

# HUMAN RIGHTS RISKS AND TRADE UNIONS IN KESKO CORPORATION'S SUPPLY CHAIN Phillipines

## RESULTS OF COLLATION AND SUMMATION OF GATHERED DATA AND INFORMATION

The data and information shown hereunder articulate or describe the conditions and real life situation of the workers of xx\*. They represent primary data and information gathered directly from the workers themselves through the use of guide questionnaire. The workers supplied these data and information based on their own personal circumstances and on their personal knowledge resulting from their day-to-day experiences as workers. Adding to the reliability of the following data and information is the fact that one of the respondents is the prime mover of the union within the company.

### • Employment Status of the Workers in xx

The data and information gathered through interview sessions, using the given questionnaires as guide, came from workers who voluntarily agreed to be interviewed. Other workers simply refused to volunteer any information. Of the twenty-five (25) respondents, only two (2) are regular employees and twenty-three (23) are contractual workers hired under two manpower agencies xx multi cooperative and xx multicooperative.

Data and information gathered from interviews and focused group discussions reveal that xx has a total of xx workers. The number may even increase during the so-called peak season where the volume of fish-catch skyrockets to highest levels.

The company has only xx regular employees, xx of whom are members of the union. The rest of the regular employees are either managerial or supervisory employees who are barred from joining the union of the rank-and-file employees. These regular employees are mostly office workers, unit heads and operation supervisors.

Thus, the overwhelming majority of the workers of xx are contract workers supplied by cooperatives, acting as labor-only contractors.

The data on gender and sex discrimination did not prominently register during the interviews and focused group discussions. This is probably because respondents are not so sensitive about the

issues. There are no reported efforts either by the union or the company to raise the gender consciousness of the workers. It is, therefore, clear that much work is needed along this area to deeply explore these issues and get the real score.

- **Marital Status of Respondents**

The profile of the workers was limited to only three (3) variables: marital status, gender, and educational status. Basically, these variables are sufficient to have glimpse of the various realities attending the overwhelming majority of the workforce at xx. Foremost, the data below is revealing of the role of women not only in productive ventures, but also in the task of providing for the needs of their respective families. This is also revealing of the nature of the work in fish canning ventures.

- **Gender Divide**

There are 25 workers who were individually interviewed using the guide questionnaire: ten (10) males and fifteen (15) females. Their average age is 38 years old with the youngest at 21 and the oldest at 50. Fifteen (15) of them are married, nine (9) are single, and one (1) is a widow.

- **Educational Status**

Majority of the respondents are high school graduates; five (5) are college graduates; one (1) is in college; four (4) graduated from elementary school and the other one (1) has not hurdled the elementary level. Nineteen (19) or seventy-six percent (76%) of those interviewed have no appropriate technical education, while six (6) have technical knowledge on building construction, and electrical works. Some are computer and automotive technicians.

- **Income Dependency**

Twelve (12) of the respondents have one (1) to two (2) dependents; six (6) have three (3) to four (4) dependents; three (3) have five (5) to six (6) dependents; while only three (3) have no dependent.

- **Migrant Workers**

A migrant worker has a definition under Philippine laws and this relates more on overseas employment and employment of aliens. But, overseas employment and employment of aliens are irrelevant in this study.

Thus, for purposes of this study, migrant workers are defined as workers who are non-residents of xxx, and who came from other neighboring cities and provinces to work or avail of job opportunities at various fishing and fish canning and processing companies in this same city.

Three-fourth (3/4) of the respondents are not registered voters of xx.

Four (4) of the respondents were born in xx; while nine (9) are migrants who came to xx only in the '90's, with the average longevity stay of 25 years; and thirteen (13) respondents had immigrated into the city from year 2000 to 2015 with an average residency period of ten (10) years. Some of them ventured in xx only by themselves, while the others came through the behest of their parents, siblings and other relatives.

- **Working Season**

Eighty (80) percent of the workers said they work in the city for the entire year and only five (5) said that they go back to their respective province and cities during agricultural season. Note that in one decided case, the Supreme Court affirmed the lower court's findings that there is no such thing as work season in the canning factories. In that same case, the claim of fishing companies of "peaks and valleys" in fish production which they used to justify the contractualization of canning workers is simply a myth and is devoid of any basis in fact.

