



Intimidation, Misclassification and Obstruction:

DHL's Strategy to Undermine Labor Rights in India

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Executive summary

Extensive interviews with workers from DHL sites in four major Indian cities, plus trade union officials, scholars and labor experts, and backed up by documentation, have revealed the following:

- Local and national DHL India managers have threatened, intimidated and discriminated against pro-union workers.
- Management have used long distance punitive staff transfers to target union activists and threaten their colleagues
- DHL management has actively attempted to undermine existing unions.
- Management eliminated a union in Kolkata in 2004.
- It is now fighting efforts by couriers to join their union of choice.
- Since 2005-2006 it has deliberately attempted to convert couriers into hoax “managerial” level employees to try and stop them joining a union
- Management has pursued a legal strategy that is intended to tie this dispute up in the courts for years
- The company’s behavior is contrary to its behavior in its home country, and violates international conventions and global labor standards

Introduction

Based on research that included extensive interviews with several dozen couriers who work at DHL facilities in Delhi, Kolkata, Chennai and Mumbai, this report summarizes the principal forms of anti-union activity they report that they have experienced.

1. Interviews with DHL India Couriers

Interviews were conducted between October 4-18, 2014 with workers from DHL service centers in Delhi, Kolkata, Chennai and Mumbai. In most sessions, between 10 and 20 people were interviewed. The interviews were conducted over several hours. Workers were asked a wide range of questions about their interactions with management personnel, employee voice in the workplace and their involvement with the DHL Employees' Unions based in Mumbai and Chennai. Most workers declined to be identified because of a fear of reprisals. While workers often identified specific managers or supervisors in the interviews, those names have been omitted here.

Workers were asked about union activities within the workplace, but none of the questions assumed an anti-union animus on the part of DHL management. Workers themselves raised the alleged instances of anti-union behavior or management pressure to get them to resign from the union. These allegations are discussed only when they were raised by multiple workers in one service center, or by workers across several service centers.

Workers were asked primarily about their own experiences, but they also discussed direct conversations they have had with coworkers on these same issues. Whenever possible, workers from different locations were asked similar questions in order to evaluate the consistency of responses and uncover different experiences. For the most part, responses were remarkably consistent across different locations.

Workers interviewed ranged from those who had worked at the service centers since 1997 to those hired recently after working as agency workers for several years. They ranged from younger workers to those close to retirement age. Thus, while their responses may not be typical of the experiences of all DHL India employees – non-members have obviously not been subjected to the same anti-union pressures – there is good reason to believe that their responses are representative of the experiences of union members at the company. Workers also discussed a pervasive sense of fear that exists within the service centers when it comes to union activity, which affects both union members and non-members.

In many cases the interviews are supplemented by detailed written correspondence between the workers or the unions and DHL management, and documents generated by the Regional Labour Commissioners in Mumbai, Delhi and Chennai. In addition to the interviews with DHL workers, interviews were conducted with union officials and committee members, several leading scholars of Indian employment relations and labor law, and Indian labor experts at the Friedrich Ebert Stiftung office in Delhi, the International Labor Organization office in Delhi, the University of Mumbai and Jawaharlal Nehru University in Delhi.

The section below provides an accurate summary of the responses given in the interviews. To be absolutely clear: none have been exaggerated, taken out of context, or otherwise used in a misleading or disingenuous manner. If anything, the report provides a conservative summary of the workers' responses.

2. Threats, Intimidation and Discrimination against Union Members are Routine

According to Hay grade couriers in Delhi and Kolkata, anti-union threats and intimidation are commonplace. In both group meetings and one-on-one meetings, managers and supervisors have allegedly threatened couriers if they remain members of the union. The overwhelming majority of couriers reported that their managers had made anti-union comments. Many reported that they had been told they would not receive a promotion or pay increase while they were active in the union. Others said that management warned that their union activities would hurt their careers.

- **Recorded Anti-Union Threats by Senior DHL Management**

On December 27, 2013, two senior DHL managers were recorded making direct anti-union threats against couriers in Delhi Gateway (Airport). The managers threatened the pro-union couriers who had taken leave on Christmas Day, an official national holiday. They referred to their previous "punishment transfers" of pro-union workers from Kolkata to Delhi (which helped destroy the Kolkata union) and stated that they would not hesitate to take similar actions in Delhi. Their anti-union tirade, which workers say is representative of what they have heard from many managers at DHL, is worth quoting.

Concerning the transfer, suspension and termination of pro-union workers in Kolkata in 2003-2004, one of the managers stated:

"We transferred Calcutta people as they were creating problems.... Transfers, suspensions, terminations... they were all done through my letters, if I go back to that mode seriously speaking, you will be crying and doing nothing else.... I will make a few of you cry.... I am telling you in advance, take it as a warning... all of you will cry, saale!" [*an insult meaning "I had sex with your sister"*] I will take only 2 minutes to do this. I know the treatment very well. I have done it all ten years back, reformed by situation [*destroyed the union in Kolkata*] and then came here.... let's do it again. Now that I have become expert in labor, labor laws also. Okay, I will go back and do it again."

The managers also warned that the union would not be able to defend workers: "Nothing is going to happen through unionism... If you think they will protect you.... you are taking a very big risk."

The managers singled out former contract workers, who are often especially vulnerable to management threats and intimidation, who had recently been made regular DHL employees: "I feel I have committed a very big mistake by making them permanent employees.... I am feeling that you

have stabbed on my back.”¹ The managers finished by warning that they will do whatever is necessary to stop their attempts to organize a union. One manager warns them, “If you are crooked [*evidently a reference to their union activity*], we can be three times more crooked.”

A number of points stand out concerning the recorded threats. First, DHL had denied that the transfers, suspensions and terminations in Kolkata a decade ago were motivated by an anti-union animus, but the two managers clearly state that they were. Two workers were transferred back after they resigned from the union. Two others who refused to do so have still not been transferred back. Workers have protested the punishment transfers for a decade. The president of the Kolkata union was fired after the first protests and workers were again threatened for protesting the transfers at a meeting with management in August 2011.

Second, DHL management has denied threatening or intimidating pro-union couriers in Delhi and Kolkata. Indeed, even after the recording of the threats was made public, management wrote to the DHL Employees Union: “**DHL has never interfered with the right of their employees to form or join a trade union of their choice.**” This recording of blatant threats from senior management at Delhi Airport shows that DHL’s denials of anti-union behavior have no credibility.

Third, when senior managers openly make threatening comments such as this, they are, in my 15 years of experience studying scores of union organizing campaigns, never one-off, isolated incidents. Rather the comments are representative of a consistent pattern of anti-union behavior. Workers are rarely able to record anti-union threats, even during campaigns that involve intensive management intimidation. In those isolated campaigns when workers have done so, they have always been part of a regular pattern of anti-union coercion and intimidation. Moreover, another Delhi courier recorded a second tirade by DHL management. While the quality of that recording is poor, several couriers who were present confirm that management made similar threats at that meeting. Finally, the recorded threats discussing punishment transfers, suspensions and terminations are, according to the couriers, consistent with the behavior of DHL management, including recent punishment transfers and suspensions of Hay grade workers.

