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FAVORI'S ABUNDANT ABUSES:

WORKING IN UNSAFE AND UNFAIR CONDITIONS



This report contains disturbing images of injuries sustained by workers at Favori LLC

ADEN ABDULLE AIRPORT



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Introduction

Favori LLC is currently responsible for certain aspects of the management of Mogadishu's Aden Abdulle International Airport. For some time now, the Federation of Somali Trade Unions (FESTU) has observed and responded to Favori LLC's blatant disregard for the laws of Somalia and International Labour Standards, which often results in the gross violations of workers' and trade union rights.

According to its website, Favori LLC's philosophy and values are as follows:

1. To add value to our workers with human-oriented applications.
2. To support and secure the development of our workers.
3. To create a partnership with the individuals responsible community, nature and environment;
4. The core values of our human resource policies are development, human orientation, customer satisfaction, liability, ethical and moral values and social responsibility.

However, labour practices within Favori LLC do not mirror any of the above-mentioned values. Favori LLC's injustice and human rights abuses are now commonplace and intrinsic parts of their workplace culture. Despite Somalia's push for sound labour legislation and vibrant labour rights ecosystem, Favori LLC has consistently and flagrantly ignored these fundamental elements of

the country's evolving democracy. It has capitalized on the raging COVID-19 pandemic to further entrench its exploitative practices and intimidating tactics directed at workers. Favori LLC operates with impunity and feeds into corruption at high levels of government in order to avoid accountability.

The overall result of these unacceptable practices is a denial of workers the right to exercise their fundamental labour rights such as freedom of association and collective bargaining and also the subjection of workers to repressive and anti-union practices designed to prevent union organization and to perpetuate a culture of discrimination against workers – a situation that has given rise to an increase in in-work poverty.

Workers employed by Favori LLC are demanding decent wages, benefits, and other improved working conditions to enable them and their families to lead simple but decent lives. They want a safe and healthy work environment that is free from injury, disease, violence and harassment. They want equal pay for work of equal value regardless of gender and/or nationality. Above all, they want their fundamental rights at work and civil liberties to be fully respected.

Favori LLC continues to make huge profits at the expense of its workers who continue to contend with low pay, and other precarious working conditions that compel them to operate under hazardous, inhumane and unacceptable working conditions.

FESTU has worked closely with Favori workers and compiled some reports based on first-hand information and experiences. FESTU has also attempted to engage at a strategic level with the Favori LLC management to resolve some glaring labour rights violations and labour disputes but without success.

This report is a compilation of the major human rights violations and unfair labour practices underway at Mogadishu's Aden Abulle International Airport under the watch of Favori LLC. FESTU is lifting the lid on these egregious human rights violations and demanding that Somali workers employed by Favori LLC receive more humane, better and safe working conditions necessary and critical for their dignity.



Favori LLC workers protesting against poor working conditions at Aden Abulle Airport

Poor Working Conditions

Workers employed by FAVORI LLC are grappling with non-payment of wages, poverty wages, dangerous and hazardous working environment and other precarious working conditions. The workers affected by this malaise are baggage handlers, drivers, security personnel, cleaners and check-in staff. The specificities of the poor working conditions which FAVORI LLC workers are facing are:

- 1. Clear and flagrant disregard for national laws** – FAVORI LLC doesn't uphold the legal provisions lay down by the Somali Labour Code and the Provisional Constitution of Somalia. The company flagrantly disregards the termination procedures set out in Article 50 of Somalia's Labour Code, resulting in workers being terminated without

notice, without explanation, without legal grounds and with immediate effect.

- 1. Excessive working conditions without compensation** – Article 86 of the Somali Labour Code clearly states that the normal hours of work shall not exceed 8 hours a day and 48 hours a week. However, FAVORI LLC forces workers to work from 7 AM to 6 PM in violation of the aforementioned legislation. These ill practices of excessive work also violate provisions of Article 24 of the Provisional Constitution of Somalia which deals with labour relations. More than 50 workers had reported that they work beyond normal working hours without overtime pay. Some said if they had an extra hour today, they would work fewer hours next day, instead of being paid overtime.



