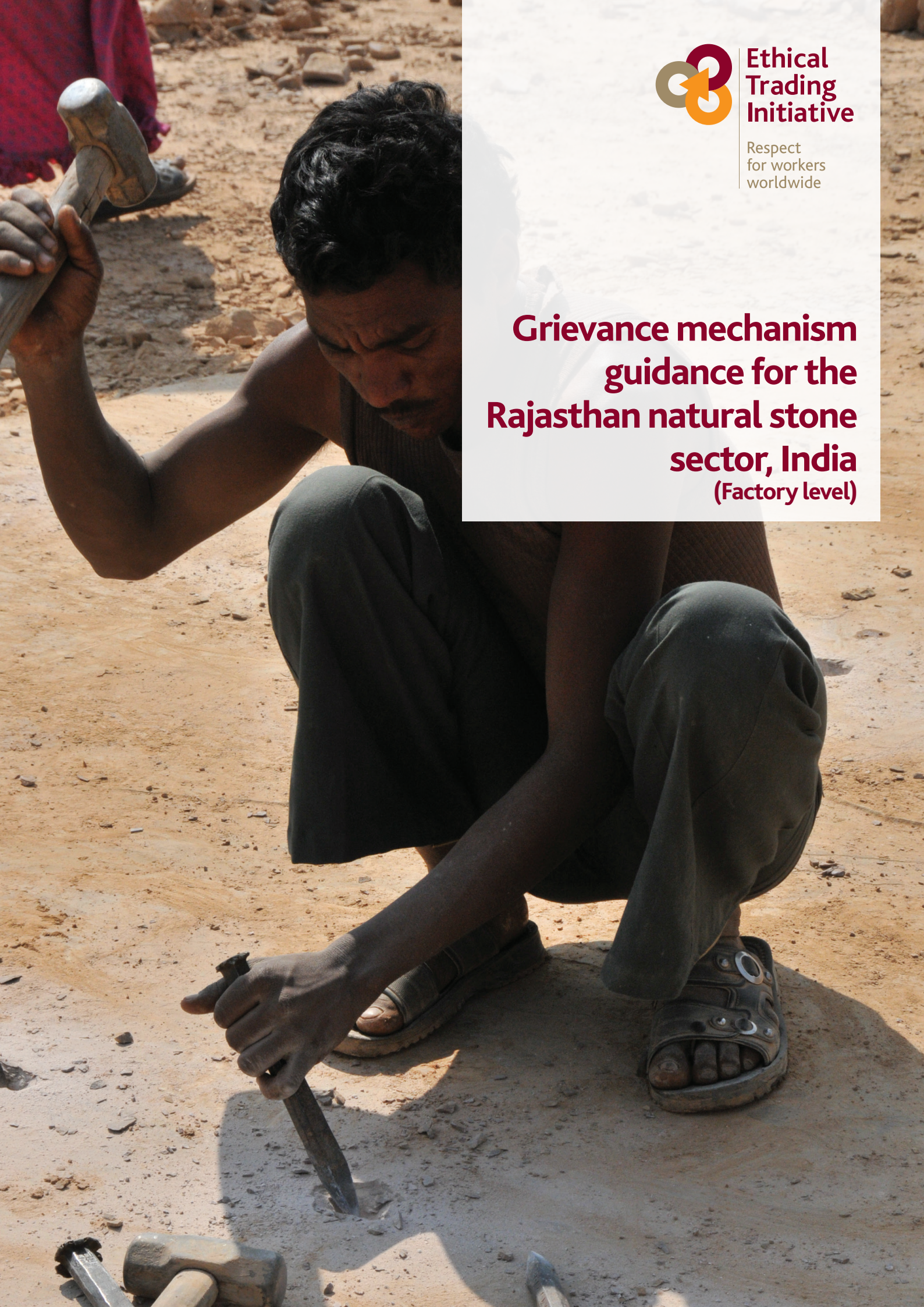


**Grievance mechanism
guidance for the
Rajasthan natural stone
sector, India
(Factory level)**



Introduction and purpose

This paper aims to assist employers and managers in the sandstone export sector to understand and develop effective grievance redressal practices (ways to address complaints) in company procedures.