Delhi and Kolkata couriers state that these types of anti-union threats have intensified in recent months, not only come from senior managers, but from most managers and supervisors at local level. The only unusual thing about the December 2013 threats is that they were recorded. Couriers are certain that if the threats had not been recorded, DHL management would have denied that the anti-union meeting ever took place, just as it has denied that other such meetings did.

Couriers at Delhi Gateway report that DHL management organized a “town hall meeting” with the purpose of getting the two managers who made the recorded threats to apologize. But couriers stated they did not accept that their apologies were sincere and believed that the entire event was staged for show. Moreover, pro-union couriers at Delhi state that the anti-union threats and intimidation have not stopped, even from these senior managers.

¹ Couriers say that former agency workers, who are still on probation, are singled out for intimidation, and management warns current agency workers that they will never become regular employees if they are involved in union activities. Indeed, some Adecco agency workers were denied regular employment because they requested workman status at DHL.

- **Punitive Transfers and the Threat of Punishment Transfers**

A decade ago, as one of the recorded managers explained, DHL management transferred workers from Kolkata to Delhi to undermine organizing activity and intimidate union supporters. Two of the four activists transferred have not yet been offered positions back in Kolkata, despite DHL's promise that they would be offered jobs as positions become available. This has required them to maintain two households at significant expense, and has caused considerable hardship in their personal lives. One of the two couriers transferred stated that the transfer had "wreaked havoc" with his family life and devastated his family financially.

More recently, management has allegedly transferred two more union activists within different Delhi service centers in punishment for their activism. These workers now spend 3-4 hours per day commuting, again causing significant personal and financial difficulty. Every courier interviewed knew about these punishment transfer cases, which they said have had a "chilling influence" on union organizing efforts. The couriers had little doubt that these activists and committee members had been transferred because of their union activities, and stated that the fear of punishment transfer was a constant worry.

Workers state that managers constantly threaten punishment transfers, suspensions and terminations in both group and one-on-one meetings. Couriers believe that transfer threats have increased in recent months, as union activism has intensified. However, they say that managers now ask them to produce their cell phones at the start of the anti-union meetings to ensure that they cannot record threats.

Pro-union couriers in Delhi and Kolkata say they have repeatedly been threatened with relocation. The threat of relocation is especially powerful for two reasons: first, workers have experienced or heard of previous alleged punishment relocations and believe they could be the next victims. Second, in India forced relocations such as these can have a devastating impact on the lives of the workers concerned who are forced to live hundreds of miles away from their families – Delhi and Kolkata, for example, are over 1500 km apart -- and must then attempt to maintain two households on extremely limited incomes. Transfers can even mean that workers need to adapt to a different language and culture.

- **Other Anti-Union Actions**

Pro-union couriers also state that union committee members and activists in Delhi and Pune have been suspended and at least one union activist in Delhi has been dismissed. DHL management contends that the suspensions and termination have nothing to do with union activities and that these actions were taken for legitimate disciplinary reasons. Whatever the reality behind these actions, couriers overwhelmingly believe that management took these actions in retribution for union activism, and state that knowledge of these cases has caused many workers to fear being associated with the union in any way. They believe that this was the intention of management.

- **Discrimination in Scheduling and Leave policies**

Union members in Delhi and Kolkata report that management has ensured that their working conditions are worse than those of non-union couriers. Couriers claim that managers give them the worst schedules – including many more night shifts -- and regularly change them with little notice. Several couriers said that supervisors had called them late at night to change their schedules for the following day or stated that they had been required to work night shifts for weeks or months at a time. Pro-union couriers also report that they have not received mandated night-shift allowances, and have not been provided any food during night shifts. Frequent night shifts and erratic schedules have caused considerable difficulties in the workers’ personal lives. Union members in Delhi say that they are regularly discriminated against when requesting leave and are far less likely to be granted it than non-union employees.

Pro-union couriers in Delhi and Kolkata say they have consistently been assigned the most arduous work – which is often impossible to finish during their shifts – and have been given the “worst” kinds of work, such as working in hazardous environments, without adequate safety equipment. They state they are assigned overtime the day before they are scheduled to be on holiday, ensuring that they are unable to finish the work in time or need to work 14 hour days in order to finish. Finally, couriers in Delhi report that they have repeatedly been docked pay when they fail to work on officially recognized national holidays or days that the company has designated paid holidays. Couriers state that they have had their pay deducted in violation of DHL policy and Indian law.

- **Discrimination in Annual Performance Evaluations:**

Hay grade couriers are awarded an annual bonus – the amount of which varies from worker to worker – which is based on a performance evaluation carried out by management. Pro-union couriers in Delhi claim that DHL management has systematically discriminated against them in annual performance reviews. They say that managers try to find any reason for giving them a poor evaluation, and have even fabricated evidence against them to achieve this end. They claim that the negative performance evaluations received by several pro-union couriers have not been based on an objective assessment of their work. As a result of this systematic discrimination in evaluations, pro-union Hay grade couriers at Delhi collectively boycotted the last performance evaluation, and did not receive their annual increase as a result.

- **Management Pressure and Bribes to Resign from the Union**

Many couriers reported that, in one-on-one meeting, managers or supervisors had pressured them or offered them bribes to resign from the union. They have been told that they have “no future at DHL” if they remain in the union. They have also been promised pay increases or promotions if they resign from the union. Management has allegedly called pro-union workers into their offices and interviewed them individually on why they joined the union and attempted to pressure them to resign. Workers say that DHL management has even attempted to get them to resign by putting pressure on their family members, calling at home and telling them that the courier might lose his job if he continues his involvement with the union.

This management tactic has had some success. In Delhi, workers state that several couriers who were previously strong supporters of the union have resigned. Two resignation letters from September 2014 suggest that management has been involved in soliciting workers' resignations from the union. Resignation letters from these workers were written in similar, official-sounding language and the letters mailed to the union from the offices of DHL management. Both letters were mailed the same day in official DHL envelopes from the same DHL facility in New Delhi. They have identical printed address labels and the handwriting stating the name of the sender on the outside of both envelopes is identical. Both say that the workers are resigning from the union "due to personal reasons". The structure of the letters – starting with the subject line "resignation from DHL Employee Union" and ending with the workers' identification numbers – is identical. Union committee members say that earlier resignation letters also indicated management involvement in the composition and delivery of the letters. So far, there have been at least fourteen resignations from the union in Delhi which the union says are the result of management threats or bribes.

- **Management Comments Attacking Union Officials and the ITF**

Workers state that DHL managers, including senior country managers, have repeatedly spread anti-union propaganda. Managers have, they say, frequently made comments attacking union officials and the role of the International Transport Workers' Federation (ITF) in the organizing campaign. Most comments have implied that union officials and committee members are corrupt and do not have the interests of DHL employees at heart.

