



WORKER RIGHTS CONSORTIUM

**WORKER RIGHTS CONSORTIUM ASSESSMENT  
INDUSTRIAS DE EXPORTACION (HONDURAS)  
FINDINGS, RECOMMENDATIONS AND STATUS**

**September 23, 2015**

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## I. Introduction

This report details the findings and recommendations of the Worker Rights Consortium (WRC) concerning labor practices at Industrias de Exportacion, S.A. (“INDEX”), an apparel manufacturing facility in Honduras that is owned and operated by the company Grupo Beta, which also produces collegiate apparel at its Centro Textil (Centex) facility in Nicaragua.<sup>1</sup> INDEX is located in the Zona Libre Metropolitana (Metropolitan Free Trade Zone) in Tegucigalpa, the capital city of Honduras. At the time of the WRC’s assessment of INDEX in May 2014, the factory reported employing a total of 4,392 staff. INDEX is a cut-and-sew apparel assembly facility that chiefly produces basic t-shirts, fleece pants and sweatshirts. The plant also houses a screen printing and embroidery facility. The factory is divided into five sections: Index Fleece, Index Jacaleapa, Index III, Prisa Cutting, and Embellishments.

INDEX is disclosed as a supplier of collegiate apparel by a number of companies, including adidas, Hanesbrands, Inc. (under the Champion and Gear for Sports brands), Knights Apparel (acquired in February 2015 by Hanesbrands), Under Armour (under the Under Armour by Gear for Sports brand), and VF (under the Majestic and JanSport brands). At the time of the initial investigation, 289C Apparel also disclosed INDEX. INDEX also produces non-collegiate apparel for Disney and Carhartt.

WRC staff conducted offsite interviews with INDEX employees in April and May 2014. On May 5-7, 2014, WRC staff performed an onsite inspection of the factory including a review of relevant company records.

As detailed in Section III of this report, the WRC’s assessment of INDEX found a number of violations of Honduran law. By extension, these also constitute violations of university and buyer codes of conduct, which require compliance with national law.<sup>2</sup> Following the initial inspection of the factory, a number of violations were identified, including multiple forms of off-the-clock work resulting in substantial wage theft, the lack of a legally required child care center, and a number of serious health and safety violations, including the failure to constitute a health and safety committee with representatives selected by the workers, as required by law.

The WRC initially provided findings and recommendations to INDEX and the licensees sourcing from INDEX on June 24, 2014. In response, the company and its primary customers engaged the Commission for the Verification of Codes of Conduct (COVERCO), a monitoring organization

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<sup>1</sup> The WRC released a report on June 5, 2014, regarding Centex’s violations of workers’ associational rights, the partial remediation of these violations, and the need for further remedial action (available at [http://workersrights.org/Freports/WRC Assessment re Centex \(Nicaragua\) 6.5.14.pdf](http://workersrights.org/Freports/WRC%20Assessment%20re%20Centex%20(Nicaragua)%206.5.14.pdf)).

<sup>2</sup> See, e.g., Collegiate Licensing Company, Special Agreement Regarding Workplace Codes of Conduct, Article II (A), “Licensee must comply with all applicable legal requirements of the country (ies) of manufacture in conducting business related to or involving the production or sale of Licensed Articles,” and Walt Disney Company, Code of Conduct for Manufacturers, Page 2, “Manufacturers will comply with all applicable laws and regulations.”

based in Guatemala, to conduct an audit of the factory. After reviewing the findings of both reports, INDEX proposed a Corrective Action Plan, which was presented to the WRC for review on October 3, 2014. The WRC clarified which of the proposed steps satisfied the recommendations and which did not and, in a series of exchanges through March 2015, pressed INDEX to commit to all of the actions necessary to remedy the violations.

Section III provides further details on the WRC's complete findings and recommendations, and the actions pledged and taken by INDEX. INDEX committed to address many, although not all, of the violations. Notably, INDEX changed its policy and procedures regarding the morning clocking-in process and off-the-clock work and provided workers with compensation for the past year of off-the-clock work. While there have been some delays in implementation, and some steps remain to be completed, significant progress has been made on a range of issues. The WRC will be conducting further monitoring to verify that all commitments are fulfilled.

Unfortunately, INDEX has refused to take adequate remedial action regarding two points of noncompliance. First, INDEX has not taken steps to address the lack of child care at its facility, and has refused to commit to take action within the next year to ensure that any portion of its workforce has access to employer-funded child care. Failure to provide such childcare is a clear violation of the Labor Code and the Law of Equal Opportunities for Women. Given the prevalence of this violation in Honduras and the evolution of tripartite negotiations on the subject, the WRC proposed a number of alternative mechanisms for INDEX and licensees to address this violation. Neither INDEX nor its buyers, however, would commit to making a good-faith effort to open a child care center within the next year. INDEX owner, Grupo Beta, has committed to participate in broader efforts to promote child care, both through the tripartite process and in partnership with the local United Way or another similar organization, but it is unclear when or if these efforts will actually result in child care being provided to INDEX workers.

Second, INDEX refused to allow an independent organization, accountable to workers, and independent of buyers and employers, to provide trainings and assistance to workers to rectify the lack of worker-selected representatives on the Health and Safety Committee. The WRC identified multiple ways in which the Health and Safety Committee did not fulfill the requirements delineated by Honduran law, which is of particular concern as a number of health and safety violations were identified in the plant. In order to ensure that workers can understand and exercise their right to freely choose representatives, it is necessary to design and implement a new process for the selection of these representatives. In our recommendation, the WRC emphasized that such a process requires the involvement of an organization that has experience and credibility in worker representation issues and that is independent of the employer and buyers. The WRC suggested several such organizations, but INDEX has declined to involve any such group, without providing a substantive response as to why. It is also worth noting that

INDEX chose to chart its own inadequate course on this issue and move forward in the absence of an agreed-upon remediation plan, thus further muddying the waters. Without the involvement of an independent organization with the requisite expertise, the WRC cannot be confident that the actions taken by INDEX have rectified the lack of authentic worker representation on the Health and Safety Committee.