The paper is divided into three sections:

01.

Section 1 sets out the simple business case for developing an effective grievance mechanism.

02.

Section 2 discusses the standards, both international and Indian, that exist for grievance mechanisms.

03.

Section 3 presents a draft model procedure based on the standards discussed in section 2.

01.

The business case for a grievance mechanism

Any business which wants to survive and grow listens carefully to its customers. In the case of sandstone, imagine a situation where a customer in the UK has a problem with some stone. They will contact the UK importer, who may then contact the supplier in Rajasthan. Together, they will try to make sure that the problem does not occur again. Listening to the customer helps you to improve quality and service.

A grievance mechanism helps a business to follow the same approach with its workforce. If workers are unhappy, then the business can suffer. An effective grievance mechanism helps the company to improve.

If a worker(s) has any doubts or problems, or feels unfairly treated, and the issue is not resolved, then they will become less productive. They may in turn make other workers less productive, they may leave, or ultimately workers may become actively hostile towards the company.

The National Commission on Labour (1967) put it this way:

“Prompt redressal of individual grievances is essential for sustaining good labour-management relations, and promoting efficiency at the plant level. Absence of machinery leads to small grievances developing into collective disputes. The type of grievances we have in mind are those arising out of complaints affecting one or more individual workers in respect of their conditions of work and not disputes over matters of general applicability to all.”

But why a formal, written mechanism? The simple answer is to ensure that any procedure is fair, transparent and consistently applied. When companies rely solely on supervisors to respond to a worker’s grievance, or a group of workers’ grievance, different supervisors may respond in a different way, due to their own lack of knowledge, prejudices or concerns. So workers may feel unfairly treated and become upset.

This kind of reasoning has led some countries, such as the UK, to make it compulsory for a business to have a grievance procedure.

Fairness and transparency are promoted by developing and using rules and procedures for handling disciplinary and grievance situations. These should be set down in writing, be specific and clear. Employees and, where appropriate, their representatives, should be involved in the development of rules and procedures. It is also important to help employees and managers understand what the rules and procedures are, where they can be found and how they are to be used.

UK, ACAS Code of Practice on disciplinary and grievance procedures.

(ACAS is a UK government body which has a mandate to improve organisations and working life through better employment relations. ACAS stands for “Advisory, Conciliation and Arbitration Service”).

Some people may not like the use of the word “grievance”. The grievance can exist in the minds of the individual. It can be anything from a query or a doubt to a blazing sense of indignation or a perception of being unfairly treated. Whatever the reason, companies must have a satisfactory way of dealing with such a feeling.

The word “grievance” is used to include all these possibilities because that word is used by the ILO and recognised by the Indian Labour Conference in 1958.

When is a grievance not a grievance?

Just because a worker feels aggrieved, does not mean he or she is correct. Grievance can be a fact — or just a feeling.

Resolving a grievance does NOT mean negotiating or changing the rules and conditions of service.

For example, a worker may complain they have not been paid enough for overtime work. This is a grievance if they have worked 3 hours overtime, and only been paid for 2 hours.

It is NOT a grievance if they just want the overtime rate to be increased. That would require a different mechanism, such as collective bargaining, in cases where a trade union was recognised.

What does the law in India say about grievance procedure?

The Industrial Employment (Standing Orders) Act, 1946, gives workers the right to raise a grievance and requires employers to respond.

02.

Standards for grievance mechanisms

A number of standards exist that can help in drawing up a grievance mechanism.

The first is the International Labour Organisation (ILO) Examination of Grievances Recommendation, 1967 (No. 130).¹ International Labour Recommendations are not international treaties. They are legal instruments that serve as non-binding guidelines and may influence national policy and practice. Recommendations are often linked to a convention, to provide more detailed guidance. Governments do NOT make recommendations compulsory.

The second is Guiding Principles for a Grievance Procedure, 1958, approved by the Indian Labour Conference (ILC). The Indian Labour Conference is a tripartite body convened by the government from time to time. Its structure is modelled on the International Labour Conference, but as a purely Indian body, it is able to take proper account of national conditions.