Managers have allegedly told couriers that the ITF is paying union committee members, and thus they are effectively collecting two salaries, one from DHL and one from the ITF, and that the ITF is offering them other financial incentives. Couriers also state that when they ask managers or supervisors for something at work, managers frequently respond: "You should go to the ITF and ask them to provide it." Almost every courier in Delhi and Kolkata said that managers and supervisors had made anti-union and anti-ITF comments. According to DHL management, Indian union officials and activists are only interested in personal financial gain and do not care about the couriers' problems.

Workers also report that management in Delhi, Kolkata and Pune has repeatedly spread false stories about activists allegedly pressuring workers to join the union against their will. Couriers state that these stories are categorically untrue – the only pressure on workers has come from anti-union managers– and that the allegations have been invented in a blatant effort to discredit the DHL Employees Union. In May 2014, all Hay grade couriers in Kolkata who are members of the union wrote to DHL management to deny that they had experienced any coercion from the union: "We understand from our union representatives... you told them that Kolkata based courier category employees were coerced to join DHL Employees Union, Mumbai. There is no truth in this. We have enrolled ourselves as members of DHL Employees Union, Mumbai on our free volition." Despite this, they say that managers have continued to spread rumors that workers are being forced to join the union.

3. Hay Grade Couriers: DHL's Long-term Strategy for Undermining Labor Rights

From 2004 onwards, DHL has transferred couriers outside of Mumbai and Chennai from existing R and S (workmen) Grades into Hay (low-level management) grades, and appointed all new couriers at the Hay grade. The company insists that Hay Grade employees are ineligible to join the DHL Employees Union or the DHL Employees Union in Chennai and it has refused to recognize them for collective bargaining purposes. Moreover, DHL argues that because they are management employees, India's Industrial Disputes Act – the country's pre-eminent labor statute -- does not protect them. In a recent letter to the Labour Commissioner in Delhi, DHL management states, "All employees in the Hay Grade... are performing predominantly managerial and administrative jobs and as such do not fall within the ambit of... the Industrial Disputes Act, 1947. Since the Hay Grade employees are not 'workmen'... they are not eligible to become members of the DHL Employees' Union.... It is denied that the duties and responsibilities of Hay Grade employees are same as that of workers in R and S categories. It is further denied that the management has artificially re-categorized the workers or placed [them] arbitrarily in Hay Grade." DHL has dismissed as "baseless, frivolous and untenable" allegations that it is denying the Hay Grade couriers the right to join the union of their choice.²

Several points stand out concerning DHL's strategy of converting workmen into "management" and appointing all new couriers at the Hay Grade:

- **Couriers Deny They Voluntarily Applied for their Hay Grade Designations**

DHL has repeatedly stated that workmen couriers converted into Hay Grade employees "voluntarily" applied for these "management" positions. The company states that workers opted for these "promotions" because Hay Grade jobs improve their chances for advancement in the company.³ However, the couriers themselves say that they were given no such choice, and were either pressured or misled into taking the positions. Couriers at Delhi and Kolkata who were already employed at DHL (and Airfreight before that) under "workmen" grades say they were told that they must sign the letters converting them to Hay Grade or else there would be no job for them at DHL. If they did not want to sign, they could "go find a job somewhere else." Some couriers say that management told them they would get a better salary and benefits, but they did not understand that they were signing away their right to join the union. Other couriers – including those who had previously worked for DHL as contract workers -- stated that they simply had no choice: they were told that if they wanted to gain regular employment at DHL rather than remain contract workers, they must join as Hay Grade couriers. Couriers report that their letters of appointment refer to interviews that never took place, and that some letters do not even refer to their Hay Grade status.⁴

Only at Chennai did workers report that some couriers actively sought Hay Grade designations. Even there, however, they were primarily older employees who were offered improved conditions – often moving them from courier positions to office jobs – if they accepted the designation. They were told that if they rejected the Hay Grade position, they would forever remain couriers.

² Regional HR Manager, letter to Asst. Labour Commissioner, Delhi, July 31, 2014.

³ Under Airfreight, all the couriers were S Grade workmen. When DHL bought Airfreight, couriers became R Grade workmen in Mumbai and remained S Grade workmen in Chennai. In Delhi and Kolkata, couriers were S Grade before DHL management converted them into Hay Grade couriers. Since 2004-2005, couriers at all DHL service centers have been appointed at the Hay Grade and outside of Mumbai and Chennai -- the only two remaining locations with unions -- S Grade couriers have been converted into Hay Grade couriers.

⁴ Letters converting workmen couriers into Hay Grade couriers state that "with reference to your application... congratulations on your selection to the Hay grade position as Courier."

- **Protesting Their Conversion to Hay Grade Status**

Couriers at several service centers have written to management asking to be converted back into workmen positions, but the company has refused. As of September 2014, over 60 couriers had written requesting that they be converted to workmen positions. For example, one Delhi courier wrote to DHL in January 2014: “I deny that I had made any such application. I did not get any promotion either... ‘Hay’ grade imposition was effected on all Delhi employees subsequently without any change in performance, without any benefits, however, adversely affecting our wages and service conditions. Hence, my request to reverse my grade to ‘S’ from ‘Hay’ remains.”⁵ The worker wrote that, according to DHL management, “I have no right to associate and have no collective bargaining rights... since DHL **on its own** has changed my grade ... Since the grade name affects my rights, I hereby request that you give me back my S grade status... so that I will not be deprived on my constitutional rights. I hereby give up my Hay grade status in DHL.”⁶

DHL management replied that the worker had accepted the Hay Grade status in 2006 “voluntarily and without any coercion.” The worker, in contrast, states that he was given no choice but to accept the designation – he was told that if he did not, he would lose his job. DHL also states that since taking the Hay Grade position, the worker has been “performing jobs distinct from that of the S grade.”⁷ The worker, in contrast, states that his job functions did not and have not changed as a result of his conversion.

Another Delhi courier wrote to DHL protesting his conversion from S Grade to Hay Grade: “My consent was not sought, nor was I given any choice. ...It was not revealed to me.... that such a change would deprive me of my right to organization and right to collective bargaining.... As courier I am one of the employees in the workman category at the bottom level in DHL.”⁸

DHL management replied that the worker was promoted to Hay Grade “after successfully undergoing the selection process” and it has “different roles and responsibilities as compared to what you were performing in the ‘S’ Grade [DHL has never spelled out the “different roles and responsibilities” of Hay grade couriers].... The Hay grade status was accepted by you consciously and you now cannot give up your Hay Grade status in the company.”⁹ The courier refutes all of management’s arguments: He did not interview for the position, his basic responsibilities have not changed, and he protested his conversion to the Hay grade as soon as he was able to do so – that is, when the DHL Employees Union started organizing the Delhi workers in 2012.