As a result of the WRC investigation, licensees have required INDEX to take significant corrective action, most notably providing back pay for unpaid work. INDEX's unwillingness to fully remedy several violations, however, and licensees' willingness to tolerate these continuing violations, is disturbing. These violations should never have been allowed to develop in the first place at a factory providing collegiate apparel, particularly a factory that has, for the past decade, been one of the largest suppliers of collegiate apparel. INDEX's main buyers have long adopted their own codes of conduct and are well aware of university codes; given this, it is particularly disappointing that such basic violations of Honduran law and university codes were allowed to occur and persist and did not come to light until the WRC conducted an investigation.

The WRC will continue to monitor developments at INDEX, including any steps taken by the company to remedy the failure to provide legally required child care for employees.

## **II. Methodology**

The WRC initiated its assessment of labor conditions at INDEX in April 2014. As part of this assessment, the WRC conducted offsite interviews with 31 INDEX employees concerning working conditions at the factory.

On May 5-7, 2014, the WRC visited INDEX in order to gather further evidence concerning violations of Honduran law and university codes of conduct identified by workers and to conduct a physical inspection of working conditions at the factory. The site visit also included interviews with factory management and supervisors and a review of payroll documents and other relevant documents, including social security and health and safety records. Finally, the WRC's assessment also involved a review of Honduran labor laws and regulations implicated by the conditions found at INDEX.

## **III. Findings, Recommendations and Company Response**

This section details the WRC's initial findings of noncompliance with Honduran labor law, and, by extension, university and buyers' codes of conduct, and, for each finding, the recommendations made by the WRC to INDEX. It also presents any proposed or completed corrective action steps taken by the company in response to the violations identified.

## A. Wages and Hours

### 1. Off-the-clock Work

#### *a. Findings*

INDEX structures its workforce in three shifts: a day shift, a night shift, and a “mixed” shift in which employees work a 12-hour shift (day or night) for several days, and then have several days off. The largest shift is the day shift, with 2,666 workers; there are 819 workers on the night shift and 907 workers on the mixed shift.

Interviews with INDEX supervisors that the WRC conducted at the time of its visit to the factory site revealed that as much as 60% of the workforce was reporting to work before the start of the regular workday and that some workers also continued to work after the end of the regular workday.<sup>3</sup>

On the day shift, for example, workers clocked in at the time that they arrived at work, which was often before the required 7:00 a.m. start time. However, according to interviews with supervisors and the WRC’s review of documentary evidence,<sup>4</sup> the clock recorded a start time of 7:00 a.m., regardless of the actual time punched. Workers indicated that they were beginning work before their shift’s scheduled start time in order to meet production quotas for which the company pays them a weekly bonus.

One supervisor interviewed by the WRC reported that, at the time of the investigation, approximately half of the factory’s line operators were arriving at work at 6:00 a.m. to begin operating their sewing machines by 6:15 a.m. She confirmed that while the garments that these workers manufacture from 6:15 – 7:00 a.m. count towards meeting the production quotas needed to earn the weekly bonus, these 45 minutes were not recorded as work hours. A second supervisor that the WRC interviewed stated that “some” of the factory’s workers would begin before 7:00 a.m. but did not specify how many employees engaged in this practice.

A third supervisor indicated that she generally arrived at work at 6:45 a.m. and that, when she arrived, approximately 60% of the employees in her work area were, on most days, already operating their machines. This supervisor also confirmed that an equal number of workers continued to work after the shift end at 4:30 p.m. This supervisor confirmed that while the work employees complete during these “off-the-clock periods” counted towards their production

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<sup>3</sup> The regular workday at INDEX is 7:00 a.m. to 4:30 p.m. on all workdays except Friday, when workers end their shift at 3:30 p.m.

<sup>4</sup> The WRC’s review of payroll documents showed that the start time for all workers on the day shift was noted as 7:00 a.m.

quotas and receipt of the related bonus, hours of work performed before their official start time or after their official end time are not recorded or compensated.

Article 128 of the Honduran Constitution states that regular working hours for employees assigned to a day shift should not exceed eight hours per day or 44 hours per week. Article 214 of the Honduran Labor Code states that all time worked beyond 44 hours in a single week is considered overtime and Article 330 establishes that the overtime rate during daytime hours is calculated at 125% of the regular hourly wage. Because the regular work schedule that INDEX requires of employees already includes 44 hours of work per week, the time that employees work off-the-clock before or after their regular hours must be paid at this premium rate.

Since these excess hours were not recorded, it is clear that this time was not taken into account in calculating compensation. This constitutes a violation of Honduran law. Even where workers are provided with production-based bonuses, employers must ensure that workers are compensated no less than the legal minimum to which they are entitled based on all hours worked.

#### *b. Recommendations*

The WRC recommended that INDEX take the following steps to comply with Honduran law:

- Ensure payment to employees for all of the time during which they perform work. Because any time worked beyond the employees' regular work shifts exceeds the 44-hour regular workweek established by Honduran law, additional time worked must be paid at the statutory premium rate for overtime of 125% of the regular wage. The factory's time clock should be reprogrammed to register the actual times employees start and end work; and
- Reimburse workers for the company's failure to pay workers for off-the-clock work that was performed in the past.

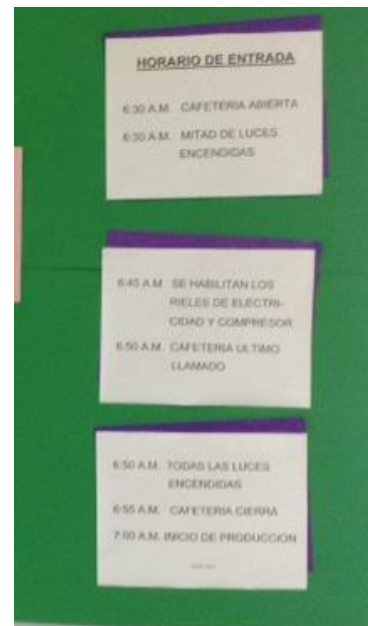
#### *c. Company Response*

On October 3, 2014, INDEX stated that it is committed to paying workers at the legally-required regular and overtime rates for all time worked. The company stated that, between July and September 2014, it held four training sessions with workers to ensure that workers were informed about the appropriate start and end times of their respective shifts.

