

Annexure 02

16th Oct. 2020

Inquiring Officer,
Human Rights Commission of Sri Lanka,
14, R.A. De Mel Mawatha,
Colombo-04

Dear Madam/Sir,

URGENT

Complaint to the Human Rights Commission of Sri Lanka (HRCSL) on unsafe Quarantine process of Garment Factory Workers

We, Chamila Thushari, Chandra Devanarayana, Ashila Dandeniya & Sr. Noel Christine Fernando, represent organisations that work extensively with Free Trade Zone (FTZ) factory workers who are majority women. We are submitting this Complaint to bring this grave issue to the attention of the HRCSL, and to initiate an inquiry into the arbitrary illegal manner in which workers were rounded up, and the cruel, inhumane or degrading treatment, restriction on their freedom of movement guaranteed, equal protection of the law, discrimination based on economic and social status of the workers guaranteed under Articles 11, 12(1), 12(2), 13(1), 13 (2), 14(1) (h) of the Constitution.

This Complaint is made against Lieutenant General Shavendra Silva, Head of the National Operation Centre for Prevention of COVID-19 Outbreak (NOCPKO), Chief of Defence Staff and Commander of the Army and the Sri Lankan Military Officers who were sent to round-up 98 workers on whose behalf this Complaint is made. Lieutenant General Shavendra Silva is made a Respondent both in his capacity as the Head of NOCPKO and as the Commander of the Army, without whose direction, Military Officers could not have carried out this operation. We reserve the right to submit to the HRCSL individual names of Military Officers who were present, if in the future we are made aware of them.

Background to the Complaint

On the 5th of October, 2020, a total of 1,394 Brandix employees of the Minuwangoda facility were tested for COVID-19, of which a cluster of 567 employees were confirmed positive as at 6th October. However, to date, that cluster has grown to 1500+ (including family members, relations and close associates of this cluster.) Brandix in an official statement claims to have followed all mandatory Government regulations related to COVID-19.

Garment industry workers and manpower workers are particularly vulnerable to the rapid spread of the virus, due to the sheer numbers working side by side in one enclosure, and their shared accommodation in close proximity to one another. Manpower workers are further vulnerable due to their lack of union representation, and no employer being willing to take responsibility for them.

On the 11th of October (Sunday), at approximately 10.30pm, 45 garment factory workers (including 25 women, 1 pregnant woman and 2 children) from Liyanagemulla, Katunayake, were rounded-up by the military, and taken by bus to a makeshift quarantine facility in Kalutara. They were told that there had been some COVID Positive workers residing in the neighbouring hostel, and that therefore, they had to be quarantined too. They were apparently told that we were being taken to Veyangoda, but, had wound up in an isolated part of Kalutara, where the signals are very low.

“We were given seconds to get our things together and get into the bus. We were barely able to pack one change of clothes. We didn’t even have time to pack a comb! The military told us not to try and run away, that the entire place was surrounded. They (the military) treated us like prisoners. Like we had committed a national atrocity (jathika aparadayak),” – quote from a worker.

At about 12.30am that same night (12th early morning), 53 workers (including 35 women and 1 child), from Avariwatte, Katunayake were woken up and herded into a bus in a similar manner.

“The military came in the middle of the night and gave us only 10 minutes to pack our essentials and get onto the bus. The military told us not to delay them, because they had been having sleepless nights and were very tired. ‘We have no time to check. We are overworked,’ they told us. I had just received my Negative PCR test 2 days ago, but, I wasn’t even given the chance to tell them this. They didn’t allow anyone to speak! They just herded us into buses and took us away,” – quote from a worker.

They went on to collect more workers from the Katunayake, Seeduwa, Negombo and Amandoluwa areas, and eventually left Katunayake at 5.30am on the 12th of October.

They had finally reached Kalutara, 12 hours later, at 12.30pm, having not been given any food or even a drop of water until then. Once there, they had been given some food, but, it had been uneatable. The facility itself has not been cleaned, toilets were flooded and unsanitary, and they had yet (as at 13th Oct.), to be seen by any health professional or PHI. Only the military was there at the site. No PCR tests had been conducted on any of the workers upon admission to the centre. Workers have heard rumours (*kata katha*) that a doctor was supposed to visit, but, nothing has been communicated officially as yet.

On the 13th, the workers had been given basic essentials such as slippers, soap, washing powder etc., Workers claim that there were about 400-500 workers currently at the facility. Some rooms have upto 6-7 workers per room, some have 3-5. About 30 workers are made to share 2 bathing areas, 2 toilets and 2 sinks. (There are 4 sinks but only 2 have water.)

The military has told workers that nobody can leave the facility. Workers fear that if one/some workers are infected, that it will spread fast to all of them, as there are no proper safety protocols in place at the makeshift facility.