- **Basic Work duties are Unchanged**

Couriers state categorically that their duties did not change after they were converted to the Hay Grade. They did not take on any managerial, supervisory or administrative functions, but kept performing the same courier functions that they had always performed – loading, unloading and delivering packages and parcels, which are the basic tasks performed by every courier at DHL, whether they are classified as workmen or Hay Grade. One worker wrote to DHL that since his conversion, “There has been no change in my job profile.” Another courier wrote: “My job content as a courier remained unchanged.... I have been doing the work of a courier. My present daily routine involving taking the shipments from the service center to the customer for delivery and pick up shipments from the customer’s place to the service center. There is no change in this pattern from 1997 to

⁵ Letter from Hay grade courier to Head – Employee Relations, DHL Express (India), March 24, 2014.

⁶ DHL courier, letter to Head, Employee Relations, January 2014. The Indian constitution guarantees fundamental rights to its citizens, including freedom of association (Article 19.3) and equality before the law and equal protection by the law (Article 14).

⁷ Head – Employee Relations, letter to DHL employee, March 5, 2014.

⁸ DHL courier, letter to Anil Khot, Business HR Manager, February 11, 2014.

⁹ Business HR Manager, letter to DHL employee, February 6, 2014.

2014. I do not allot work to anyone as there is none reporting to me.... I do not have any supervisory or managerial functions, power or authority....”¹⁰

According to DHL management, all couriers at Delhi, Kolkata, Pune and Jaipur are Hay Grade management employees, even though the couriers say they perform identical tasks to the R and S grade “workmen” couriers in Mumbai and Chennai. At service centers in Mumbai and Chennai, where couriers are designated as both R or S grades and Hay grades, moreover, these workmen and “management” couriers work side-by-side, doing identical jobs, in the same shifts.

Couriers are the public face of DHL India and they perform the company’s core activities. But they perform the same basic activities regardless of whether they are R or S Grade workmen couriers at Mumbai and Chennai or Hay Grade management couriers at Delhi, Kolkata and elsewhere.

Couriers also report that when they were transferred from workmen to the Hay Grade their pay and conditions remained the same. Indeed, in many cases, the couriers’ appointment letters explicitly stated that their terms and conditions would remain unchanged.¹¹ Some couriers report that their pay actually *went down* after they were “promoted”. Outside of Chennai, many Hay Grade couriers are paid significantly less than workmen couriers at Mumbai. In Delhi and Kolkata, many earn little over minimum wage, travel long distances to work, reside in shantytowns and live “a hand to mouth existence.”

- **Hay Grade Couriers are Part of the “Non-unionized Cadre”**

According to Hay Grade couriers at Delhi and Kolkata, management has not only told them that they are ineligible to join the DHL Employees Union, but it has also informed them that DHL will **never** recognize the right of Hay Grade employees to join a union and bargain collectively. Moreover, the number of couriers classified as workmen at the two DHL locations with unions, has declined as more and more Hay Grade couriers have been added. Thus, DHL has not only prevented workers at Delhi and Kolkata from joining the union, it has undermined the influence of unions at Mumbai and Chennai.

DHL management writes that the Hay Grade couriers “are predominantly performing managerial and/or administrative jobs and they **belong to the non-unionized cadre** and their service conditions are independently laid down by the Management.... The company neither recognizes your union as a representative of this group nor will it negotiate with your union on their behalf.”¹² The company has also stated that they “are not ‘workmen’ under the Industrial Disputes Act,” and thus not entitled to its protections. In one of several letters to the president of the union in Chennai, DHL management wrote that the union’s list of couriers who are members “is not accepted and the management is not recognizing the persons mentioned therein as protected workmen under the Industrial Disputes Act.”¹³

DHL has officially stated that Hay Grade couriers can form a union, but not the same union as the workmen R or S grade couriers. However, couriers state that DHL has repeatedly told them that as part of the “management cadre,” they cannot join any union. Couriers report that management tells workers that it will never bargain with a union that includes Hay Grade couriers.

¹⁰ DHL courier, letter to Business HR Manager, February 11, 2014.

¹¹ Their letters state that apart from the new designation as a Hay Grade courier, “All other terms and conditions of your service remain unchanged.”

¹² Business HR Manager, letter to Mr. Vasudevan, President, DHL Employees Union, July 1st, 2013.

¹³ Business HR Manager, letter to G M Krishnamurthy, President, DHL World Wide Express Pvt Ltd Employees Union, November 11, 2013.

- **From Agency Workers to Managers**

DHL has recently accelerated its strategy of converting all new and existing couriers into Hay Grade employees. In April 2013, DHL management converted 332 Adecco agency workers -- who have relatively few rights under Indian law¹⁴ -- straight into Hay Grade workers, without giving them the option of joining the company as R or S Grade employees. Indeed, Adecco workers who asked to be given R Grade positions were reportedly not offered jobs at DHL.¹⁵ The addition of these contract workers as “managers” has significantly increased the numbers of Hay Grade couriers at Mumbai and Chennai.¹⁶

DP/DHL has made relatively few references to these workers in its arguments stating that Hay Grade couriers are management. However, in a letter to the DHL Employees Union in March 2014 DHL claimed that the appointments “have been in the Hay Grade position, which is a **management cadre position**... wherein they have been performing distinct duties and responsibilities from that of the employees in the R Grade.”¹⁷ In another letter to the union in June 2014 DHL management wrote that since joining the company the former Adecco workers “have been performing predominantly managerial and or administrative functions”.¹⁸

However, several of the former Adecco couriers themselves dispute these contentions. They say that, in common with the other post-2006 Hay Grade couriers, they perform no significant managerial, supervisory or administrative functions. They have no authority to sanction other employees. They do not supervise other couriers or organize their work schedules. And they had no choice but to accept the Hay Grade designation, or else they would not have a job at DHL. DHL has refused to recognize the rights of these 332 “management” employees, who earn significantly less than “workmen” couriers in Mumbai who do the same job, to join the union and engage in collective bargaining.

- **DHL Not Alone in Using Management Designation As Anti-Union Strategy**

Despite DHL’s insistence that Hay Grade employees cannot join the union, Hay Grade couriers in Delhi, Kolkata and Mumbai have expressed strong support for the DHL Employees Union. Couriers in Delhi have repeatedly participated in collective actions demanding to be recognized as “workmen” couriers so that they can join. Couriers believe that the real reason DHL has classified them as management employees is to deny them the protections of Industrial Disputes Act, ensure they do not get the same wages and benefits as the Mumbai workmen couriers and, most importantly, stymie their efforts to organize under the DHL Employees Union.

DHL is not the only Indian company to use management designations as an anti-union tactic. According to Indian industrial relations (IR) experts, appointing workers to Hay grade positions, or converting them from workmen to Hay Grade status, is a relatively common tactic among Indian employers seeking to prevent their workers from joining a union.¹⁹ However, it appears that DHL India has gone further than most in attempting to use this as an anti-union tactic. Indian IR experts knew of no other multinational corporation that had attempted to claim that all of its employees at

¹⁴ Contract workers are covered by the Contract Labour (Regulation and Abolition) Act of 1970, enacted in response to the significant rise in the number of contract workers.

¹⁵ In a March 2013 letter to the DHL Employees Union, the Head of Employee Relations at DHL India stated that certain Adecco workers “demanded that they be absorbed in R Grade position, which the Company could not do.” As a result, “there is no employer-employee relationship between the Company and the said persons.”