- **Labor Contractualization**

Of the xx hundred xx workers in xx, only xx are regular workers. Of the xx regular workers, only xx are members of the union. The remaining xx hundred xx are contract workers supplied by two cooperatives, which serve as labor-only contractors.

Four (4) respondents started working in the company from 1991 to 2000, eight (8) from 2001 to 2005, five (5) from 2006 to 2010 and eight (8) from 2011 to 2016. Their average years of employment are four and a half (4 and ½) years. The longest registered period of employment of the respondents is seventeen (17) years, while the shortest is one (1) year, all in contractual status. Despite the long years of employment, however, they have remained as contractual employees except for two (2) who are now regular workers.

They are paid of their wage twice a month, usually every 15th and 30th day of the month. Sixteen (16) were hired by labor contractors named xx and seven (7) were hired by labor contractor named xx. Only two (2) were directly hired and are regular employees of the company. Nobody said they paid anyone to be able to get into the company or work in the company.

Eighty-six percent (86%) or eighteen (18) of the respondents said they have written appointment letters, while three (3) said they have none. They also said that usually their appointment letters are with their respective labor contracting agencies.

- **Tuna Canning Process**

Canned Tuna processing in xx starts with Tuna being transferred to the thawing tanks in preparation for initial cleaning. It is then loaded into metal racks, which are wheeled into large steam pressure-cooking retorts. Tuna is baked for a prescribed time and temperature, depending on the size of the fish. This stem baking removes the natural Tuna oil which is too strong in flavor to remain in the fish and prepares the Tuna for easy removal of skin and bones.

Then, the Tuna is moved to a room for cooling. Once cooled, it is forwarded to the cleaning tables where edible meat is separated from the skin and bones. The cleaned loins are moved to the canning process. Cans are automatically filled with Tuna and moved in a single line from the filling machine to the vacuum sealer.

Subsequently, cans of the Tuna receive the measured quantity of salt, vegetable broth, water or oil. Lids are then automatically clinched on the top of the can before entering the vacuum sealer, where the air is withdrawn and the lids are sealed. The cans then pass through a water bath for cleaning of oil residue and are then placed back into the retort. After cooking at a desired temperature, the sterilized canned Tuna is removed and allowed to cool down and then labeled.

- **Job Description, Number of Persons Assigned and Percentage**

<b>Job Description</b>	<b>Number</b>	<b>Percent</b>
Skinner is the one who removes the skin of the fish	4	16
Loiner is the one who removes and segregates the whole meat from the black meat and bones of the fish	4	16
Receiver is one who receives and classifies the fish for processing	4	16
Sanitation is the one who cleans and sanitizes the production area	2	8
Packer is the one who puts ingredients to the canned fish before	1	
Flaker is the one who cleans the fish flakes by removing the bones and the black meat	1	4
Harvester is the one who cleans the fish before packing	1	4
Pouch is the one who grinds the fish	2	8
Packing is the job wherein the can is fed into the conveyor	3	12
Case-up is the job wherein the can is being washed and cleaned	1	4
Quality Inspector is the one who takes charge of the quality assurance	1	4
Lead person	1	4
<b>Total</b>	<b>25</b>	<b>100</b>

- **Discrimination in the Workplace**

When asked if there is any discrimination against workers coming from other administrative regions, all respondents said none. While there are prevailing national and local laws mandating that the residents of the locality where the company operates a business should be given priority in the recruitment of workers, these same laws are not being considered in the recruitment of workers for XX.

One-half (½) or eleven (11) of the respondents have changed their job titles since they worked in the company, while ten (10) have the same nature of work since their first day of engagement.

Also, one-half (½) of the respondents said they know about the termination of employment of some workers, but they did not divulge the names of those terminated. The reasons for termination include theft which accounts to sixty-four percent (64%) of the reasons; consumed portions of the fish which they are processing which accounts to twenty-seven percent (27%); and absenteeism, which accounts to nine percent (9%).