The company committed to change its policy to allow workers to clock in only after 6:50 a.m., to prevent off-the-clock work. As it takes time for all workers to clock in, the company decided to allow workers to clock in any time between 6:50 am and 7:10 am and be registered as starting the day at 7:00 a.m.

Furthermore, the company agreed to pay workers back pay for time worked before 7:00 a.m. for a one-year period, calculated at the overtime rate, and that payments of back wages would be made available to both current and former employees. INDEX reported that workers were divided into four groups, alphabetically, with payments made in March, April, May, and June 2015. The company reports that the total amount paid to workers was 2.2 million lempiras (US\$106,000).<sup>5</sup> The company reported that current employees were paid via direct deposit, and former employees were paid via check. Finally, the company reports that informational meetings were held to inform workers of the reason for the payment, and workers were provided a separate pay stub for these back payments.

Given the commitments made by the company to alter its policy with regards to the clock in time and payment of workers along with the payment of back wages, the WRC considers this remediation process to be in compliance with the law and with university codes of conduct. The WRC will conduct further verification of the payments.



## 2. Non-payment of Statutory Paid Meal Break

### a. Findings

Article 270 of the Honduran Labor Code states that “standard working hours” (“tiempo de trabajo efectivo”) for which employees must be compensated includes the entire time period during which the worker is under the supervision of the company.<sup>6</sup> These working hours include any break or rest times during which workers are not free to leave their place of employment. Because they are included as part of employees’ standard working hours, these break and rest times must be paid by the employer.<sup>7</sup>

<sup>5</sup> Currency conversions in this report, unless otherwise noted, were performed using the exchange rate as of April 21, 2015, which was US\$1:21.22 lempiras.

<sup>6</sup> Honduran Labor Code, Art. 270 (“In order to determine the work schedule and its length, standard working hours are considered those during which the worker is at the company’s orders. Likewise, standard working hours are those cases in which the worker cannot, during rest and meal breaks, leave the place where he or she provides services.”).

<sup>7</sup> Honduran Labor Code, Art. 270 (“In all cases in which standard working hours are mentioned, it is understood that a regular or overtime wage should be paid, as appropriate.”).



INDEX's factory management confirmed that workers on all shifts receive two daily 10-minute paid rest breaks and a half-hour unpaid meal break.<sup>8</sup> Both the company's Benefits Compensation Manager, Mirian Gricelda Zuniga Caceres, and its Compliance Manager, Alejandra Escobar, confirmed that, including these breaks, day shift workers' regular schedule at the plant totals 46.5 hours including the rest and meal breaks.

These managers also acknowledged that workers, at the time of the inspection, were not allowed to leave the factory premises during the half-hour meal break unless they requested and received specific permission to do so. According to company supervisors, in order to leave the factory, an employee was required to obtain the permission of not only his or her direct supervisor, but also the plant's general manager and personnel manager. Without a permission slip signed by company management, the factory security guards were instructed not let the worker leave the premises.

When the WRC questioned the company's failure to pay for employees' meal breaks, INDEX responded that while it required employees to "get a pass from Human Resources to go through security at the gate to leave and come back into the Free Zone afterwards," the company's policy was that employees were "authorized to leave the Free Zone [where the factory is located] during meal times." As a result, the company stated, "meal breaks are not considered to be part of the workday," and, therefore, workers do not receive pay for this time.

Despite the company's assertion that its policy is that employees were *allowed* to leave the factory during the meal break, the procedure that the company required employees to follow in order to do so was so onerous that, as a practical matter, it was the same thing as having a policy that employees were *not allowed* to leave the facility, except under extraordinary circumstances. This finding is supported by the testimony of factory workers who stated that the reason they were not leaving the premises during their meal break was because it was "prohibited" for them to do so.

Given that INDEX employees were not routinely able to come and go from the factory during meal breaks, the company's failure to compensate workers for this time constituted a violation of Honduran labor law. Interviews indicated that this violation was consistent across all shifts.

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<sup>8</sup> Honduran Labor Code, Art. 322.

*b. Recommendations*

The WRC recommended that INDEX take the following steps to comply with Honduran law:

- Either end its restrictions on employees leaving the factory during their meal break or compensate employees for this time. If the latter option is selected, the company should either shorten the employees' regular workday by a half hour or pay its employees an additional one-half of an hour's wages per day. This half hour should be paid at the overtime premium rate when required by law; and
- Reimburse workers for its failure to pay workers for the breaks for which they were entitled to but for which they did not receive compensation.

*c. Company Response*

INDEX management stated that the factory would design an easier process for workers to leave the factory during the meal breaks. INDEX provided documentary evidence showing that the factory conducted an awareness campaign to inform the workforce of its right to leave the premises during the meal break. The company refused to provide back pay to workers, stating that a process had always existed for workers to exit during the lunch break if they so desired.

The change in policy is a positive step that appears to place the company in compliance with the law. However, the failure to provide back pay for the many hours of lunch break when, workers consistently report, they were prevented from leaving the facility means that INDEX has not fully remediated this violation.

## **B. Gender Discrimination**

### **1. Pregnancy Testing**

*a. Findings*

Two-thirds of the workers interviewed by the WRC<sup>9</sup> reported that they were asked to provide a urine sample as a condition for employment and that they understood that this sample was used to determine whether or not they were pregnant. The use of urine tests to determine whether or not a female worker is pregnant is a common practice in the Honduran garment industry; based on this, it is widely understood among women working in the garment sector that they will not be hired if they are pregnant at the time of their application.

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<sup>9</sup> Of the workers interviewed off-site by the WRC, 87% were women. All of the workers who reported pregnancy testing were female workers.

When the WRC inquired to INDEX's management as to the reason for the company's requiring a urine test as a condition of employment, the company responded with the following statement:

All customers are now asking for factories to take steps to insure that employees working in sensitive areas like packaging, shipping and warehousing have a proper background check and are drug free. Urine tests are used for drug screening. INDEX has established as its policy to include all its employees in its random drug-testing program regardless of the area where they are assigned. Every employee has signed an authorization waiver agreeing to take unannounced random drug tests as we strive to ensure a drug free workplace. Anyone may get tested randomly during their tenure at INDEX.