A FAVORI LLC worker loses a finger at workplace



A leg of a worker broken at workplace

2. No feeding and transport support to workers –

Favori LLC has failed to provide either free food or free transport to its workers, in violation of Article 73 of the Somali Labour Code which guarantees these provisions. This, despite the fact that the airport doesn't have affordable canteen facilities to its workers and that the airport is located in a closed-off area which can't be accessed with public transport. This is also in clear violation of the labour relationships envisioned by the Labour Code and Article 24 of the Somali Constitution. The absence of these benefits holds significant implications for the health and well-being of workers and the relationship of these factors to their work performance.

3. Deteriorating workers' health concerns

– The majority of the workers interviewed by FESTU were suffering from chronic exhaustion resulting

from the lack of weekly rest. This violates Article 96 of the Somali Labour Code which states that workers should be given one day's rest each week. The failure to enforce this affects the vitality of the workers, impacts their ability to perform their tasks, and poses particularly dangerous risks to those handling physically heavy tasks.

4. Leave and holiday denial to workers –

Despite being eligible for annual leave, most Favori LLC workers are not granted the leave. This violates Article 97 of the Somali Labour Code which states that “workers shall be entitled to 15 days leave with pay for every year of continuous service”. This has a direct impact on workers' energy levels, morale and capacity to perform their tasks.



The thumb being stitched after sustaining an injury and losing part of thumb.

Poor and slave pay regime

Poverty and stagnant wages – Workers at Favori LLC earn very little wages which do not allow them to live a dignified life. This violates Articles 70 and 72 respectively of the Somali Labour Code. Most of the Somali workers employed by Favori LLC are poorly paid and earn between \$200 and \$300 despite the company's high profitability. Besides, the high cost of living in the country continues to rise whilst the wages have remained poor and stagnant.

Absence of promotion and promotion opportunities – One worker who started working with Favori LLC when it started its operation in Somalia said “we have no promotion as we are treated as cheap labour that does not deserve any recognition. We have been on the same salary scale for years and we have agitated for a pay increment, but it has not been forthcoming. When they see we are seriously and relentlessly making legitimate wage increase demand, the company started to peddle a false pledge for wages increase”.

Favori LLC workers performing the same tasks, in the same positions for the same number of working hours are paid different salaries based on their nationalities. For instance, Somali workers often earn much less wage than workers from Kenya and Turkey.

Work regime akin to slavery-like practices – FESTU's research findings highlighted those workers who work as porters are provided with only two T-shirts and

single pants provided by Favori LLC. Besides, workers walk very long distances to the airport where Favori LLC is based because they can't afford the fares charged by public transports that operate in the city. Most workers noted that they spend a high chunk of their earnings on transportation and feeding at work. These leave them with very little residual income that they are expected to manage with their families. “For me, it is like I'm working for this company for almost free”. This amounts to modern slavery and violates Article 14 of the Somali Constitution which prohibits Slavery, Servitude, and Forced Labour. In retaliation to any attempt to stand up to Favori LLC's excesses, workers find their meagre salaries cut without any acceptable reasons in a domineering manner.

Non-payment of statutorily provided bonuses – Article 74 of the Somali Labour Code clearly states that “every worker shall be entitled to an added bonus equal to 15 days remuneration”. The majority of the workers interviewed by FESTU confirmed that they have never received the said bonus. This is also in violation of Article 24 of the Somali Constitution which clearly states that “every person has the right to fair labour relations”.

Baggage handlers and check-in staff are complaining about low wages, lack of full-time secure jobs and safety issues. These workers have reported that they cannot stand up for their rights because the supervisors deployed by Favori LLC are constantly watching them, discouraging

them from claiming their rights and blocking them from engaging in collective workers' actions against Favori LLC.

The situation of insecure jobs is further exacerbated in that workers contracted by Favori LLC are pressured to accept working conditions or leave. More than 11 workers stated Favori LLC bosses, Mohamed Jama and Hakan Aydin, have on separate occasions indicated that workers should simply accept their circumstances or risk

being replaced by individuals suggested by two Somali Ministers who are, in fact, required by Favori LLC to defend her poor human rights record as underpinned by the exploitation of workers. A worker with the company puts his observation of the lack of respect for workers' rights and the nation's law this way – "The company's [two] bosses treat us as if they are doing favour for us to have employment at any cost".

Wage theft on account of Non-payment of Favori LLC workers

Favori LLC unilaterally decided to refuse to pay the salaries of its workers in April, May, June and July 2020 following the closure of Mogadishu airport due to the COVID-19 lockdown. It claims that their decision to suspend staff without pay was in line with international practice, which is illegal and immoral.