¹⁶ Previously the vast majority of couriers were R or S grade workmen, and the few Hay Grade couriers at those service centers had been members of the long-established unions at Mumbai and Chennai for many years.

¹⁷ Head – Employee Relations, letter to Mr. Vasudevan, President, DHL Employees Union, March 17, 2014.

¹⁸ Head – Employee Relations, letter to N. Vasudevan, President, DHL Employees Union, June 6, 2014.

¹⁹ Several academics have written on rising employer hostility against Indian unions in recent years. As employers have become more militant, they have used this kind of tactic to achieve cost cutting goals. See, for example, Vidu Badigannavar, “India,” in John Kelly and Carola Frege, eds., *Comparative Employment Relations in the Global Economy* (Routledge 2013).

several different locations are management and not workmen. DHL management itself has written that the Hay Grade management classification for both new and existing couriers “has been **in vogue** in the company from 2005-2006.”²⁰

4. DHL’s Long-term Legal Strategy: Discourage Workers and Exhaust the Union

DHL management contends that Hay grade workers are not eligible to join the unions of their choice. While DHL has stated it will abide by the “law of the land,” the company knows that if the conflict over the status of the employees proceeds through the Indian legal system, and it appeals unfavorable decisions at every step, the case could languish in the courts for decades. If the Regional Labor Commissioner is unable to resolve the Hay grade dispute, it will go to the industrial courts; if DHL loses at the industrial courts, it can appeal to the regional High Courts; if it loses again at the regional High Courts, it can appeal to the Supreme Court. Even if it were to lose at the Supreme Court the case would likely take many years.

- **DHL Has an Overwhelming Advantage in the Indian Courts**

Academic studies have demonstrated that Indian labor laws “offer little or no protection to workers and unions against employer excesses” and that in recent years, the Indian judiciary has passed rulings that “tilt the balance of power squarely in favor of employers.”²¹ One way that anti-union employers have repeatedly won in the courts is through the use of delaying tactics. DHL can easily afford a protracted legal battle over the workman status of the couriers, while the DHL Employees Unions cannot. The company has already demonstrated its willingness to go through lengthy legal battles over pay disputes in Mumbai and the status of Hay Grade couriers in Chennai. Moreover, the company knows that no matter how determined they are to organize, couriers who are currently protesting to exercise their right to join the union – including participating in a hunger strike and sit-in near the parliament building in Delhi – are likely to eventually leave or even retire before the courts reach a final decision.

However, Indian legal experts state that case law and Supreme Court decisions are firmly against the company’s position. Under Indian law, workmen are defined by the main tasks of their job, and not the glorified title that DHL or any other company has given them. The Industrial Disputes Act defines workmen as “any person... employed in any industry to do manual, unskilled, skilled, technical, operations, clerical, or supervisory work for hire or reward...” Under this provision of the law, pilots in India – who are paid much more than couriers -- are defined as workmen and postmen are defined as workmen. DHL couriers are also workmen.²²

Moreover, the national Supreme Court has already decided against employers that have adopted deliberate misclassification strategies. The Court has stated that, “the essential condition of a person being a workman... is that he should be employed to do the work in that industry.” Likewise, the Bombay High Court has stated that what is important is the nature of work performed by an employee and not the employee’s designation. Thus, DHL’s contention that Hay Grade couriers are “management” not only defies any common sense definition of the term, but also contradicts Indian case law on the issue.

²⁰ Head – Employee Relations, letter to N. Vasudevan, President, DHL Employees Union, June 6, 2014. Hay Grade “management” couriers have no direct counterpart in Germany or at any other DHL operations in Western Europe.

²¹ Vidu Badigannavar, “India,” in John Kelly and Carola Frege, eds., *Comparative Employment Relations in the Global Economy* (London: Routledge 2013).

²² D. C. Jain, *Commentaries on the Industrial Disputes Act, 1947*, 3rd edn., Mumbai: Labour Law Agency, 2007.

- **Management Has Ignored 20 Requests from Labor Commissioner**

At the time of writing, according to the president of the Chennai DHL Employees Union, DHL management has failed to respond to requests from the Regional Labor Commissioner in Chennai to explain why Hay Grade couriers should be considered management employees and not workmen. The role of the Labour Commissioner is to attempt to prevent disputes by calling the parties involved to a process of mediation and conciliation. DHL management's repeated refusal to appear before the regional commissioner shows its contempt for the process. Chennai currently has approximately 40 Hay grade couriers who are members of the union. DHL management has also refused point blank to discuss the employment status of Hay grade couriers despite multiple requests to do so from the DHL Employees Union and the union in Chennai. In September it stated that it would only meet with the DHL Employees Union if it accepts that Hay grade couriers are not covered by any agreement between the company and the union, a position it knows the union could never accept. In the Industrial Court at Pune a case is pending over a domestic inquiry of a suspended trade union activist. The complaint became necessary as DHL management had initially refused the activist his right to be defended by a union representative of his choice. Although this right was later recognised, DHL management filed a submission stating that the person is a management functionary. The question of whether the activist is workman or a management functionary, as claimed by DHL management, will come up for argument later.

In short, DHL's legal strategy appears to be little more than a cynical ploy designed to ensure its Hay Grade couriers – who now constitute the majority of its Indian workforce – are never able to join the DHL Employee Unions and engage in collective bargaining.

5. Management Has a “Terrible” Relationship with the DHL Employees Union

DHL has claimed that it has a “very cordial” relationship with the long-established DHL Employees Union, which has represented couriers in Mumbai since the late 1990s. In a recent letter to the union, DHL management states that it has always “discussed and resolved” contentious issues between the parties, thus demonstrating that it does not oppose workers’ right to form a union and engage in collective bargaining. The company says that the fact that it has met with the union to discuss its charter of demands (though it has refused to do so twice in the past year) and has discussed “operational matters” for R Grade employees “fortifies our stand that the right of the employees of our company to form a union was never challenged by us. It is necessary to point out that the company has been sharing a **very cordial relationship** with your union for the last several years....”²³

However, union members state that this is fundamentally misleading. Instead, union officials and committee members describe their current relationship with management as “absolutely terrible,” and they say that DHL has “no respect” and “utter contempt” for core labor rights at the company.

The DHL Employees Union has four main grievances against the company. First, the company refuses to recognize the right of Hay grade couriers to join the union and refuses even to discuss this issue with the union. Second, the company has refused to discuss the union's charter of demands

²³ Head – Employee Relations, DHL Express (India) Pvt. Ltd., to N. Vasudevan, President, DHL Employees Union, September 23, 2014.

from April 2013 and June 2014. Third, the company has refused to pay last year's annual increment and performance bonus to Hay grade couriers in Delhi. Finally, management has discriminated against pro-union couriers in scheduling, leave, assignments and several other important areas of work.

