



Phil Bloomer
Executive Director
Business and Human Rights Resource Center

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Reference: Samsung response to CGFED – IPEN report on working conditions in Samsung’s factories in Vietnam

Dear Mr. Bloomer,

We are writing to respond to Samsung’s criticisms of our recent study on working conditions at the company’s mobile phone factories in Vietnam entitled, [Stories of Women Workers in Vietnam’s Electronics Industry](#). In Vietnam and abroad, Samsung has been actively attempting to suppress and discredit this study that documents a number of concerning health and safety violations through interviews with 45 female whistleblowers. However, none of Samsung’s efforts can erase the evidence that Samsung has violated Vietnamese labor law and has failed to honor its business obligations on human rights.

The UN Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council in resolution 17/4 of 16 June 2011, clarify that: (1) States have an obligation to protect against human rights abuses due to business activities, including abuses arising from working conditions; (2) businesses have a responsibility to respect human rights “*throughout their operations*”; and (3) businesses and States have a shared responsibility to realize an effective remedy for human rights abuses.¹ Respecting human rights “*requires*” that businesses avoid “*causing or contributing to*” adverse human rights impacts through their activities and address such impacts when they occur. Businesses should “*prevent or mitigate*” impacts “*directly linked*” to operations, products or services by their business relationships, even if they have not contributed to those impacts.

Our study and the company’s reaction to it revealed several findings that are inconsistent with Samsung’s obligations under the UN Guiding Principles on Business and Human Rights including complying with national laws, providing a safe and healthy working environment, protecting the family unit, right to form independent trade unions, and freedom of expression.

Complying with national laws

The UN Guiding Principles on Business and Human Rights obligate businesses to comply with all applicable laws. However, 100% of the 45 women we interviewed stated that they did not receive a copy of their work contract – a violation of Vietnamese law. In addition, all of them work under high noise levels that exceed Vietnamese regulatory limits – another violation of Vietnamese law. Furthermore, a brief investigation by the Vietnam Ministry of Labour, Invalids, and Social Affairs (MOLISA) at the two

¹ United Nations (2011) Guiding principles on business and human rights: Implementing the United Nations “protect, respect and remedy” framework, HR/PUB/11/04
http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

Samsung factories where the women we interviewed work, confirmed several violations described in our report. MOLISA has not yet publicly released their full findings, but [a brief news report](#) noted Samsung violations of Vietnamese law in excessive working hours, problems with labor contracts, and lack of proper training. These violations were all described by the women we interviewed in our study.

Right to a safe and healthy working environment

The UN Guiding Principles on Business and Human Rights obligate businesses to provide safe and healthy working conditions including special protections for pregnant women. However, all the women we interviewed experienced dizziness or fainting at work. Workers reported that miscarriages are extremely common among the female majority workforce. This was also found in a [peer reviewed study](#) of electronics workers in South Korea (that included Samsung employees) which found that, “*Despite technical innovations and health and safety measures, female workers in microelectronics industry in South Korea have high rates of SAB [spontaneous abortion] and MA [menstrual aberration], suggesting continued exposure to reproductive hazards.*” The workers we interviewed said they must stand throughout their 8-to-12-hour shifts with insufficient break time and many are kept on alternating day and night shift schedules. As a result, they reported problems with bone, joint, and leg pain. Pregnant workers usually stand for the entire shift to avoid having the company deduct money from their wages for taking breaks.

None of these health effects and working conditions are consistent with Samsung’s obligations under the Guiding Principles on Business and Human Rights. Instead of treating its worker testimonies described in our study as valuable insights for improvement, Samsung continues to deny them and instead cites findings by their paid consultants as outlined in their 5 December letter to the Business and Human Rights Resource Center (please see below for comments on third-party audits).