This failure to pay wages that workers are legally entitled to as stipulated in their employment contract is wage theft in that it involves Favori LLC taking money that belongs to its workers and keeping it for itself under the pretext of COVID-19. This is a clear violation of international labour standards, as well as national legislation on the employment of workers.

Sadly, as Favori LLC workers battled COVID-19 pandemic, they have equally been battling another crisis – wage

theft. This has impoverished and disempowered workers, robbing them of their dignity as they cannot meet their personal needs and provide for their families.

International standards, particularly the International Labour Organization (ILO) Protection of Wages Convention, 1949 (No. 95) which has been ratified by 98 countries, mandates the regular payment of wages to workers and the priority of such payments over other financial obligations of employers. Both Somalia and Turkey have ratified this convention.

A contract of employment binds two parties and cannot unilaterally be varied by one party without the consent of the other party. The unilateral decision by Favori LLC was, therefore, void ab initio (invalid from the beginning). According to Section 49 (1) (6) of Somalia's Labour

Code, an employer has obligations to pay remuneration and not to withhold it without permission or agreement except as provided by the law. The onus was upon FAVORI LLC to prove that it was authorised not to pay the said remuneration.

Further support for the position that there is no legal provision for suspension without pay can be found in Provision 57 of Somalia's Labour Code. The latter obligates an employer to give workers seven days' notice and to communicate this to the District Labour Inspectorate. Besides, suspension should not exceed 30 days and be extended to 90 days only by the Central Labour Inspector. These procedures had not been followed.

In its response to the challenges brought on by COVID-19, FAVORI LLC should have engaged the employees concerned in dialogue and to seek their consent to vary the working conditions. FAVORI LLC could have resorted to humane standards and better industrial relations by engaging in social dialogue with the affected workers in an attempt to mitigate the effects of such suspension without pay. Section 49 (4) of Somalia's Labour Code obliges the company to "give due consideration to the justified complaints of the workers." This was disregarded. There also appeared to be no established criteria used to select the workers that remained at work. The process was therefore random, unfair and not transparent.

Intimidation and Belittling of Workers

In June 2020, FAVORI LLC issued a disturbing memo to its security personnel, indicating that as a sign of respect, they are required to stand when a manager passes by. The tone of this letter, with its leanings towards militarism, was diametrically opposed to the direction the country is attempting to take with its development. Also, the letter was instructive and dictatorial, disregarding the fact that workplace rules should be negotiated rather than imposed.

FESTU has learned of constant harassment and intimidation of FAVORI LLC workers, mainly driven and perpetuated by chief security officer Hakan Aydin. Evidence in the form of WhatsApp messages between a female employee and Mr Aydin outline a pattern of abusive and intimidating communication. In response



to workers attending a meeting with officials of the Ministry of Labour and Social Affairs, the female worker was scolded in a condensing manner and told by Mr Aydin “*You are a staff of Favori LLC, not Airport Authority. We pay you for them Understand?*” In other instances, staff are told “*He [Askir] is not your manager, I am your manager. You cannot go without informing us.*”

Deliberate denial of trade union rights

Favori LLC workers are prevented from collective bargaining and thus denied the opportunity to negotiate improvements and demand fairness in their working conditions. The organisation routinely violates its workers’ right to union representation during discussions and has systematically been involved in activities intended to disrupt and destabilise union activities.

Favori LLC has refused to engage in collective bargaining negotiations and social dialogue called by the Ministry of Labour and Social Affairs (MOLSA). Favori LLC rather suggested that it wants to talk to MOLSA on the conditions of its workers. This is a clear denial of the representation of workers by their trade union organisation, a right that is legally granted by the Somali constitution, labour code and the international labour standards – the right to union representation and collective bargaining.

One Station Manager of Favori LLC, Mr Berk Demir said to workers “We will not engage the Ministry of Labour and Social Affairs

“We will not engage the Ministry of Labour and Social Affairs because we have the protection of the Minister of Justice of Somalia and Embassy of Turkey, and we do not care about their demands. Whatever they send to us we send to the Minister and to our ambassador to talk to people in government, and you people (workers) will just tire and give up”.

because we have the protection of the Minister of Justice of Somalia and Embassy of Turkey, and we do not care about their demands. Whatever they send to us we send to the Minister and to our ambassador to talk to people in government, and you people (workers) will just tire and give up”. This is sheer abuse of political privilege and open disregard for laid down labour relations guidelines.