- **No Agreement Since 2002**

In an indication of its poor relationship with the union, DHL has failed to negotiate a collective agreement with it since November 2002. After several years of dispute, the Mumbai Industrial Tribunal awarded a raise to DHL's workmen employees in 2010. Almost immediately, DHL management appealed that award at the Bombay High Court. DHL has also taken a dispute over "equal pay for equal work" for couriers in Delhi, Kolkata, and Jaipur to the Deputy Labour Commissioner in Delhi. It is unlikely that either of these cases will be resolved anytime soon, and DHL's superior financial resources and legal expertise give it an overwhelming advantage in a protracted legal dispute. The union has referred to the "cesspool of litigations" that characterizes its current relationship with the company. Thus, as with its grade misclassification strategy, DHL has used legal maneuvers to frustrate the DHL Employees Union at the bargaining table.

- **Relationship Has Deteriorated Since New Organizing Started**

DHL and the union had an extremely adversarial relationship between 2004-2010. Around 2009-2010, the relationship improved somewhat, but union officials report that their relationship with management has deteriorated significantly since the union started organizing Hay grade couriers in Delhi and Kolkata around 2012. DHL management appeared content so long as the proportion of couriers classified as workmen, and thus the influence of the union, continued to decline. But when the union started to represent Hay Grade couriers the relationship immediately soured. The union states that it is not a union of R Grade employees – the only workers management recognizes as being eligible to join the union – but a union of all workmen at DHL. The union has complained that there "has been no dialogue between the management and workers at the local level, nor has any meeting been held at central level to resolve" the freedom of association issue.²⁴

Despite repeated efforts by the union to get management to discuss freedom of association, DHL has simply responded that Hay grade couriers in Delhi, Kolkata, Pune, Jaipur and elsewhere, are not workmen, and thus, are ineligible for membership in the DHL Employees Union. The company has failed to provide a detailed explanation as to why they are not workmen, other than to say they have "significant" managerial, supervisory and administrative responsibilities. Thus, the company has written to the DHL Employees Union that it does "not recognize you as a representative" of Hay Grade couriers in Mumbai, Delhi and elsewhere.²⁵

Instead of resolving these issues through negotiations with the union, the company has, according to the DHL Employees Union: "resorted to highhandedness and intimidation tactics."²⁶ Moreover, even in their routine union-management meetings, DHL has, according to union officials, attempted to dictate both which union committee members can and cannot attend -- it has excluded union vice-presidents in Delhi and Kolkata because they are Hay Grade couriers -- and the agenda of the

²⁴ N Vasudevan, President, DHL Employees Union, letter to DHL Express (India) Pvt. Ltd., July 20, 2014.

²⁵ Business HR Manager, letter to Mr. Vasudevan, President, DHL Employees Union, July 1st, 2013.

²⁶ N Vasudevan, President, DHL Employees Union, letter to Head – Employee Relations, September 23, 2014.

meetings. For several years, moreover, DHL has refused to provide paid time off for union committee members to attend the labor-management meetings.²⁷ In addition, according to the union, DHL management has frequently refused its requests for informal workplace meetings on routine issues.

The union committee described the content of its meetings with DHL management during the past year as “lacking in substance,” “unconstructive,” and even “trivial.” These meetings only discussed local operational and collective bargaining agreement issues. In May 2014, the union complained that some meetings between September 2013 and May 2014 “were not even union-management meetings, we tried to resolve some of the operational issues and no substantial issue could be taken up for discussion.”²⁸

- **Labor-Management Conflict in Chennai**

Even in Chennai, where DHL’s relationship with the union is slightly better, union officials and committee members say that relationship has degenerated in the past year. They described intensive management intimidation, including pressure on couriers to resign from the union or to take Hay grade positions. In Chennai, too, DHL management has replaced S Grade “workmen” couriers with Hay grade couriers and refused to recognize the right of these workers to join the union. The Chennai DHL Employees Union has written to the Labour Commissioner in Chennai to complain that, “DHL is adamant in its stand and is refusing to negotiate charter of demands in respect of Hay Grade employees.”²⁹ The Chennai union has also complained to the Labour Commissioner about DHL management’s “victimization attitude.”³⁰ Recent meetings between the union and DHL management, union committee members say, have been meetings about routine collective bargaining issues. None of the meetings have discussed DHL’s refusal to recognize the freedom of association and right to bargaining of Hay Grade couriers or its victimization of union members, because management has refused to discuss these issues.

6. DHL’s “Industrial Relations Assessment”

“Our ‘Industrial Relations’ initiative is... responsible for developing a framework for the cooperation of all involved parties.”

DP/DHL’s 2013 Corporate Responsibility Report³¹

In response to an OECD investigation and mediation into allegations of anti-union victimization in India, DP/DHL agreed in January 2014 to conduct a quarterly “industrial relations assessment” that includes employee roundtables at DHL service centers around the country. None of the couriers interviewed at the four cities had participated in the roundtables. Moreover, none of couriers knew of any of their coworkers who had participated and only one courier at Delhi thought he had heard about the roundtables.

The roundtables, involving employees selected by DP/DHL, have reportedly been held in English only, which is not the first language of most DHL couriers. According to the 2001 national consensus, 226,000 Indians speak English as their first language, making it only 42nd on the list of popular

²⁷ The company has made some concessions on paid time, but still remains resistant to it.

²⁸ N Vasudevan, President, DHL Employees Union, letter to Head – Employee Relations, May 6, 2014.

²⁹ S Praveen Kumar, General Secretary, DHL World Wide Express (I) Pvt. Ltd. Employees’ Union, letter to the Labour Officer, Chennai, July 22, 2013.

³⁰ S Praveen Kumar, General Secretary, DHL World Wide Express (I) Pvt. Ltd. Employees’ Union, letter to the Labour Officer, Chennai, July 26, 2013.

³¹ DP/DHL, “Corporate Responsibility Report, 2013.” Available at: http://www.dpdhl.com/en/investors/financial_reports/corporate_responsibility_report.html

languages by native tongue. 86 million Indians list English as a second language, and 39 million list it as their third language. This compares with 422 million Indians who speak Hindi as their first language.³² The research for this report included interviews with dozens of DHL workers in four cities at multiple centers. All of the interviews were conducted with the assistance of a translator who was fluent in both English and the workers' native languages, as most of the couriers would not have been able to conduct the entire interview in English. Thus, although English may be the official language of the company, the idea that these same couriers would be able to follow and participate actively in an employee roundtable together with DHL managers and other senior staff – even if they felt comfortable doing so -- is simply not plausible.

Thus, it appears that not one single employee who has alleged anti-union discrimination has participated in the company's official investigation into that victimization, which is a stunning omission.

To state the obvious: one cannot conduct a credible investigation into alleged violations of freedom of association unless one talks to workers who have experienced anti-union victimization. DP/DHL's so-called "industrial relations" initiative appears to have failed completely in "developing a framework for the cooperation **of all involved parties.**"

Moreover, it appears possible that not one single union member participated into the roundtables, which were organized in response to workers' allegations of anti-union intimidation. DP/DHL alone chose the managers, human resource personnel and employees who would participate in the roundtables. Given the absence of this key constituency, it is inappropriate to call the DP/DHL process an "industrial relations assessment," because this implies the participation of all relevant stakeholders. Thus, DP/DHL's employee roundtables – and its industrial relations assessment, more generally – are not directly relevant to the violations of the freedom of association provisions of the OECD Guidelines.