A third standard is found in Indian labour law, including the Industrial Disputes Act, 1947, as amended.

It may also be mentioned that the first National Commission on Labour (1967) suggested that every enterprise that employed more than 100 persons should have a formal grievance procedure. The Second National Commission on Labour (2002) suggested that a grievance redressal committee should be established in any enterprise employing more than 20 people. The Industrial Disputes (Amendment Act), 2010 has now made this suggestion law (see Appendix II).

The new Chapter II-B provides that *“every industrial establishment employing 20 or more workmen shall have one or more grievance redressal committees for the resolution of disputes arising out of individual grievances.”* As this law suggests, the grievance committee should be a permanent, formal entity, and should not be convened on an ad hoc basis.

Looking at these sources, there are some general guidelines in grievance mechanisms, as follows:

Scope of grievance mechanisms

- The worker(s) submitting any grievance shall not suffer any prejudice as a result; any person who assists or represents the worker during the examination of the grievance should also be protected against any adverse action or discrimination.
- Grievance procedure shall not be used for collective claims aimed at the modification of terms and conditions of employment.

Rules & procedures

- Procedure shall conform to existing legislation.
- Shall be simple, clear and in writing. Managers and supervisors, as well as members of Works Committees, and where present trade union working committees, should receive a briefing or training on the procedures.
- The rules should be known and understood by all employees. A copy and explanation of the procedures should be given to all workers when drawn up and at the start of employment.

Stages in the procedure

- Grievances should be settled at the lowest level possible.
- There should not be too many stages.
- Time limits should be in place, and grievances must be addressed as quickly as possible. Time limits should be adhered to, unless by joint agreement of the worker(s) and the company. As mentioned in the model procedure, reasons for delays should be recorded in writing.
- In exceptional cases, a separate procedure may be needed — for example, harassment of female workers. The Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act 2013 provides for this.

Grievance committee

- The Industrial Disputes (Amendment Act), 2010 states that the Grievance Redressal Committee *“shall consist of equal number of members from the employer and the workmen.”* [Section 9(C)(2)]. The chairperson of the Grievance Redressal Committee *“shall be selected from the employer and from among the workmen alternatively on rotation basis every year.”*² The total number of members of the Grievance Redressal Committee should not exceed six. If possible, 50% of the member of the Grievance Redressal Committee should be women.

1. The text can be found at: www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R130

2. The law refers to “workmen”, but should be taken to refer to all workers, male and female, equally. The Ministry of Labour has embarked on a programme of amendments to labour laws to make them gender neutral.

03.

Sample grievance handling procedure

Under the provisions of The Industrial Employment (Standing Orders) Act, 1946, the following machinery is established to solve the grievance of workers.

01. Any aggrieved employee shall first present his/her grievance verbally in person to his/her immediate in charge or supervisor, whose reply shall be given within 48 hours. If for any reason it is not possible to give a reply within this time period, the reason shall be given in writing.

02. A group of workers may also invoke the procedure. The same time limits shall apply.

03. If the worker is not satisfied with the reply of the supervisor or fails to receive an answer within the stipulated period, then he/she shall, either in person or accompanied by a representative, present the grievances to the Head of Department (HOD) or similar manager. The HOD shall give an answer within three days of hearing or reading the grievance. If action cannot be taken within that period, the reason for the delay shall be recorded.

04. If the decision of the HOD is unsatisfactory, the aggrieved worker may request the forwarding of his/her grievance to the "Grievance Committee", which shall make its recommendation to the manager within 30 days of the worker's request. If the recommendations cannot be made within this time limit, the reasons for the delay shall be recorded.

Note: in stages 4 and 5, the time limits mentioned are as per the law. There is nothing to prevent shorter periods being adopted at enterprise level.

05. Unanimous recommendations of the Grievance Committee shall be implemented by the management. In the event of a difference of opinion among the members of the Grievance Committee, the views of the members, along with the documents relating to the case, shall be placed before the manager for final decision. In either case, the final decision of the management shall be communicated to the worker concerned by the personnel officer, or other authorised officer, within one month from the receipt of the Grievance Committee's recommendations.