Right to information

As noted by the UN Special Rapporteur on the Implications for Human rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes (UNSR Toxics), “*Information about hazardous substances is essential to prevent risks, mitigate harms, conduct focused research on safer alternatives, provide treatment and remedy, and ensure transparency, participation and consent in decision- and policymaking.*”² In contrast, Samsung is notoriously secretive about chemical use in its facilities and a large number of sick and dying workers have emerged from its factories in South Korea. As UNSR Toxics noted in his official report after visiting South Korea, “*As of January 2015, more than 350 former workers in the electronics industry, of which approximately 130 have died, had alleged that they had developed various diseases. Victims had suffered from cancer, including lymphoma, malignant brain tumors, myelogenous leukemia and non-Hodgkin’s lymphomas, as well as aplastic anemia, reproductive abnormalities and other health impacts. All former workers described to the Special Rapporteur are young females, including several in their early twenties. With many female workers of childbearing age, the alleged victims extend to the children of former workers. For example, the Special Rapporteur heard from a mother who had been pregnant during her employment and subsequently given birth to a child with birth defects.*”³ This should serve as an early warning to Vietnamese regulators so that this pattern does not repeat in Vietnam.

² Tuncak, B (2015) Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Human Rights Council, Thirtieth Session, A/HRC/30/40

³ Tuncak, B (2016) Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes on its mission to the Republic of Korea, Human Rights Council, Thirty-Third Session, A/HRC/33/41/Add.1

The normal practice of the company in South Korea is to [routinely hide information](#) on chemicals to conceal links between worker diseases and the company's working environment and to prevent its sick workers from receiving government compensation. Samsung's refusal to address its working conditions has resulted in hundreds of illnesses in South Korean workers in the last 10 years. Recent Korean Court decisions have overturned the company's "trade secrets" strategy in favor of workers.

In August 2017, the [South Korean Supreme Court](#) overturned decisions by lower courts that rejected a link between a worker's multiple sclerosis and work at Samsung due to lack of information about chemicals that the company refused to provide. The Court said that, "*Samsung's refusal to provide the information and an inadequate investigation by the government, should not be held against the sickened worker.*" Instead, it said such special circumstances should be considered in favor of the worker. Brain cancer is the second most common serious illness identified in Samsung workers in South Korea, but courts have refused to link the disease to work in the industry. However, in November 2017, the [South Korean Supreme Court](#) said a worker who died of brain cancer should be eligible for government compensation because, "*limitations in government investigations should not be held against a worker with a rare disease whose cause is unknown.*" In Vietnam, Samsung should publicly release studies of worker health effects, a list of chemicals used at the company factories, and how the company monitors both health effects and chemical releases.

Right to protection of the family unit

Protection of the family is a human right, but Samsung rules separate families. More than half of the women we interviewed have children, but company dormitory rules prohibit them from living with their mothers. As a result, the children live with family members in another town or city – effectively splitting families. Samsung should modify its practices to enable families to live together in a safe environment and fulfill this human right.

Right to form independent trade unions

A fundamental human right is freedom of association to form independent trade unions and effective recognition of the right to collective bargaining for workers.^{4 5} However, as outlined in an ITUC – IndustriALL report cited in our study, Samsung violates this human right with its no-union policy and claims that it "*has a principle of management that does not need trade unions.*"⁶ An internal Samsung document leaked to ITUC describes company actions to undermine formation of independent trade unions, including how to identify workers likely to try to organize a union, how to monitor them, and how to isolate them to prevent formation of a trade union. To fully comply with its human rights obligations, Samsung should publicly reject its current anti-trade union policy and globally welcome formation of independent trade unions in compliance with the ILO Declaration on Fundamental Principles and Rights at Work which form part of the UN Guiding Principles on Business and Human Rights.