- **Working Days, Hours and Shifts**

Eighty percent (80%) or twenty (20) of the respondents work from five (5) to eight (8) hours a day, while five (5) said they work on a “pakyao” basis. The amount of compensation of the workers under the “pakyao” system is not dependent on the number of hours devoted for work, but rather on the volume and value of fish product that an employee can finish off within a certain time. All of the respondents work six (6) days a week or twenty-six (26) days a month. Sundays are usually rest days.

Every worker is given a break time of not less than one hour daily, which is spent for lunch break (30 minutes) and for afternoon break (30 minutes). Workers are all given access to a canteen located within the company’s premises where they stay during break time.

The company has four (4) work shifts, with different number of hours allocated for every shift. Fifteen (15) of the respondents said they are in an eight-hour work shift, while two (2) said they are in a ten-hour shift, and one (1) said she works for a five-hour shift. Three (3), however, said they are in a shift where the number of hours is not constant. Double shift in the company is confirmed by eight (8) of the respondents, while thirteen (13) said there is no double shift. Ninety percent (90%) of the respondents said they are not forced to engage double shift of work, while ten percent (10%) said they are forced to do exactly the same.

- **The “Pakyao” System**

There are, however, five (5) respondents or equivalent to twenty-four percent (24%) who said that they work under a job order contract arrangement, which the company termed as “pakyawan.” Operationally, the “pakyao” system is not definitive of any status of employment. It is considered as a mode of payment of salaries and wages of the workers. Under the “pakyao” system, the compensation of the workers is not based on time, but on the volume and value of work rendered. Eighteen (18) respondents said there is overtime work available in the company, which usually takes a maximum of one (1) hour and a maximum of three (3) to four (4) hours a day. Demand for overtime work is dependent upon the supply of fish.

It should be noted that the law considers workers who work under the “pakyao” system as regular employees as long as the nature of the work that they perform is necessary and desirable to the usual business or trade of the employer. In *Dy Keh Beng vs. International Labor and Marine Union of the Philippines, et al.*, G.R. No. L-23345, May 25, 1979, the Supreme Court ruled that “pakyao” workers who, by the nature of their work are considered regular employees, enjoy security of tenure. Although, they are paid by results, they are considered employees of the establishment for whom they render service as the latter exercises control over the means and methods of the performance of their workers. In the other ruling of the Supreme Court, it declared that the compensation of “pakyao” workers must not be less than the prevailing minimum wage, the reason being that no one should be provided with any occasion to render illusory the mandates of the minimum wage law.

- **Overtime Pay**

There are those who claimed that the amount of their overtime pay is double their normal hourly rate. But data shows that the amount of their work compensation did not double, but it only registers a slight increase vis-à-vis the normal or legal rate. Under the law, a worker who renders overtime work is entitled to an additional compensation equivalent to his regular wage plus 25%. However, a work performed beyond eight (8) hours on a holiday or rest day is paid an additional compensation equivalent to the rate of the first eight (8) hours on a holiday or rest day plus at least 30% thereof.

The information gathered in the course of the interview was unclear whether the above laws are actually being enforced by the company. The amount of compensation for an overtime work rendered during holiday and rest day is not included in the prevailing collective bargaining agreement (CBA) between the company and the union. Respondents cannot determine if this same law is being adhered to by the company. However, the amount of overtime work rendered during regular working days is included in the CBA. Thus, based on the accounts of the respondents, those who rendered an overtime work during regular working days are paid of their regular daily rate plus 25% thereof.

In advance, it is worth noting that the provisions pertaining to compensation in the CBA is less than what the law provides. So, a very poignant question arises: if the provisions of the CBA are merely verbatim reproduction of the law, or even less, why enter into a CBA in the first place?

- **Salaries and Wages**

Twenty-three (23) of the twenty-five (25) respondents are daily-paid contractual workers. Sixteen (16) of them said they earn 275 Php or 5.22 EUR a day; four (4) earn 270 Php or 5.13 EUR a day; one earns 300 Php or 5.70 EUR a day and four (4) get paid on a “pakyaw” basis.