Honduran worker rights advocates have reported that employers in the country routinely use such policies as a screen for testing employees for pregnancy as well. For example, the nongovernmental organization, Comunicación Comunitaria, has stated:

It has become standard for companies to conduct a pregnancy test when the worker finishes her probationary period and before she is hired as a permanent employee. The employers hide behind the worker's obligation to accept a physical examination, but this should not include pregnancy testing . . . . [T]he pregnancy tests are carried out without saying anything to the worker, taking a urine sample and arguing that other exams will be conducted.<sup>10</sup>

If, in fact, INDEX has used its urine testing policy to screen workers for pregnancy, this practice would violate the Honduran Labor Code<sup>11</sup> and the Law of Equal Opportunities for Women which states that "employers are prohibited from requesting a pregnancy test as a requirement for employment."<sup>12</sup>

While the company denied that it has conducted pregnancy testing, the fact that INDEX employees consistently reported that pregnancy testing has occurred at the factory as a condition of employment is reason for serious concern that the company has violated international labor standards ratified by Honduras.

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<sup>10</sup> Comunicación Comunitaria, *Vida Laboral* (Mar. 2005).

<sup>11</sup> Honduran Labor Code, Art. 144 ("No worker can be fired as a result of her pregnancy or breastfeeding.").

<sup>12</sup> Honduran Labor Code, Art. 46.

*b. Recommendations*

If, in fact, the company has employed the use of pregnancy testing for female workers at the time of hire, the WRC recommended that INDEX cease this practice. All urine tests performed on workers at the time of hire should be discontinued unless INDEX can demonstrate a legitimate business-related and nondiscriminatory reason to require them.

*c. Company Response*

In its response to the WRC's findings, INDEX denied having required urine testing of any employees at the time of hiring, stating that urine testing was conducted only with employees already on the job and exclusively for the purpose of random drug testing. The company committed, effective May 2014, to eliminate the use of the random drug tests on workers who were still in the probationary period that occurs when they begin employment with the factory. This policy shift was made in order to avoid any confusion among workers that the urine test was being used to screen for pregnancy.

**2. Pregnancy Discrimination (Accommodations for Pregnant Workers)**

*a. Findings*

Honduras' Labor Code prohibits employers from requiring employees who are pregnant to perform strenuous work or to work at night on a shift of more than five hours. The law also requires more generally that work performed by all women should be adjusted according to their ages, condition and physical state, and that night shift employees who become pregnant must be permitted to transfer to a day shift for the duration of their pregnancies.<sup>13</sup>

Additional protections for pregnant workers are outlined in the International Labour Organization's Recommendation 095 on Maternity Protection (1952), which states that pregnant workers should be assigned to duties that will not prejudice the worker's health or the health of her child.<sup>14</sup> While the ILO's recommendations are not legally binding, they serve as a guideline for best practices.

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<sup>13</sup> Honduran Labor Code, Art. 147.

<sup>14</sup> Recommendation 095, Article 5 on the "Protection of the Health of Employed Women During the Maternity Period" states in subparagraph (2) that "Employment of a woman on work prejudicial to her health or that of her child, as defined by the competent authority, should be prohibited during pregnancy and up to at least three months after confinement and longer if the woman is nursing her child." Subparagraph (3) states that "Work falling under the provisions of subparagraph (2) should include, in particular — (a) any hard labour involving — (i) heavy weight-lifting, pulling or pushing; or (ii) undue and unaccustomed physical strain, including prolonged standing; (b) work requiring special equilibrium; and (c) work with vibrating machines."

INDEX's management reported that, in accordance with the labor law, it allows workers on the factory's night shift that become pregnant to transfer temporarily to the day shift. Managers also stated that workers who become pregnant may ask for their workstations to be adjusted for their health and comfort.

The majority of INDEX workers interviewed by the WRC, however, reported that employees who become pregnant continue to work under the same conditions as do non-pregnant employees without receiving any accommodation. A minority of workers interviewed indicated that some adjustments were made. Two of the workers that the WRC interviewed did identify one accommodation that pregnant employees receive: they are allowed to end their workday five minutes before other employees so that they can avoid the crowd of workers who exit the factory at the close of the workday. Two other workers stated that pregnant employees are allowed to work from a seated position if their job duties normally require them to stand, although one of the two employees stated that workers are only granted this accommodation in the final months of their pregnancies.

Interviews with factory managers generally confirmed the workers' testimony. One supervisor stated that pregnant workers "are required to do the same work as everyone else" and are not given any specific accommodation. Another supervisor said:

It is unusual to alter the pregnant workers' routine unless they are not feeling well. They are the first ones to clock out and they don't have to stand in line. They don't have to work Saturdays unless they want to. If you ask me, they receive too many special considerations.

Aside from adjustment of work schedules and the physical positions in which pregnant workers perform their regular jobs, neither employees nor managers reported that the factory provided less-strenuous work assignments (i.e., "light duty") for pregnant workers. Accommodation of pregnant workers to allow them to perform light duty assignments provides them with less strenuous jobs that protect the health of both the woman and her child.

INDEX's failure to routinely provide pregnant workers with special accommodations violates both Honduran law and best practices outlined by international standards.

#### *b. Recommendations*

The WRC recommended to INDEX that it provide employees who become pregnant and whose regular positions require physically strenuous work with the option of temporary assignment to non-strenuous work without loss of pay or forfeiture of their right to return to their original positions after childbirth and maternity leave.

*c. Company Response*

INDEX reported that, on September 18, 2014, it issued a written memo to supervisors outlining the company policy for pregnant and breastfeeding workers and asked the supervisors to share the content of the memo with the workers under their supervision. The policy states that 1) pregnant workers cannot work the night shift; 2) workers who become pregnant will be transferred to less strenuous positions; 3) after the 24<sup>th</sup> week of pregnancy, workers will not be allowed to work a shift that exceeds nine hours; and 4) the company will consider special requests from workers and/or their physicians so that a worker can be moved to a different job assignment during the term of her pregnancy.