Under these circumstances, the roundtables might still provide insights into how to improve DP/DHL's internal human resource practices. The company says that it wishes to hear the voices of all DHL employees, not just those of union members. But lacking the participation of workers who have allegedly experienced victimization, there's no chance that the roundtables would uncover the causes of anti-union discrimination and no way they would provide the company with guidance on how to remedy that fundamental problem.

- **Workers Skeptical About Other Employee Voice Innovations**

Couriers expressed equal skepticism about other recent "employee voice" innovations, such as the employee hotline, grievance feedback procedure, annual employee opinion survey and the posting of DP/DHL's Code of Conduct on employee noticeboards. Couriers say that they have not used the employee hotline. Most reported that they were unaware of this innovation, which is intended to enable them to report violations of DHL's Code of Conduct. Others stated that they had seen notices with the hotline number but they had not used it, despite hearing many anti-union comments from management or other violations of the code, and did not know of any coworkers who had used the number. Couriers feared that management might use the information to retaliate against them, and had no confidence that management would act on anti-union activities reported on the hotline.

³² Other languages are also widely spoken, including by many of the couriers. 91.1 million speak Bengali, 85 million speak Telugu, 84.2 million speak Marathi, 66.7 million speak Tamil, and 59 million speak Urdu.

Couriers were equally skeptical about the posting of DHL's Code of Conduct. They report that the code has been posted only in English and that it has failed to highlight freedom of association. Many stated that they had not seen the code of conduct on employee noticeboards. Others said that they had seen the code, but stressed that it was simply one notice on a noticeboard full of notices. None remembered seeing any specific emphasis on freedom of association. DHL's Code of Conduct poster includes just two sentences on freedom of association and collective bargaining under the heading "Mutual Respect and Openness," which is one of eight topics covered on the poster. Even these two sentences provide somewhat mixed messages, stating that workers are "free to join **or not to join** a union/employee representation of their choice" (which is language inconsistent with ILO conventions, OECD Guidelines and other leading global standards on freedom of association). It says that DHL recognizes the right to bargain collectively "in accordance with applicable law," which is a weak affirmation of a core labor right. Thus, many couriers have not seen the Code of Conduct notices and those that have seen it say it has made no difference to their views on the anti-union activities of DHL management in India.

The Employee Opinion Survey, which DHL says is intended to promote "open and honest dialogue,"³³ has existed since 2009. Management-level employees complete the form online, while couriers complete it in hard copy. Employees in Delhi reported some irregularities in the process, with some management grade employees stating that supervisors had told them how to complete the survey, while some couriers who filled in a hard copy of the survey said they did not trust that the process would be anonymous. They were highly skeptical about the results of the survey – which suggest that almost three-quarters of DHL India employees are happy with their working conditions – and did not believe that this finding represents workers' true opinions. None of the couriers believed that this survey contributed significantly to employee voice in the workplace.

7. DHL India's Violation of Global Labor and Human Rights Standards

DHL is a powerful transnational company. As a global corporation, it must abide by leading global labor standards wherever in the world it does business. DHL has endorsed some combination of the core labor standards of the International Labor Organization, the industrial relations guidelines of the Organization for Economic Cooperation and Development, the freedom of association standards of the Universal Declaration of Human Rights, and the labor principles of the United Nations Global Compact. According to CEO Frank Appel, DP/DHL's 2013 Corporate Responsibility Report is "based on internationally recognized standards – the UN Global Compact and its ten principles we steadfastly adhere to as a member, the Universal Declaration of Human Rights, and the conventions issued by the International Labour Organization (ILO)."³⁴ DHL has a clear responsibility to fulfill both its own code of conduct and these international standards in all the countries in which it operates. As documented by the interviews with the couriers from Delhi, Kolkata, Chennai and Mumbai and extensive correspondence between DHL management and the workers or the DHL Employees Unions, and the recorded threats by management in Delhi, the company has failed to uphold these global standards in India. It appears that DHL has lacked the ability to adequately monitor the behavior of its Indian management. Thus, DHL's public commitment to leading international standards will continue to fall short without a consistent, long-term strategy – including one that respects the core right of its Hay Grade couriers to join the

³³ DP/DHL, "Corporate Responsibility Report, 2013." Available at: http://www.dpdhl.com/en/investors/financial_reports/corporate_responsibility_report.html

³⁴ DP/DHL, "Corporate Responsibility Report, 2013." Available at: http://www.dpdhl.com/en/investors/financial_reports/corporate_responsibility_report.html

union of their choice -- for ensuring their successful implementation at its service centers in India. The anti-union behavior by DHL management in India has violated several leading global labor and human rights standards:

- **The OECD Guidelines on Multinational Enterprises**

Through an aggressive campaign to push the DHL Employees unions out of its service centers, DHL management has interfered with the freedom of association rights of its employees in India in violation of the OECD Guidelines for Multinational Enterprises. The guidelines were established to promote ethical practices by global firms wherever they do business. They also cover employment and industrial relations. First drafted in 1976 and revised several times since, the OECD Guidelines incorporate core ILO standards on freedom of association and the right of collective bargaining, and call on multinational corporations to “respect the right of their employees to be represented by trade unions.” The most noted evolution in the guidelines in recent years has been in labor standards, and they now demand a high standard of conduct from multinational companies in their overseas operations.

The OECD Guidelines provide principles and standards for business conduct based on ILO core standards, and clear procedures for facilitating dispute resolution. Under the terms of the Guidelines, the National Contact Point (NCP) serves as a forum for confidential mediation and conciliation. It offers a way for DP/DHL, representatives from the DHL Employees Unions, and the global unions the ITF and UNI Global Union to discuss alleged violations of workers’ rights in a neutral setting overseen by professional mediators.

- **United Nations Global Compact**

Launched in 2000, the United Nations Global Compact (UNGC) is an international effort to encourage corporations to adopt socially responsible practices and report on their implementation.³⁵ Under the UNGC, companies pledge to translate its ten principles into corporate practice by advocating the compact in their mission statements, annual reports, and other publications. Companies agree to post at least once a year on its website examples of progress they have made, or lessons learned, in putting the principles into practice. Although well intentioned, the UNGC’s imitations have been widely documented: it is a voluntary system of self-monitoring, self-reporting, and self-correction. Moreover, Principle 3 of the UNGC -- concerning freedom of association and the effective recognition of the right of collective bargaining -- is the most neglected and most violated of all of its principles. Principle 3 states: “Employers should not interfere in an Employees decision to associate [i.e. or organize or join a trade union], or discriminate against the employee or their representative.”³⁶

Under the UNGC, companies must ensure that workers “are able to form and join a trade union of their choice **without fear of intimidation or reprisal**” and adopt “**union-neutral policies and procedures** that do not discriminate against individuals because of their views on trade unions or for their trade union activities.” There seems little doubt that the actions of DHL management

³⁵ The labor principles in the United Nations Global Compact are freedom of association and recognition of the right to collective bargaining; elimination of all forms of forced and compulsory labor; the effective abolition of child labor; and the elimination of employment and occupational discrimination

³⁶ UN Global Compact, Principle Three, What does Freedom of Association mean? <http://www.unglobalcompact.org/issues/labour/>

in India have violated Principle 3. DHL's efforts to drive the union out of its service centers contravene the labor principles of the UNGC, as well as those of several other leading international standards on workers' freedom of association, including the Universal Declaration of Human Rights, UN human rights covenants, and Charter of Fundamental Rights of the European Union.