The minimum wage in xx is two hundred seventy-five pesos (Php 275) per day. It is also required that “pakyao” workers’ compensation must not be less than the amount of the prevailing minimum wage. The logic for this is to ensure that the employers would have no occasion to violate the labor standard law.

It is also important to emphasize that, regardless of their number of years of employment, the workers in xxx are granted merely a minimum wage of 275 Php or 5.22 EUR a day. This is even in view of the fact the workers have been employed in the company for almost two (2) decades. The amount of salary of long-time workers of the company is exactly the same with newly-hired employees. This is a labor anomaly that needs to be corrected.

While the law requires that the salaries and wages of the workers must not be below the required minimum amount, it does not at all mean that the company is barred from granting its workers the amount of compensation more than the minimum required by law. The reason for this is that the minimum wage is not really a living wage, simply because it is only a minimum wage. But, what is happening in xxx is that the amount of wage is stilled in the legally required minimum amount, regardless of social and economic conditions prevailing in both national and local levels, and regardless of the number of years that the workers have rendered their services to the company.

- **Bonuses**

All the workers of xx do receive a yearly bonus, and is given during the Christmas season. However, the amount of bonus varies or is not constant. Forty-four percent (44%) or eleven (11) of the total respondents said they receive an annual bonus of 4,000-5,000 Php or 75.99-94.99 EUR each per year; twenty percent (20%) or five (5) said they get 3,000-P4000 Php or 56.99-75.99 EUR per year; sixteen percent (16%) or four (4) get 5,000-P6000 Php or 94.99-113.99 EUR each per year; and the rest get 6,000-P7000 Php or 113.99-132.99 EUR each per year. Regular employees get 13,000 Php or 246.99 EUR each per year.

Under the law, the employer is required to grant a 13th month pay, equivalent of a worker's monthly salary, over and above the amount of the workers' yearly bonus.

All of the respondents said there are deductions from their wages and they get a receipt for whatever deductions that are being exacted for the amount of their respective salaries. However, none among the respondents could present any receipt for such deductions. When they arrive late for work, for example, workers are being deducted from their regular wage, pro tanto or through the application of a proration formula.

Eighty-four percent (84%) or twenty-one (21) respondents said that they are satisfied with the amount of their compensation, while sixteen percent (16%) or four (4) said they are not satisfied. According to seventy-two percent (72%) or eighteen (18) respondents, ten thousand pesos (Php 10,000) is the monthly living wage in xx; while five (5) respondents or 24 percent (24%) believe that the amount of living wage in this same city could be lower than ten thousand pesos (Php 10,000) but it should be not be lower than six thousand pesos (Php 6,000); while two (2) respondents said that the living wage in the area is more than ten thousand pesos (Php 10,000).

- **Social Security and Protection**

All respondents said they are registered with the Social Security System (SSS), and they have their cards to prove this. For the xx regular employees, the company has a counterpart in the payment of their social security premium. But, for the xx hundred xx agency-based contract workers, they actually pay as an individual, but the labor agency was taking charge of the collection and payment of such premiums to the SSS. The agency does not pay any portion of such premium. The collection of SSS premium is done through payroll deduction.

- **Health Insurance**

Respondents are beneficiaries of a health insurance under the Philippine Insurance Corporation (PHIC). Again, for the xx regular employees, the company has a counterpart in the payment of the premium. The xx contract workers pay as individuals. The agency is deducting the amount of the premium from their salaries and is taking charge of the payment of such premium in the PHIC.

- **Pag-IBIG**

Pag-IBIG is an acronym which stands for Pagtutulungan sa Kinabukasan: Ikaw, Bangko, Industria at Gobyerno. In effect, Pag-IBIG harnesses these four sectors of our society to provide its members with adequate housing through an effective savings scheme. Workers who are Pag-IBIG members can also avail of salary loans from the agency. The premiums paid by the workers, if not used for housing purposes, would be given to these paying members as retirement benefits.

The results of the interviews revealed that all respondents are members of the Pag-IBIG. Also, the company has a counterpart in the payment of premiums for regular employees. But, again, contract workers pay their respective premiums in the agency as an individual, with their respective agencies deducting the amount of premium from their salaries. However, the labor agency takes charge of the collection and payment of such premium to Pag-IBIG. But, for the fifty-four (54) regular employees, the company is paying a portion of their respective premiums to Pag-IBIG.