The company initially committed providing training to all workers in October 2014 in order to provide the information outlined in the company's policy. However, in a communication dated April 14, 2015, the company announced that it had only held training for workers who were pregnant at the time of the training. The WRC encourages INDEX to ensure that all women workers are aware of the accommodations that will be available to them in the event that they become pregnant. More important than training, however, will be full implementation of the new policy. The WRC will continue to monitor compliance on this point.

**C. Statutory Paid Time Off**

**1. Vacation Pay**

*a. Findings*

Honduras' Labor Code states that workers must be provided with annual paid vacation in the amounts specified in the following schedule: (a) after one year of continuous service, 10 consecutive working days; (b) after two years of service, 12 consecutive working days; (c) after three years of service, 15 consecutive working days; and (d) after four years of service, 20 consecutive working days.<sup>15</sup>

Supervisors interviewed by the WRC during its onsite assessment of the factory stated that all employees receive two weeks of vacation in December (amounting to 10 working days). In addition, workers with three years of service receive an additional week of vacation (five working days), for a total of 15 working days per year, and workers with four or more years of service receive an additional two weeks of vacation (10 working days), for an annual total of 20 working days.

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<sup>15</sup> Honduran Labor Code, Art. 346.

This schedule, however, violates workers' rights under Honduran law as employees who have been working at the plant for two years receive only 10 days of vacation when, according to the statute, they should be granted 12 working days per year.<sup>16</sup>

*b. Recommendations*

The WRC recommended that INDEX take the following steps in order to remedy any prior violation of Honduran law in this area and to maintain compliance with the law going forward:

- Revise its schedule for providing annual paid vacation so that employees with at least two years of service, but fewer than three years of service, receive the 12 total days of paid vacation required by law; and
- Determine which current employees who have completed their third year of service at the factory did not receive the legally required number of days of paid vacation during that year and compensate these workers with an additional two days of paid vacation.

*c. Company Response*

In its written response to the WRC, INDEX stated that it was, in fact, complying with the law by compensating its employees with the appropriate number of paid vacation days, implying that the supervisors had misstated company policy. The factory stated that it had conducted a review of the vacation time awarded to all employees and found no cases in which the employees were owed any vacation, with the exception of current year vacation that would be taken by the end of the calendar year. The company stated that it had posted information on the factory floor informing workers about the factory's vacation policy.

## **2. Sick Pay**

*a. Findings*

Honduran law requires that all employees be enrolled in the national health care program, the Honduran Social Security Institute (Instituto Hondureño de Seguridad Social or "IHSS"), which operates a system of medical clinics throughout the country where covered workers can receive care. When a worker in Honduras becomes ill or is injured, she visits an IHSS clinic and, subsequently, provides her employer with written confirmation from the clinic of her visit and, where applicable, the number of days of absence from work that the IHSS physician has prescribed, based on the severity of the worker's illness or injury.

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<sup>16</sup> Honduran Labor Code, Art. 346.

A significant number of the workers interviewed by the WRC testified that, if they needed to visit the Social Security Institute's clinics during work time, the company would deduct from their wages either (a) the hourly pay they would otherwise receive for the portion of the workday that they are absent from the factory; (b) a full day's wage; or (c) a full day's wage plus the additional day's wage that employers are legally required to provide to workers for their weekly day off (commonly referred to in Central America as the "Seventh Day" wage). These deductions, however, violate the country's labor code, which states that "Employers must grant *paid time off* to workers to visit the doctor and obtain medical treatment in the Institute's medical centers"<sup>17</sup> (emphasis added).

The failure of INDEX to pay its employees for the time that they are absent from the plant in order to visit the Honduran government's medical clinics represents a violation of both Honduran law and, thus, buyer and university codes of conduct.

#### *b. Recommendations*

The WRC recommended that INDEX take the following steps in order to remedy any prior violation of Honduran law in this area and to maintain compliance with the law going forward:

- Pay employees who are absent from work, and who present written confirmation from IHSS that their absences were related to a visit to the IHSS, both their full day's wage and the Seventh Day wage; and
- Make employees whole for all wages lost as a result of the company's practice of taking deductions from workers' pay when the workers visited IHSS clinics during working hours, unless there is evidence that an employee did not provide written confirmation of his or her visit when requested by the company.

#### *c. Company Response*

The company responded to the WRC's findings and recommendations by stating that it is complying with Honduran law in the payment of workers for leave that is necessitated by IHSS-approved health reasons.

The company confirmed that employees are paid for the time that they are away from the factory for health reasons if the workers in question provide the appropriate documentation that demonstrates that they have visited the IHSS clinic or have IHSS-approved medical leave. The

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<sup>17</sup> Honduran General Social Security Law, Art. 87.



company also stated that it provides workers with two additional paid hours of leave on the days that they visit the IHSS clinic in order to allow for the time it takes to travel to and from the clinic.

INDEX further stated that it believes that workers who have reported violations in this area have done so because they do not fully understand the company policy and Honduran law with regards to the payment of sick leave. The company stated that it would hold a series of workshops, to begin on September 29, 2014, in order to explain to workers how sick leave is paid and the steps that the workers must take in order to be paid for sick leave. The company reported to the WRC that the workshops, conducted for groups of 50 workers, began in September 2014 and were concluded in the first half of 2015.

## **D. Other Statutory Benefits**

### **1. Mandatory Enrollment in Government Health Care Program**

#### *a. Findings*

The IHSS national health care program is jointly funded by mandatory contributions from employers, employees (through payroll deductions) and the Honduran government.<sup>18</sup> Honduran law requires that an employer enroll its workers in the IHSS on their first day of work.<sup>19</sup>

Testimony from INDEX workers revealed that the company does not consistently comply with this requirement. More than one-third of the INDEX workers interviewed by the WRC reported that they were not able to obtain care from the IHSS clinics until they had been employed at the factory for at least two months. One worker told the WRC, “If I had gone to the [IHSS] clinic during my first two months at the factory, I would have been fired.”

Moreover, some workers reported to the WRC that the company did not enroll them in the IHSS until they had been working at the factory for six months. While most of these employees had been working at the plant for three or more years, meaning that the relevant legal violation occurred several years ago, one worker had been hired during the past year. This individual reported not being enrolled in the IHSS until he had worked at the factory for six months.