“The room floors are dusty and the toilets are filthy. We are not used to living like this, so we cleaned up our rooms and toilets ourselves. If we continue to live like this, even if we don’t get Corona, we’ll get other diseases because of the unsanitary conditions here. If they don’t manage this situation better, we will be forced to change the Government we voted in,” – quote from a worker.

“I have had a heart attack, have two blocks, and am taking many medicines. If I get Corona now that I’m here, I might not even survive. This place is not even fit for dogs! We now want to beat ourselves for voting for them,” – quote from a worker.

“We were all prepared to self-quarantine. We had purchased goods for upto Rs. 20,000 and were prepared to stay home, as two sisters had been tested positive at a nearby annex. We are all very vigilant. Even the two sisters, went privately to get tested to the Negombo hospital, because they were feeling unwell. After they tested positive, they quarantined themselves. We were all prepared to self-quarantine as a precaution, even though we hadn’t tested Positive. What the Government should have done, is test everyone and isolate those who tested Positive, and allowed the rest of us to self-quarantine, because we have our own annexes and toilets etc., They (the Government and military) think they’re managing everything properly and preach to us about safety precautions and lock us down, but, when herding us into buses together and putting us away in unsanitary/unsafe places to quarantine, none of these safety protocols seem to apply,” – quotes from workers.

Workers say they are not opposed to following Government regulations and quarantine, but ask that proper procedures be followed and that those that are sent to handle them (i.e. the military), are trained to treat them humanely and with dignity.

“You can’t just come in the middle of the night and give us 10 minutes to load buses, not knowing where we are being taken to, and why? Even when arresting a murderer, you are supposed to tell him/her why they’re being arrested. Why aren’t we given at least this basic respect,” – quote from a worker.

“Not only did they herd us women in the middle of night, they didn’t even tell us where they were taking us to, or why. Don’t we have the right to know where we are being taken? Don’t we have a right to know what’s going to happen to us? We are hard-working people of this country. We are not beggars! We don’t do anything illegal. We are not a burden on the Government. It is them if at all, who live off us! Let them come next time and ask for our votes! They only need us during Election time. We are speaking like this, because of the despicable way (balu wedey) in which they’re treating us. We are being treated like this because we are not considered ‘important/affluent people’. It is not due to any fault of ours that workers have got Corona, so they must not treat us like they’re taking revenge from us. Is this what we should expect from our Government,” – quotes from workers.

The manner in which the Government and the military has handled this recent crisis, considering the way they have dealt with women workers in particular, has been very problematic. The lack of clear information/awareness, unsafe transportation, unsanitary quarantine facilities, and failing to conduct PCR tests prior to loading workers onto buses and upon admission to the centers, is in clear violation of basic COVID-19 regulations said to be adhered to by the Government.

Fundamental Rights Violation by the Respondents:

The following actions of the Military amounts to fundamental rights violations as follows:-

1. The Military Officers who rounded up, arrested, transported and detained these 98 garment factory workers at an undisclosed place in Kalutura have violated Article 12(1), Article 13(1) and Article 13(2).
2. We state that the 'quarantine centers' which these 98 workers are being kept in, are not legally established hence keeping these workers in such centers are not according to procedure established by law. Hence detaining them in undisclosed and illegal quarantine centers is in violation of Article 12(1), Article 13(2), Article 14(1)(h).
3. Male military officers have entered hostels of women workers, and have carried out this illegal and arbitrary arrest and detention. This is a violation of Article 12(1) and Article 13(2).
4. The poor hygienic conditions in which the quarantine centers are in, keeping workers together without carrying out tests and thereby putting workers in real danger of contracting COVID, also amounts to violation of Article 11, as workers have been subjected to mental torture, cruel, inhumane or degrading treatment by military officials.
5. These 98 workers have been prevented from leaving the said undisclosed quarantine centers, and no reason has been given to them. This is a violation of Article 14(1)(h) of the Constitution.
6. These 98 workers were treated inhumanely, given mere minutes to pack their essentials, herded into buses, kept in undisclosed locations under poor hygienic conditions, not given proper food to eat, and treated in a manner no human should be treated. Apart from all violations mentioned above, this is also a violation of Article 12(2), as they have been discriminated due to their economic class as factory workers.

We request the HRCSL to inquire in to the conduct of the Respondents Lieutenant General Shavendra Silva and the Sri Lankan Military Officers towards these 98 garment factory workers, as all workers are under real threat of contracting COVID due to the manner in which these illegal and arbitrary rounding up and detention has been carried out.

Ashila Dandeniya – Standup Movement Lanka, Katunayake

Chamila Thushari – Dabindu Collective Sri Lanka, Katunayake

Chandra Devanarayana - Revolutionary Existence for human Development (RED), Katunayake

Sr. Noel Christine Fernando - Sramabimani Kendraya, Seeduwa