Favori LLC fired a worker who had attempted to speak on behalf of the workers. In its dismissal, Favori LLC accused the worker of “tutoring” other workers on how to perpetrate bad conduct. The worker was neither given any prior warning nor right to fair hearing. No doubt, such whimsical dismissal violates workers’ rights to fair-hearing and collective bargaining rights.

It’s against the law for an employer to fire a worker or discriminate against

a worker for joining a union, participating in legal union activities or exercising any other labour rights

Workers are not commodities to be bought and sold and disposed of at will. That is why the right to collective bargaining through a trade union is a human right recognised in international treaties, conventions and declarations.

Specifically, the right to bargain collectively stems unbroken from the principle of freedom of association and the right to organize. Enforcing the right to bargain collectively guarantees that Favori LLC workers can engage their employer in exchange of information, proposals and dialogue to establish terms and conditions of employment. It is the means by which fundamental rights of association move into the real and enduring life of workers and the company.

The United Nations Universal Declaration on Human Rights, the foundational document of international human rights law, sets out fundamental human rights and recognises “the right to join trade unions and the right to collective bargaining” (Article 23.4).

Somalia and Turkey are members of the International Labour Organisation (ILO) and have ratified the Fundamental Conventions concerning Freedom of Association and Protection of the Right to Organise Convention (No 87) and Right to Organise and Collective Bargaining Convention (No. 98). In other words, the

company’s parent and host countries (Turkey and Somalia respectively), through their ratification of these conventions, have given express commitment to respect the provisions of these conventions. FESTU, therefore, wonders where Favori LLC is importing her labour relations practices.

Under Somali Labour Code, the most important step in the collective bargaining procedure is for the employer, Favori LLC in this case, to recognise the trade union as a bargaining agent for the workers in the said company, concerning the terms and conditions of employment.

Favori LLC has also employed a union-busting approach by promising higher salaries for workers or salary increases if they leave the union or become a non-union member. Favori LLC officials have repeatedly intimidated workers, often projecting that they are immune from any legal implications or negative fall-out as a result of their actions.

Furthermore, Favori LLC is in serious breach of the UN Guiding principles on business and human rights which provides that “the responsibility to respect human rights requires that business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur”.

Collaboration with government officials as union busters

Favori LLC's confidence that they will not be reprimanded for their abuses lies in their assertion that some Somali government officials, including those at ministerial level, will shield the Company from any backlash.

Workers and well-placed officials in the government have disclosed that some Somali officials are paid with business class tickets and free holidays in Turkey and occasionally receive kickbacks. There has indeed been evidence of such corruption as some ministers have outrightly failed to defend the rights of workers in the face of Favori LLC exploitation. Case in point is the attempt by the Minister of Justice Abdulkadir Mohamed Nur (Jama) to unashamedly interfere in labour relations between FESTU and Favori LLC. He has repeatedly lobbied inside the government to protect the exploitation by Favori LLC, and has been mounting an anti-trade union campaign within the government.

The government officials, deployed as union busters, use Turkey's generous support to Somalia and the good standing of the Turkish government within the Somali society as a pretext to cover up the egregious rights abuses of Favori LLC.

Nevertheless, FESTU is encouraged on account of the fact that the Ministry of Labour and Social Affairs affirmed the workers' concerns and has determined that the employment contracts issued by Favori LLC to its Somali workers are not compliant to the Somali labour code and the international labour standards. However, the Minister of Justice's meddling in the labour matter with the sole intention to shield an employer that deliberately and inhumanely exploits workers is unfortunate and unacceptable. His actions served to frustrate the sanctity and enforcement of the rule of law in Somalia and deny justice to poor workers and their families.