INDEX’s management claimed to the WRC that it enrolls workers in the IHSS on the first day that they join the company, as the law requires. However, one of the INDEX supervisors whom the WRC interviewed also reported not receiving a certificate of enrollment in the IHSS until

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<sup>18</sup> Honduran Legislative Decree No. 140; Regulation of the Application of Social Security Law, Decree No. 193-1971 Article 9 of the Regulation of the Preventative Measures of Workplace Accidents and Work-Related Illness.

<sup>19</sup> *Id.*, Art. 25.

after having been employed at the plant for two months, even though she understood that employees were to be enrolled on the first day of hire.

Furthermore, company documents reviewed by the WRC during the onsite assessment of the factory on May 5-7, 2014 showed that the plant's most recently hired workers, who had started work April 21 of the same year had not yet been enrolled in the IHSS, even though they had been working at the factory for more than two weeks. When the WRC questioned INDEX's Compensation and Benefits Manager concerning the failure to enroll these workers in the IHSS, the manager stated that the company was waiting until these workers collected their first paychecks in order to collect the workers' contributions to the IHSS before enrolling them in the program. However, Honduran law is clear that, without exception, employers must enroll workers in the IHSS on their first day of employment.<sup>20</sup>

When the WRC contacted the IHSS to clarify the Institute's procedures, IHSS staff reported that after a company enrolls an employee with the IHSS, there is a one-month waiting period for the worker to receive the certificate that enables the employee to visit an IHSS clinic. If, as both the documentary evidence and interviews with employees and supervisors indicate, INDEX has waited for up to one month after an employee starts work to enroll him or her in the IHSS, this delay, when combined with the IHSS's own one-month waiting period before providing enrollment certificates, explains why workers reported that they were not able to visit the IHSS clinic until two months after they began work.

INDEX's failure to enroll workers in the government's national health program, the IHSS, is a clear violation of Honduran law and, thus, buyer and university codes of conduct.

*b. Recommendations*

The WRC recommended that INDEX take the following steps in order to comply with the law:

- Immediately enroll all workers in the IHSS who are not already enrolled in that program; and
- Comply with Honduran law going forward by enrolling newly-hired employees in the IHSS on their first day of work.

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<sup>20</sup> Ibid.

*c. Company Response*

In INDEX's response to the WRC, it stated that 100% of its employees were enrolled in the Honduran Social Security System and that, in its July 2014 audit, COVERCO had confirmed this information. The company reported to the WRC that it believes that workers reported *not* being enrolled in the health care system as a result of problems with the IHSS administration which resulted in the delay of authorization cards provided to the workers and that this is a problem that is currently being corrected by IHSS authorities. The factory further stated that, during the aforementioned informational meetings on sick leave, it would clarify to workers the steps the workers should take in order to be properly compensated for time spent at medical appointments during scheduled work hours.

**2. Legally Required Onsite Childcare**

*a. Findings*

The WRC's onsite assessment of INDEX confirmed that the factory does not provide a daycare center for the care of employees' young children during working hours. Honduran labor law requires that "any employer with more than twenty (20) female workers is required to provide a place for mothers to safely feed their children under three (3) years of age and where they can leave the children during working hours under the care of a suitable person who has been designated for this task and is paid for that purpose."<sup>21</sup> In addition, the country's Law of Equal Opportunities for Women states that:

Employers are required to provide a space that allows for the workers to satisfy their basic needs in the workplace .... With regards to the childcare center, this is required of any employer with more than 30 female workers, along with support from the parents, in keeping with their economic ability to provide such support, in order to care for children of the workers under the age of seven (7).

As INDEX employs more than 4,000 workers, the majority of whom are women, and many of whom are mothers of young children, the company is violating both statutes by failing to provide an onsite daycare center.

*b. Recommendations*

In order to comply with Honduran law, the WRC initially recommended that INDEX provide safe and sanitary daycare facilities for the young children of its female workers and retain properly trained staff to operate these facilities, which should be maintained in compliance with

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<sup>21</sup> Honduran Labor Code, Art. 142.

relevant Honduran legal standards and, as required under the Honduran Labor Code, certified by the Ministry of Labor.<sup>22</sup>

*c. Company Response*

INDEX has repeatedly refused to make a specific, time-bound commitment to implement this recommendation and comply with its obligations under Honduran law by providing child care at INDEX.

The company initially responded, on October 3, 2014, that it was “reviewing applicable law and will engage in a multi-stakeholder dialogue including the Ministry of Labor about the nature and scope of applicable legal requirements for employers.” The WRC reiterated on October 24 that the law is clear on this point, and that dialogue with other parties is both unnecessary and inadequate as a response. The WRC requested that if the company held a different interpretation of the law, the company provide a detailed explanation of its understanding of the law. At no point has INDEX provided a legal analysis to support its implicit position that it is not obligated to provide childcare to its employees.

INDEX reiterated, on November 10, 2014, that it was surveying its staff to ascertain the demand for child care, and “investigating available options to provide assistance to the conversations currently taking place between the Government, the Honduran Maquila Association and other national stakeholders regarding finding a solution to this impasse.” The Maquila Association is the umbrella group for Grupo Beta’s fellow factory owners.

On December 10, 2014, the WRC noted again that dialogue and consultation are not adequate substitutions for legal compliance. The WRC provided a suggestion of an alternate arrangement that would satisfy the legal requirement for child care. Acknowledging that failing to provide child care is the standard practice in Honduras, the WRC noted that INDEX is one of the largest apparel manufacturing facilities in Honduras and supplies garments to major international brands. Given these characteristics, the WRC suggested that INDEX and its buyers work together to implement a pilot program that would provide a model for legal compliance on this point. The WRC suggested that INDEX provide the space for a childcare facility and the brands sourcing from INDEX initially provide the staffing and equipment necessary for a fully functioning day care center, in consultation with the WRC and COVERCO.

