



Tesco's value chain: exploitation and wage theft (Thailand)

Sector: Garments

Issues: Labour rights abuses, wage theft

The companies: **Tesco** is a multinational retailer headquartered in England and is the third largest retailer in the world by gross revenue.¹ Tesco supplier **VK Garment Factory (VKG)** produced F&F jeans for Tesco at its Thai factory in Mae Sot, a city at the Myanmar border, between 2017 and 2020.² Tesco is facing a landmark lawsuit in the UK which is being taken by 130 former workers at VKG for alleged negligence and unjust enrichment. The case is also being taken against Tesco's auditor, **Intertek**.³

Affected rights holders: Workers in Mae Sot face a weak rule of law, substandard wages and labour conditions, as well as employers denying workers the rights to join unions and exercise their rights to freedom of association and collective bargaining.⁴

Details:

Wage theft

Wage theft is the illegal practice of withholding wages or benefits from workers, forcing garment workers further into economic precarity, building on the pre-existing conditions of insecure work and poverty wages already in existence in the garment sector.⁵

A Guardian investigation into allegations made by workers revealed that Intertek Thailand inspected the VKG factory regularly but did not identify serious issues until July 2020.⁶ It notes that while Tesco received the audit pack in August 2020, VKG remained a supplier until it sold its Thai subsidiary, Ek-Chai, in December 2020.

In August 2020, 136 workers at VKG were dismissed after asking for better pay and conditions.⁷ After attempting to seek compensation from the factory directly, they filed a case with the Thai department of labour protection and welfare, claiming that they were entitled to unpaid wages for two years' full wages, pay for working on holidays, overtime pay, holiday pay and weekly rest day pay. The case eventually went to the Thai courts which ordered only the payment of severance pay and notice pay which they were already legally due. No amount has yet been paid and the workers are expected to lodge an appeal.

Legal proceedings were issued on behalf of 130 claimants in the UK courts in December 2022.⁸ The claim is being brought against Tesco PLC, Ek-Chai Distribution System Company Limited, which was owned by Tesco PLC until 2020, and the UK headquartered auditing companies Intertek Group PLC and Intertek Testing Services (Thailand) Limited which audited and certified the working conditions and practices of VK Garments.⁹ Tesco and Ek-Chai are accused of negligence for permitting, facilitating or failing to prevent unlawful working and living conditions which led to injury and loss, as well as being unjustly enriched at the expense of workers and are liable to make restitution of that enrichment under Thai law.¹⁰

Intertek conducted social audits at VKG between 2017 and 2020 and failed to accurately identify or report on the working and living conditions faced by workers.¹¹ Intertek is accused of negligence for failing to identify or report on the working and living conditions which led to injury to the workers.

The adult claimants are all Burmese migrant workers who worked at the VK Garments factory in Mae Sot between 2017 and 2020. Factory workers at VKG reported conditions amounting to effective forced labour, working 99-hour weeks with just one day off a month. They reported being paid well below legal limits in exploitative conditions.¹² They also reported having to work a 24-hour shift at least once a month so that F&F orders were met on time. Workers described unfit living conditions, suffering serious injuries, facing threats and emotional abuse and confiscation of travel documents, while the factory maintained falsified accounts of payments to workers.

The 130 claimants include a seven year old girl who was raped in insecure factory accommodation while her mother was forced to work unpaid overtime.¹³ Her mother reported that an assistant manager had told her not to call an ambulance because medical staff might call the police.

In response to the Guardian investigation into the allegations relating to working conditions at VKG, Tesco commented that had it identified such serious issues at the time, it would have immediately ended its relationship with the supplier.¹⁴ However, it has failed to ensure that remedy has been provided to affected workers.

Tesco responded to state that that the allegations detailed in the letter before action did not include any arguable claims against the company and that it does not accept that the claims should be brought in England.¹⁵ It also commented that under Thai law, it was not legally bound to protect the claimants as regards the alleged negligence.¹⁶

Intertek responded to the allegations denying any liability on the basis that they do not have a contractual relationship with Ex-Chai, VKG or the claimants and that it conducted social audits in accordance with industry standards and by auditors who were pre-approved by Tesco.¹⁷ Ex-Chai, which was Tesco's subsidiary until 2020 denies liability, stating that they are not involved in the working conditions at VKG.¹⁸

How could a UK Business, Human Rights and Environment Act have made a difference?

In our assessment, had a UK Business, Human Rights and Environment Act been in place, Tesco would have been expected to adopt a reasonable due diligence process to address any risks of labour rights abuses by its suppliers. A reasonable due diligence process would have entailed screening prospective suppliers and refraining from making any purchases before being fully satisfied that robust labour protections were in place, monitoring labour practices closely and working with suppliers to address any problems. In the case of VKG, this would have required paying all overdue wages immediately and engaging with workers directly to ensure all other abuses were remediated to their satisfaction, while working closely with the supplier to improve standards and ensure non-repetition.

While the legal action is ongoing and none of the above has so far been either proven or disproven, in our view, the UK Business, Human Rights and Environment Act could have facilitated access to justice by placing the onus on Tesco and its auditor to demonstrate that they met their duty to prevent harm once the claimants proved the harm suffered.

A reasonable due diligence process would focus on improving standards with the supplier and ensuring remedy for affected workers before disengaging from the supplier as a last resort.

Endnotes

- 1 World Economic Forum, "[Tesco](#)". Accessed 24 January 2023.
- 2 The Guardian (21 December 2022), "[The Guardian view on Tesco and supply chains: landmark case shines a light](#)".
- 3 The Guardian (18 December 2022), "[Workers in Thailand who made F&F jeans for Tesco 'trapped in effective forced labour'](#)".
- 4 The Guardian (19 December 2022), "[How big brands like Tesco are drawn to 'wild west of global supply chain'](#)".
- 5 Business & Human Rights Resource Centre (March 2021), "[Wage theft and pandemic profits](#)".
- 6 The Guardian (18 December 2022).
- 7 The Guardian (18 December 2022).
- 8 Leigh Day (18 December 2022), "[Tesco and Intertek face claims of forced labour and debt bondage at F&F fashion factory](#)".
- 9 Leigh Day (18 December 2022).
- 10 Leigh Day (18 December 2022).
- 11 Leigh Day (18 December 2022).
- 12 The Guardian (18 December 2022).
- 13 The Guardian (19 December 2022), "[Girl, 7 raped at Thai factory supplying clothes for Tesco while mother worked](#)".
- 14 The Guardian (18 December 2022).
- 15 Leigh Day (18 December 2022).
- 16 Leigh Day (18 December 2022).
- 17 Leigh Day (18 December 2022).
- 18 Leigh Day (18 December 2022).