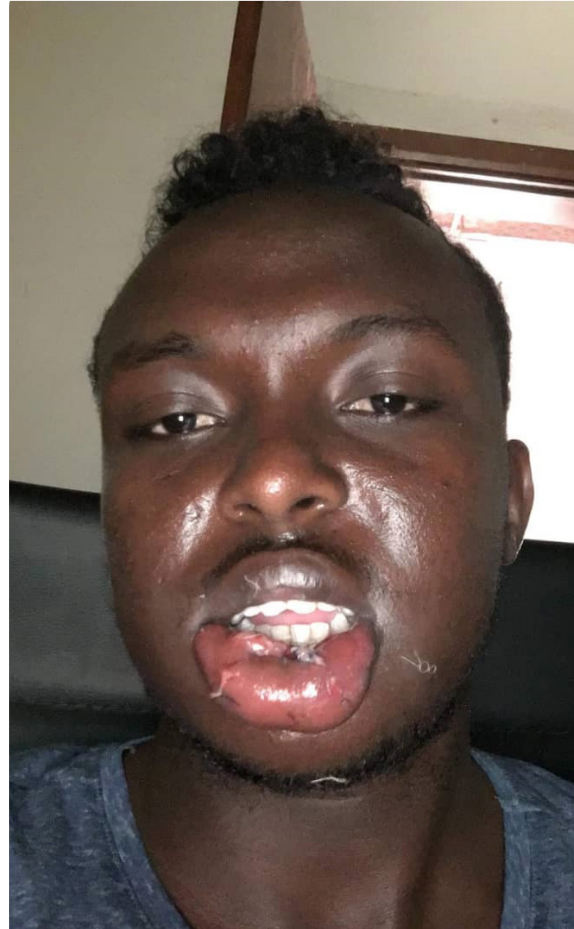
Severe occupational health and safety incidents and violations

The safety of workers is non-negotiable, and the intolerable conduct by Favori LLC is putting the health and safety of workers at risk. FESTU has documented the calamitous consequences of this inattentive and indifferent attitude as Favori LLC employed workers are now being unfairly forced to choose between their jobs and their lives.

Favori LLC does not maintain medical staff or a medical facility capable of handling workplace injuries. This is in violation of article 103 of the Somali Labour Code which states that *“every undertaking normally employing more than 100 workers at a single centre shall also have its own dispensary and adequate medical staff”*. As the disturbing images show, Favori LLC continues to put the lives and well-being of its workers at risk.

Workers who are injured or incapacitated at Favori LLC are not compensated adequately as dictated by the law. Management simply responds to the incident by employing a relative of the victim, and considers this a favour instead of fulfilling their duty of care.

Article 104 of the Somali Labour Code clearly states that “it shall be the duty of the employer to arrange



A worker dismissed from workplace after sustaining major injuries in the mouth and teeth cavity

at his own expenses for the conveyance to the nearest hospital of any injured or sick worker who can be so conveyed and who cannot be treated on the spot with the means available". Favori LLC has failed to comply with the provision and so there are no vehicles to transport the sick and injured.

Seven of the workers interviewed who had sustained injuries ranging from severed fingers to broken legs and arms confirmed that when they sustained their injuries, the company did not provide them any form of transportation. One of the respondents indicated that even after breaking his hand he was asked to continue to work and was denied from going to the hospital. These practices violate Article 10 of the Somali Constitutions which protects human dignity.

The majority of Favori LLC workers interviewed work with engines, trollies, and other heavy machineries. These pose risks to workers and

despite being aware of this danger, Favori LLC has failed to provide the necessary protective gear.

The company does not provide protective shoes, gloves, or head-protecting helmets, and these violate the provisions of article 101 (6) of the Labour Code.

Favori LLC does not provide adequate training to employees on how to operate machineries and on how to work safely with these machines. These clear lack of provision of necessary operation and safety information have resulted in some workers having sustained severe injuries. These actions violate the letter and spirit of Article 101 (11) of the Labour Code which state that every company must "ensure that his staff receives the necessary instructions for the prevention of industrial accidents, occupational diseases, and other risks inherent in their occupations".

Conclusion and Recommendations

Conclusions

The pieces of evidence outlined above clearly show a pattern of exploitation, endemic disregard for human rights and failure to face accountability at Favori LLC. Despite FESTU's attempt to hold a mirror to Favori LLC in the form of national legislation and international labour rights standards, the company continues its actions unabated and seemingly unperturbed about the devastating impact these abuses are having on workers and their families.

FESTU has and will continue to call on officials in the highest levels of government, including the President of Somalia, to intervene in the situation and defend the rights of Somali workers. It is imperative that the President and the Prime Minister of Somalia urgently instruct the Somali government officials to revisit the partnership agreement with Favori LLC as the latter has demonstrated flagrant disregard for the country's laws and its people. Economic profits are too high a price for labour exploitation and a belittled, injured and exhausted workforce. Favori LLC's despicable conduct and abuse of workers have gone unchecked for far too long.