INDEX responded on January 30, 2015, with an updated version of its assurances that it was consulting with other parties in Honduras regarding this issue, again providing no specific steps or timeline towards compliance. INDEX noted that a tripartite agreement had been signed on December 24, 2014, by the Honduran government, the private sector and trade unions to define

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<sup>22</sup> Ibid.

the best possible course of action for addressing the lack of daycare facilities in garment factories, not only at INDEX, but around the country. The agreement, which makes provisions for wage increases and social benefits for garment workers, states in its Article 5 that the parties will establish a local pilot program to provide community daycare centers for the children of Honduran garment workers. Worker representatives negotiated this clause as a remedy to the blanket violation of factories in Honduras that uniformly fail to provide daycare to the workers. The worker advocates report that community daycare centers are preferable to workers over daycare centers located on-site at the factory grounds for reasons of proximity to home and safety. During the first year following the signing of the agreement, the parties committed to a pilot program community daycare center in the northern city of Choloma, Honduras, to be expanded in year two to San Pedro Sula and Villanueva, cities located near Choloma where garments are being produced.

While the WRC recognizes this tripartite agreement as a positive step in the context of the industry's nearly universal noncompliance with this element of Honduran law, the agreement does not provide any timeframe for a pilot program or other provision of other child care in Tegucigalpa, where INDEX is located. (Tegucigalpa is more than 150 miles away from the northern cities included in the pilot program.) The agreement also does not waive employers' responsibility under Honduran law to provide child care. Recognizing both the potential progress represented by the tripartite agreement and the fact that this agreement will not, in itself, resolve INDEX's noncompliance, the WRC recommended on February 23, 2015, that INDEX commit to making a good-faith effort to work with the signers of the tripartite agreement in order to launch a neighborhood-based childcare project in Tegucigalpa that would provide care to children of INDEX workers within one year.

INDEX, however, refused to make such a commitment. Rather, it continued to provide vague assurances, with no timeframes or clear outcomes. INDEX stated on March 4 that the company did not wish to act prior to having the opportunity to learn from the initial pilot project, but that it was engaging with the Honduran Maquila Association (AHM) to request that the pilot be extended to Tegucigalpa. The company also reiterated its claim from November 2014 that it was in the process of surveying its employees to determine the demand for neighborhood-based daycare.

In a March 4 communication to the WRC on this issue, INDEX wrote, "As you are well aware the Honduran Government faces serious budgetary constraints, and who will pay for these services and how much, is at this point, still unknown." However, at no point has INDEX offered

any legal analysis indicating that the government, rather than the employer, should bear the costs of child care.<sup>23</sup> The requirement that employers provide child care is clearly stated in the labor code.<sup>24</sup>

Following this communication from INDEX, licensees requested additional time to speak with management in order to obtain further commitments from the company with regards to its obligation to provide daycare for its workers. However, the company has not substantively changed its position and continues to refuse to ensure that it will take any concrete steps to provide child care to its own employees over the next year. Rather, in an email to buyers dated August 31, 2015, INDEX simply noted the existence of the tripartite pilot projects – which, again, are not scheduled to occur in the area in which INDEX is located – and said that the company would “explore” partnering with United Way or another similar organization to “create strategies for the support of daycare centers in our local community that provide quality care at a reasonable cost to employees.” While it is possible that such a partnership may ultimately lead to progress in this area, it does not address the current lack of child care for INDEX employees. INDEX continues to reject its responsibility, in accordance with Honduran law, to provide daycare, free of charge, to its employees.

INDEX’s unwillingness to commit to even the more limited recommendation that the WRC provided in light of the tripartite agreement is disturbing, as is the failure of the licensees producing at INDEX to ensure that such care is provided.

### **3. Employee Lockers**

#### *a. Findings*

Honduras’ occupational health and safety regulations require that employers provide each of their workers with an individual locker, with a key, in which to store his or her personal belongings.<sup>25</sup> At INDEX, however, the number of lockers that the company provided was less

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<sup>23</sup> The Law of Equal Opportunities for Women does state that parents may be asked to contribute towards the cost of child care “in keeping with their economic ability to provide such support.” It is unlikely that any reasonable standard would indicate that workers at INDEX could provide a significant sum towards child care costs, given the pay scale and the cost of living in the area. Undertaking an assessment of this type of cost-sharing, however, could be contemplated under the law. However, INDEX has not raised this possibility, instead choosing to avoid taking any meaningful steps towards compliance.

<sup>24</sup> While INDEX did not provide any legal analysis to support its position, employers have, in similar cases, referred to the Code on Children and Adolescents, which states that “The Labor and Social Provision Secretariat and the Public Health and Social Attention Secretariat, together with the National Board of Social Wellbeing, will jointly adopt the measures necessary so that children whose parents or legal representatives work can be cared for in daycare centers during the work day” (Article 138). However, this law also does not state specifically that the state will bear the cost for such care, and does not in itself supplant the two laws that assign this responsibility to the employer.

<sup>25</sup> Honduran Regulation of the Preventative Measures of Workplace Accidents and Work-Related Illness, Exec. Agreement. No. STSS-053-04, Art. 69 (Oct. 19, 2004).

than the number of workers the factory employs, so each worker was required to share his or her locker with another employee. Factories strictly limit what personal items workers are allowed to bring onto the factory floor, so women generally leave purses in these lockers. Theft can be a major problem, so secure lockers are a source of concern for workers.



The company's failure to provide a sufficient number of lockers for each employee to have his or her own locker constitutes a violation of the law.

#### *b. Recommendations*

The WRC recommended that INDEX install additional lockers at the factory so that each worker is provided his or her own locker in which to store personal belongings.

#### *c. Company Response*

INDEX committed to change its policy on locker sharing. It stated that it would place an order for new lockers no later than January 2015 and that the lockers would be installed by April 30, 2015. On April 14, 2015, the company reported that orders for lockers had been placed and that 1,338 lockers had been installed to date.

### **E. Occupational Health and Safety**

The WRC's inspection of INDEX on May 5-7, 2014 identified conditions in the factory that violate applicable Honduran law concerning safety and health in the workplace,<sup>26</sup> and, by extension, university and buyer codes of conduct. We detail these findings below, in each case citing the relevant regulation that is being violated and providing explicit recommendations for addressing the specific hazards noted.