06. The worker who is aggrieved of the Grievance Redressal Committee's decision may appeal to the employer against it. The employer shall, within one month from the date of receipt of such an appeal, make a decision and send a copy of his/her decision to the worker concerned.

07. Should the management's decision not be forthcoming within the stipulated period or should it be unsatisfactory, the worker shall have the right to appeal to the management for a revision. In making this appeal, the worker, if so desired, shall have the right to be accompanied by a representative or trade union official, who will attend to help conduct discussions with management. Management shall communicate their decision within a week of the worker's appeal petition.

08. If the grievance arises out of an instruction given by management, the said order shall be complied with before the worker(s) concerned invoke the defined procedure for redressal of grievance. If, however, there is a time lag between the issue of the order and its compliance, the grievance procedure may be immediately invoked.

09. Workers' representatives on the Grievance Committee shall have the right to access any document connected with the enquiry that is maintained in the Department, and which may be necessary to understand the merits or otherwise of the worker's grievance. The management's representatives shall have the right, however, to refuse to show any document or give any information which they consider to be of a confidential nature. Such confidential documents shall not be used against the worker(s) in the course of the grievance proceedings.

10. There shall be a time limit within which an appeal shall be taken from one step to another. For this purpose, the aggrieved worker(s) shall, within 72 hours of the receipt of the decision at one stage (or if no decision is received, on the expiry of the stipulated period), file his/her appeal with the authority of the next higher stage, should he/she feel inclined to appeal.

11. In calculating the various time intervals, holidays shall not be reckoned.

12. Where a worker(s) has taken up a grievance under this procedure, no other machinery shall be invoked until all steps in the procedure have been exhausted.

Appendix I:

CHECKLIST FOR MANAGERS ON HANDLING GRIEVANCES

- 01. Investigate each case.

- 02. Talk to the employee, in private and in confidence.

- 03. Allow the employee to have a friend, colleague or representative from the trade union to help him or her with representing the case.

- 04. Time limits should be respected.

- 05. Visit the work area or place of grievance.

- 06. Determine if there any are any witnesses.

- 07. Examine records.

- 08. Examine witnesses.

- 09. Evaluate grievance.

- 10. Permit full hearing by Grievance Committee.

- 11. Identify the response the employee is expecting.

- 12. Respect confidentiality.

- 13. Keep superiors informed.

Appendix II: The Industrial Disputes (Amendment) Act, 2010

CHAPTER IIB GRIEVANCE REDRESSAL MACHINERY

9C. (1) Every industrial establishment employing 20 or more workmen shall have one or more Grievance Redressal Committee for the resolution of disputes arising out of individual grievances.

(2) The Grievance Redressal Committee shall consist of an equal number of members from the employer and the workers.

(3) The chairperson of the Grievance Redressal Committee shall be selected from the employer and from among the workers alternately, on a rotation basis, every year.

(4) The total number of members of the Grievance Redressal Committee shall not exceed six:

Provided that there shall be, as far as practicable, one woman member if the Grievance Redressal Committee has two members and in case the numbers of members are more than two, the number of women members may be increased proportionately.

(5) Notwithstanding anything contained in this section, the setting up of Grievance Redressal Committee shall not affect the right of the worker to raise industrial disputes on the same matter under the provisions of this Act.

(6) The Grievance Redressal Committee may complete its proceedings within 45 days, on receipt of a written application by or on behalf of the aggrieved party.

(7) The worker who is aggrieved of the decision of the Grievance Redressal Committee may prefer an appeal to the employer against the decision of the Grievance Redressal Committee and the employer shall, within one month from the date of receipt of such an appeal, dispose of the same and send a copy of his decision to the worker concerned.

(8) Nothing contained in this section shall apply to the workers for whom there is an established Grievance Redressal Mechanism in the establishment concerned.

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is a leading alliance of companies, trade
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Our vision is a world where all workers
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