- **Leave Benefits**

Twenty-three (23) respondents said they have five (5) days leave privilege in every year of service, while two (2) regular employees said they are given a 30-day vacation and sick leave privilege for every year of service. They could convert their leave privilege into cash if they are not able to use such privilege within a given period of one (1) year.

- **Monthly Expenses and Cost of Living**

The total average expenditure of all the respondents is five thousand sixty five pesos (Php 6,000) per month, wherein food gets the highest average monthly expense at two thousand six hundred twenty six pesos (Php 2,600). One-half of the average monthly expenses of the workers, therefore, goes to foods. The lowest food expense is one thousand (Php 1,000) per month, while the highest is six thousand pesos (Php 6,000) per month. The next highest average expenditure is gasoline/fare at five hundred sixty pesos (Php 500) per month, and this is followed by rent expense at three hundred sixty-two pesos (Php 362) per month.

- **Training and Opportunities for Promotion**

Seventy-six percent (76%) or sixteen (16) of the respondents said they have attended skills training pertaining to production operations, while twenty-four percent (24%) or five (5) respondents said they are not able to attend any company-sponsored trainings.

On the other hand, more than half or twelve (12) respondents said there is no opportunity for them to get promoted to a higher job or get better wages because they do not have the educational qualification and that they are just contractual employees. Almost half or nine (9) respondents, however, said there is an opportunity for them to get higher pay and to be promoted.

- **Accommodation and Sanitation**

The company does not provide or arrange for any accommodation for its employees, even for night-shift women workers. All of them, however, have access to water and sanitation facilities in the factory area.

- **Trade Unionism in the Workplace**

The xx Employees Union is the recognized employees' association by the company. Its collective bargaining agreement<sup>11</sup> is presently enforced purportedly to promote and improve the industrial and economic relations between the company and union members, and to ensure harmonious relationship between and among union members and between and among the company and the workers.

When asked if there is a trade union in the factory where they work, almost one-half or ten (10) respondents gave a positive answer, while eight (8) replied that there is none, and three (3) respondents said that they do not know what a trade union is all about. Some of them also said that contractual employees cannot join the union because only regular employees can join the union. All respondents, however, said that they would like to join trade unions if they will be allowed to do so.

Of the fifty-four (54) regular workers, only thirty-two (32) regular employees are members of the union.

Twenty-one (21) respondents said that they do not know if the management discourages its workers to join the union and to participate in its activities. Unions are not being talked about among the employees. Only very few contract workers know that there is a union inside the company, and did not notice any union activities being conducted.

When asked if they were oriented about their rights as workers upon joining the company, only six (6) respondents said “yes” and all the others either said “no” or they do not know about it. In view of the fact that the respondents are not members of the union in the factory, one-half of them said that, if they have work problems, they directly consult the factory’s human resource (HR) department, six (6) respondents said that they present their problems to their direct supervisor, three (3) confer their problems with their manpower agency. The rest said, they have not encountered any work problem.

- **Labor Mechanisms**

Three-fourth of or sixteen (16) respondents said that there are no committees formed in the company wherein the workers can participate in decision-making processes, while three (3) said they do not know of any such committee, and only two (2) said that there is such a committee.

- **Managing Labor Conflicts**

Ninety-five percent (95%) of the respondents said they are not aware of any conflict between the management and the union. However, one respondent said he knows of a conflict that happened between the management and the union, and it is about the benefits of workers.

- **Company Memberships And Audits**

xx is an associate member of the International Seafood Sustainability Corporation (ISSF). As such, it works with the Foundation to advocate for improved fishery management, fund scientific advancements through research and expert analysis, and take direct action to encourage the adoption of responsible fishing practices.

All ISSF participating companies are independently audited via comprehensive methods designed to assess compliance with each of ISSF’s commitments and conservation measures, the results of which are shared via a company compliance report. ISSF was launched in 2009 with eight (8) participating companies and today it has twenty-six (26) industry partners, which comprise more than seventy-five (75%) of the world’s processing capacity, including well-known brands produced and sold in North America, South America, Europe, Africa, Oceania, the Pacific Islands and Asia.