Right to freedom of expression

The UN Guiding Principles on Business and Human Rights also guarantee the right to freedom of opinion and expression, but Samsung has worked to suppress its workers and the release of the CGFED – IPEN report in Vietnam. Immediately after obtaining the report, Samsung threatened its workers with dismissal

⁴ International Labour Organization (1998) ILO Declaration on fundamental principles and rights at work and its follow-up, ISBN 978-92-2-124804-0 (web pdf)

http://www.ilo.org/declaration/info/publications/WCMS_467653/lang--en/index.htm

⁵ United Nations (1948) International Bill of Human Rights, General Assembly resolution 217A (III), 10 December 1948. <http://www.ohchr.org/Documents/Publications/Compilation1.1en.pdf>

⁶ International Trade Union Confederation and IndustriALL (2016) Samsung – modern tech, medieval conditions http://www.ituc-csi.org/IMG/pdf/samsung_web_en.pdf

and a lawsuit if they talked about their working conditions with “outsiders” including journalists. Samsung has threatened CGFED with lawsuits twice in written letters on company letterhead. Recently, the Vice President of Samsung Vietnam told Vietnamese [press](#) that the company was still trying to decide if it will sue IPEN. The company has also engaged at least one government agency to intimidate CGFED about the study at the company’s behest. In their letter to Business and Human Rights Resource Center, Samsung disingenuously complains about IPEN “*ignoring all our efforts to establish dialog*” while simultaneously threatening legal action to its workers and CGFED behind the scenes. Samsung should publicly withdraw their lawsuit threats to CGFED and IPEN. Workers have the right to talk about their working conditions and Samsung should publicly affirm it.

Third-party audits

Samsung’s principal argument against the findings of its own employees in our study is that third-party audits show different results. The company notes use of an unnamed auditing firm approved by the Responsible Business Alliance (RBA), formerly known as the Electronic Industry Citizenship Coalition (EICC). The use of auditing firms has been an industry favorite for many years, but its results are questionable. For example, auditing firms gave a clean bill of health to garment factories in Bangladesh that still [had not implemented safety changes](#). Samsung’s auditors claim that workers “speak freely” during audits, but no worker will risk losing their job or suffering demotion by honestly reporting the kinds of things that the 45 whistleblowers told us.

In 2016, EICC offered to do a [‘gap analysis’](#), to compare its Code of Conduct and Validated Audit Process (VAP) with the standards formulated by two civil society organizations, GoodElectronics and the International Campaign on Responsible Technology. EICC itself admitted poor scores on the following items:

- Are chemicals used in the supply chain publicly disclosed?
- Do brands encourage chemical suppliers to develop safer substitutes?
- Do the brands have a policy requiring suppliers to use the precautionary principle?
- Do brands determine the hazard potential for each material used and/or generated?
- Are suppliers promoting active participation of workers in joint health and safety committees?
- Are suppliers required to do comprehensive and transparent monitoring of all discharge streams from all facilities?
- Do policy and contract clauses oblige suppliers to clean-up and rendition costs for discharges and pollution?

One electronics industry CEO summarized use of EICC/RBA audits precisely as, “[absolutely toothless](#)... *I don't think they do meaningful work... There is no record of any manufacturing facility losing business, permanently or temporarily, for failing to live up to the group's code of conduct.*” We agree with the Ineke Zeldenrust, director of the Clean Clothes Campaign, who stated that, “*We want to go from a culture of [audit-and-ignore](#) to a culture of [inspect-and-remedy](#).*”

Samsung attempts to silence whistleblowers

Samsung notes in its letter to the Business and Human Rights Resource Center that it is “*open to any suggestions that may help us to continuously improve our company.*” We made quite a few suggestions in our study and the company response has been to violate the UN Guiding Principles on Business and Human Rights with threats, intimidation, and denial. We expected much better from Samsung and hope that one day they can become an actual industry leader that affirms human rights obligations that protect workers and public interest organizations.

It is clear that our qualitative study of interviews with 45 women at Samsung Vietnam is a study that Samsung wants to silence. The 45 women in this study came forward with the promise that their identities would be protected to share their personal stories. The respondents are essentially whistle blowers and their stories demand attention and a chance to be heard. Samsung has suggested that exposing these violations will hurt the company and therefore hurt Vietnam. That is plain wrong. It is an opportunity for foreign invested factories to do a better job for the people of Vietnam. Economies should grow in ways that benefit the people who work to grow them, not at their expense.

Thank you for publishing the story about women workers at Samsung Vietnam and bringing some sunlight to this issue.

Best regards,

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