- **ILO Conventions 87 and 98 (on Freedom of Association and the Right of Collective Bargaining)**

ILO Conventions and the related jurisprudence of the ILO's Committee on Freedom of Association (CFA) offer clear guidance to what companies must and must not do in order to uphold workers' rights of freedom of association and collective bargaining.

According to the CFA, the following management actions constitute improper interference with freedom of association under ILO Conventions:

- Creating an atmosphere of intimidation and fear in the workplace prejudicial to union activities.
- Pressuring or threatening retaliatory measures against workers for union membership.
- Attempting to persuade employees to withdraw authorizations given to a union to unduly influence the choice of workers and undermine the union.
- Harassing and intimidating workers by reason of union membership.
- Downgrading or failing to promote a worker as a result of union membership.
- Spreading negative propaganda about the union, its officials and committee members or the global union federation.
- Reclassifying workmen couriers as management employees for the reason of making them ineligible for union membership and collective bargaining
- Refusing to allow union vice presidents to participate in labor-management meetings and refusing to provide committee members with paid time off to attend meetings
- Preventing workers from hearing from pro-union voices in the workplace.

As indicated in the report, couriers have alleged that DHL management has engaged in all of these improper activities at its Indian service.

- **Other Foreign MNCs Have Adopted Similar Anti-Union Tactics**

DHL is not the only multinational corporation (MNC) to adopt aggressive anti-union tactics. MNCs in India have resorted to punishment transfers, suspensions, terminations and discrimination to thwart union drives.

In the past decade, the German MNC Bosch is reported to have thwarted three efforts by its Indian workers to form a union in Pune by adopting similar tactics. According to one Indian academic, the company “has shown little or no compliance” with India’s labor law regime.³⁷ Thus, even though MNCs such as Bosch and DHL have their roots in a mature tripartite system of social dialogue in Germany, they are nevertheless alleged to have engaged in aggressive anti-union activities in India.

Like Bosch, DHL cooperates with unions and respects workers’ rights in Germany. At home, it abides by global standards. In India, in contrast, DHL has adopted an adversarial labor policy, undermined the core rights of its workers, and broken global labor and human rights standards. According to couriers and according to the managers who were recorded threatening workers, DHL has clearly adopted these tactics against its Indian workforce.

8. Conclusion: Intimidation, Misclassification and Obstruction at DHL India

The testimony of DHL couriers and the actual evidence on the ground in India appears to contradict almost everything that DP/DHL has said about the labor relations situation. DHL management has written that it has “never interfered” with the right of its Indian workers to form unions and engage in collective bargaining. However, in December 2013 couriers recorded two senior DHL managers repeatedly threatening to transfer, suspend or terminate workers as punishment for pro-union activities. The managers also boasted that they had taken similar actions to destroy the union in Kolkata in 2004. Moreover, couriers report that anti-union threats are commonplace and that the intimidation has continued and intensified. Managers now instruct workers to produce cell phones to prevent them from recording threats. Workers also state that managers have repeatedly pressured them or offered bribes in order to get them to resign from the union. Letters from Delhi workers appear to indicate that DHL management has been actively involved in soliciting workers’ resignations from the union. Couriers also say they have been systematically discriminated against in scheduling, leave and a host of other workplace policies because they are members of the union.

According to couriers, management has repeatedly sought to tarnish the reputation of both the Indian DHL unions and the ITF. It has claimed that workers have been coerced into joining the union. Workers themselves have written to DHL denying that they experienced any pressure from the union, and say that they only coercion they have experienced has come from anti-union managers. They say that management has repeatedly spread anti-union propaganda.

DHL maintains that Hay grade couriers – who have increased significantly in number at service centers throughout India – are not eligible to join the DHL Employee Unions in Mumbai or Chennai. However, the evidence concerning Hay grade “management” couriers also contradicts virtually everything that DHL has said about their status. DHL management says that couriers who have been converted from workmen to Hay grade employees “voluntarily” applied for and interviewed for their positions. The couriers themselves say this is categorically untrue. DHL says that the duties performed by Hay grade couriers are fundamentally different from the duties

³⁷ Vidu Badigannavar, “India,” in John Kelly and Carola Frege, eds., *Comparative Employment Relations in the Global Economy* (London: Routledge 2013).

performed by workmen couriers, and that they are “performing predominantly managerial or administrative jobs.” The couriers say that the tasks they perform are identical to the tasks they performed as workmen couriers and identical to the tasks currently performed by workmen couriers in Mumbai and Chennai. Last year, DHL converted 332 workers from Adecco contract workers to Hay Grade management employees, without giving them the opportunity to join as workmen employees. Adecco employees who requested workmen status were not offered positions at DHL. It appears that the Hay Grade designation is simply a tactic being misused by DHL to prevent pro-union couriers from joining the union of their choice.

DHL has attempted to tie up the conflict over the workmen status of Hay grade employees in the Indian Courts, knowing that its superior financial resources and legal expertise give it a tremendous advantage over the unions and workers.

Finally, DHL has fundamentally misrepresented its relationship with the DHL Employees Union in an attempt to make out that it respects workers’ right to form unions and bargain collectively. DHL has said that it enjoys a “very cordial” relationship with the union. The union states that this is categorically untrue and instead characterizes its relationship with DHL management as “absolutely terrible.” The union states, moreover, that DHL management – which hasn’t negotiated a collective agreement with the union since November 2002 – has exaggerated both the number of meetings and inflated their importance. It says that all of the meetings have discussed routine or even “trivial” subjects and that DHL has pointblank refused to discuss the core issue of freedom of association for Hay grade employees. Moreover, it has attempted to dictate who can attend the meetings, the agenda of the meetings, and has for years refused to provide paid time off for union committee members. Finally, the relationship between the union and DHL management has deteriorated significantly since it started organizing Hay grade couriers in Delhi and Kolkata in 2012.

Couriers at all four cities – Delhi, Kolkata, Chennai and Mumbai -- report there has been no improvement in DHL management’s respect for freedom of association over the past year. Management threats and intimidation have had a chilling impact on union activities, they say, and many workers are now afraid to be associated with the union. DP/DHL’s Industrial Relations Assessment, conducted over the past several months, appears to have made no significant difference to this anti-union environment, and workers had no confidence that the situation would improve anytime soon.