In addition to highlighting the case on various media platforms, FESTU will continue to use its voice and credibility in national, regional and international networks to showcase the continued human and labour rights abuses at Favori LLC. This will include working in conjunction with the International Trade Unions Confederation (ITUC) and the African Regional Organisation of the International Trade Union Confederation (ITUC-Africa) to make official submissions to the International Labour Organisation (ILO), African Commission on Human and People's Rights

(ACHPR), Organization for Economic Co-operation and Development (OECD), European Institutions and relevant United Nations (UN) human rights bodies.

The federation is equally open to exploring collaborative opportunities with progressive trade unions in Turkey for fair and mutual resolution of the demands of the workers. FESTU makes the solemn pledge that it shall continue to resist and fight these injustices until Favori LLC redresses the ills done to the workers.

Recommendations

To Favori LLC

1. Respect the rights of workers to join the trade union of their choosing without interference and be represented by a trade union organisation.
2. Fully comply with the UN guiding principles on business and human rights and ILO's International Labour Standards on occupational health and safety, freedom of association, organising and collective bargaining.
3. Respect the Constitutional rights of Somali workers as enshrined in the Provisional Constitution of Somalia and comply with national labour laws.
4. Ensure that all workers employed by Favori LLC are fully informed and trained about their rights and how to exercise them, making information about labour rights easily accessible
5. Develop internal rules on corporate social responsibility, to include the protection of labour and other rights of workers employed by Favori LLC and its associates.

6. Promptly respond to trade union requests to engage in collective bargaining and social dialogue to adopt collective agreements in order to resolve ongoing collective labour disputes, and negotiate in good faith, in accordance with international law.
2. Fulfil its international human rights obligation on Favori LLC by ensuring the latter's full respect of freedom of association as well as the right to organise and bargain collectively, and conduct strikes, in accordance with Turkey's obligations under the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and ILO Conventions 87 and 98.

To the Federal Government of Somalia

1. Compel Favori LLC to respect national labour laws and international labour standards, especially the ILO conventions 98 and 87 on freedom of association, right to organise and collective bargaining, which Somalia ratified.
2. Regulate the operations of Favori LLC in line with national laws and the international Human Rights Standards and Principles to prevent the pursuit of profit at the expense of human rights.
3. Officials of Somali government should collectively comply with their national and international obligations to respect, protect and fulfil human rights and fundamental freedoms by enforcing national laws and providing effective remedies.
4. Foster an environment that protects, not punishes, trade union activists for defending the rights of workers employed by Favori LLC or advocating for workers' rights at Mogadishu International Airport.
3. Take steps by obliging Favori LLC to adhere to the OECD's Guidelines for Multinational Enterprises in respecting the right of workers.

To the International Community

1. Raise, publicly and at the highest level, its concerns emanating from this report on egregious human and labour rights violations to force Favori LLC to respect human and labour rights.
2. Call on the concerned Somali and Turkish authorities to press Favori LLC to fully protect in law and in practice internationally recognized workers' rights, including the right to freedom of association, the right to organize, the right to bargain collectively and the right to strike.
3. Raise concerns, publicly and at the highest level, as well as in the context of multilateral institutions such as the ILO, UN Human Rights Council, OECD, European Parliament and International Financial Institutions (IFIs) about violations of labour rights by Favori LLC.

To the Government of Turkey

1. Take measures by compelling Favori LLC to respect human and labour rights as the Turkish laws must also operate across its borders to protect people's rights.

About FESTU

The Federation of Somali Trade Unions (FESTU) is the voice of Somali workers and their trade unions. It envisions a society where Somali workers enjoy their rights, have access to social justice and equality, and where conditions of work help eradicate poverty and vulnerability.

Its mission is to promote the growth of the trade union movement in Somalia and thereby contribute to the realisation of workers' rights, social justice and improved working conditions through education, networking, research, organising, advocacy, policy engagement and trade union solidarity.

Representing workers of Somalia, FESTU represents the Somali labour movement at regional, continental and international meetings/engagements to promote friendship, cooperation, solidarity and fraternal understanding with other trade union movements, progressive institutions and mass organizations whose aims, and principles coincide with those of the Federation.

As the sole internationally recognised national trade union center of Somalia, FESTU is a member of the International Trade Union Confederation (ITUC), the African Regional Organisation of International Trade Union Confederation (ITUC-Africa), Horn of Africa Confederation of Trade Unions (HACTU).

For more information, please visit our website: <https://www.festu.org/>

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