.

You plan on telling the representatives of the group the following things:

- As they know, Walmart has very high ethical standards and if the factory is in fact a Walmart supplier, the company will investigate and work to correct any confirmed violations.
- That said, you are certain that Walmart has not sourced production from this factory.
- These orders may have been subcontracted without authorization or they may be pirated items; in either case we have no relationship with this factory.
- We will investigate to determine whether any of our suppliers have subcontracted to this factory without authorization and deal with them appropriately.

You should ask them what evidence the group has that Walmart products are being made at the factory so that you can check into it fully.

Scenario 4: Violations in subcontract facility

Planning your strategy: Engage or not?

Response from Walmart

Following your meeting with the company, you have received the following letter from Walmart:

Thank you for bringing this to our attention. At Walmart, all of our suppliers and any authorized subcontractors are subject to mandatory auditing to determine compliance with our Code of Vendor Conduct. We take any reports of non-compliance with our Code of Vendor Conduct very seriously.

We have since investigated the reports of Walmart products being manufactured in this factory. As a result of our investigation, we have determined that one of our suppliers did subcontract a small volume of orders to this factory for several months.

Walmart's new policy is that any unauthorized subcontracting is a clear violation of our supplier agreement and results in immediate suspension of authorization as a Walmart supplier. Accordingly, the supplier in question has been suspended and may not produce further orders for Walmart for a period of at least a year, after which time the factory may reapply for supplier status subject to a thorough auditing process and a new supplier agreement.

Thank you for bringing this situation to our attention.

Developing a plan on how to move forward in engaging with the brand

Questions to consider when developing your strategy:

- Should you continue engaging with this brand?
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- Do you need to be in touch with allied organizations? If so, who would you contact?