- **Audits**

All respondents said they know of an inspection of the factory conducted by the labor inspectorate of the government. More than one-half of the respondents said the factory passed the inspection, while seven (7) said it failed. About the social audits on the factory, almost all of the respondents said there has been a social audit conducted involving the company.

The following are the agencies and entities which they know have conducted audit or inspection in the factory: Bureau of Fire Protection, Bureau of Fisheries and Aquatic Resources, Department of Labor and Employment, Bureau of Internal Revenue, Maritime Industry Authority, Earth Island,

and buyers. Audits include checking of documents and sanitation, among others. Aside from other ways of audits, workers are also being interviewed by the inspectorate teams.

When asked if the employer is giving training to workers on how to answer the auditor's questions, eight (8) of the twenty-one (21) respondents said "yes", while more than half said "no". However, when asked if they know if their employer is manipulating audits in any other ways, six (6) said no, while thirteen (13) or more said "yes", and two (2) said they cannot tell or they do not know if such is being done.

- **Occupational Health and Safety**

When asked about the health services being given by the company, almost all said that first aid is always available with free medicines. There is also a fire control kit.

Ninety percent (90%) of the respondents said they receive training on workplace safety and health. Some of these are first aid training, fire drills, earthquake drills, sanitation, and good manufacturing practices or GMP.

- **Hazards in the Workplace**

One-half of the respondents said they are exposed to hazardous materials like sodium chloride, costic soda and ammonia, while the other half said "no". There are also toxic materials in the factory whose name they cannot identify.

As to exposure to use of dangerous machineries or taking part in dangerous production processes, sixty percent (60%) or thirteen (13) said "yes", while eight (8) said they are not exposed to dangers. Personal protective equipment or PPEs like masks, gloves, aprons, caps, boots, hairnets, ear plugs, and goggles are required of the workers.

However, the workers said that only the masks are given for free, while the rest of these protective equipment are personally procured by them using their own money. They also said that their fellow workers are not using gloves during work, because they hamper the performance of their tasks.

- **Workplace Accidents**

Majority of the respondents know of some accidents that happened in the factory. More than one-half said that they do not know that the production processes within the company have ill-effects on the health of workers.

Some of the examples of accidents they mentioned are finger injuries that sometimes result to amputation, injuries caused by a knife, injuries caused by a jacklift, burns, and injuries resulting from a fall due to a slippery floor, among others. The intervention done by the company includes giving of first aid in the company clinic, bringing the victim to the hospital, and the giving of monetary assistance.

- **Workplace Security and Safety**

As to security measures, all respondents said that the company has security guards stationed in strategic areas within company premises. There is also a logbook which is used to record the names

of all visitors. CCTVs are installed within company premises. Regular employees use the biometric finger scan to record their attendance.

- **Women Workers and other Gender Concerns**

Most of the fifty-six (56) regular members are office workers, thirty-two (32) of them are members of the union. Of the six hundred contract workers, 348 are women and 252 are men. Of the fifty-six regular employees, 32 are women, while 24 are men.

Women are usually assigned in the production work, which includes loining, skinning, packing, and pouching. Majority of the respondents said they know about the wage of women, and they are paid the same amount as their male counterpart.

Majority of the respondents said there is no discrimination against women. However, there were three (3) respondents who said that there is actually the presence of discrimination because pregnant women are not allowed to work in the factory. While being disengaged from work, they are not made to receive any compensation or benefits.

Some also said women are subjected to pregnancy tests.

Ninety percent (95%) of the respondents said women have no problems in the factory, while two (2) said those women who are slow in their work are usually sidelined or are eventually disengaged.

All respondents said there are separate toilet facilities for women. Not one respondent reveals of any cases of sexual harassments perpetrated against women workers within the company. Women have no other maternity benefits except the one-month maternity leave. If they have undergone caesarian operation, they are given one month-and-a-half leave benefits. They are compensated by the SSS, while on maternity leave.

*\*xx names of the factories are left out for privacy reasons*