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<sup>26</sup> Honduran Regulation of the Preventative Measures of Workplace Accidents and Work-Related Illness, Executive Agreement Number STSS-053-04, October 19, 2004.

## 1. Fire Safety

### a. Findings

#### i. Chemical Storage

At the time of the inspection, the WRC found that inks used for screen printing were kept in bulk in a storeroom inside the main factory building. Given the high flammability of these inks, storing them in this manner constitutes an unacceptable risk, which is minimized when the inks are stored in a protected area separate from the main production facility as required by law.<sup>27</sup>



#### ii. Fire Exits

WRC investigators noted a number of obstacles to the safe evacuation of the factory in case of fire or other emergency. Specifically, egress via aisles and from individual workstations on the factory floor was partially blocked by boxes in a manner that would hinder evacuation in case of fire or another emergency.

In addition, in the factory's Index III and Index Jacaleapa units, the sizes of some of the work areas did not meet the minimum dimensions required under Honduran law.<sup>28</sup>

Moreover, the aisles in the auditing departments in these units appeared to be overly narrow. Their width should be measured, and modified if necessary, to ensure that they meet the minimum standards required under Honduran law<sup>29</sup> and that workers are able to exit quickly in case of emergency.



<sup>27</sup> Id., Art. 202 (a), Art. 210 (c).

<sup>28</sup> Id., Art. 51.

<sup>29</sup> Id., Art. 53.



Also, while the plant's emergency exits were marked, some were marked in red and others in green. This inconsistency could confuse workers seeking to exit the building as quickly as possible in case of emergency. Moreover, it violates Honduras' Regulation of the Preventative Measures of Workplace Accidents and Work-Related Illness, which establishes that, for the sake of recognition, all emergency exits should be painted green.<sup>30</sup>



Finally, while the company has posted the factory's evacuation plan inside the plant in writing, it has done so on relatively small sheets of paper (in some cases 8 ½ x 11 inches) that are difficult for some employees to read. While Honduran law does not specify the dimensions of the page upon which the plan must be posted, the WRC recommended that the evacuation plan be printed on poster sheets to ensure that all workers are easily able to identify the nearest evacuation route.



To summarize the WRC's findings regarding health and safety, the improper storage of chemicals, the blocked aisles, the width allowed for aisles, and the improper marking of emergency exits are in violation of Honduran health and safety standards.

### *b. Recommendations*

A summary of the WRC's recommendations regarding health and safety is as follows. The WRC recommended that INDEX take the following steps to comply with Honduran workplace safety standards:

- Construct a separate storeroom, outside of the main production plant, in which to house screen printing inks;
- Ensure that all work stations and aisles are cleared of boxes or other impediments that could make it difficult for workers to evacuate in case of an emergency;

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<sup>30</sup> Id., Art. 230, Art. 236.

- Measure all aisles and workstations to ensure that these spaces meet the requirements of Honduran law and make any necessary changes to bring the dimensions into compliance;
- Mark all emergency exits green, as required by the Regulation of the Preventative Measures of Workplace Accidents and Work-Related Illness;
- Post the factory evacuation plan on large, poster-size sheets to enable workers to easily identify the proper evacuation route; and
- Contract with an expert third party to conduct a fire risk assessment of the factory to identify any other fire safety hazards in the plant.

### *c. Company Response*

In October 2014, INDEX stated that it had contracted with the consulting firm ICSEG (Ingeniería y Consultoría en Seguridad) to conduct an inspection of the factory's chemical storage facility and provide recommendations for remediation. The preliminary inspection was conducted on September 8, 2014.

The WRC requested, but did not receive, a copy of the report and recommendations from ICSEG. The company reports that, based on these recommendations, it constructed a new chemical storage room separate from the main buildings and remodeled the old storage room to serve as a space only for the quantities needed for daily or weekly use. The company informed the WRC that fireproof cabinets and containers were purchased and that, once installed, the company would provide training to relevant employees.

Furthermore, the company committed to providing informational seminars to workers on safety requirements related to keeping all aisles clear of obstructions and stated that members of the Health and Safety Committee, the plant manager, and production and compliance managers were conducting daily inspections of the facility to check for obstructions.

The factory reported in October 2014 that it had replaced all of the exit signs so that the new signs were, in keeping with the law, printed in the color green. It replaced the smaller evacuation plan posters with an 11" by 17" poster.



The company also committed to requesting that the fire department conduct a fire safety evaluation in November 2014. On April 14, 2015, INDEX reported that fire department personnel had observed fire drills and provided verbal recommendations as to improving exit routes. INDEX did not provide specifics as to the recommendations or actions taken pursuant to those recommendations. INDEX also reported that the factory had conducted a number of trainings on fire safety using both internal and external trainers.

## 2. Ergonomics

### *a. Findings*

Several of the workers interviewed by the WRC reported chronic back and shoulder pain. These are common ailments of garment workers in factories that take inadequate measures regarding workplace ergonomics and can cause not only pain but also disability over the long term. Article 95(7) of the Honduran Labor Code requires that employers “adopt adequate measures to establish and maintain in their businesses the best conditions of workplace hygiene and safety measures.” In the garment industry, ergonomics is an essential element of any effective health and safety program. Given the physical stress caused by the repetitive motions, rapid pace, and long shifts associated with garment manufacturing, attention to ergonomic conditions is crucial for reducing the incidence of permanent injuries to garment workers.

The work furniture that the WRC found at the INDEX facility was not in compliance with basic ergonomic standards. For example, the chairs provided to workers at the factory appeared to lack some of the features necessary for ergonomic safety, which include swivels, seat pan, height and back adjustment, lumbar support, and arm rests.



The WRC also found that INDEX was not conducting an ergonomic exercise program for employees, which is required under Honduran law.<sup>31</sup> INDEX supervisors acknowledged that they do not conduct such a program and, indeed, that they were unfamiliar with this legal requirement.



The INDEX facility’s failures to provide ergonomically sound furniture for its workers and to implement a regular ergonomic exercise program violate Honduran law and best practices for the garment industry.

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<sup>31</sup> Id., Art. 9.

*b. Recommendations*

The WRC recommended that INDEX take the following steps to comply with Honduran law and university and buyer codes of conduct:

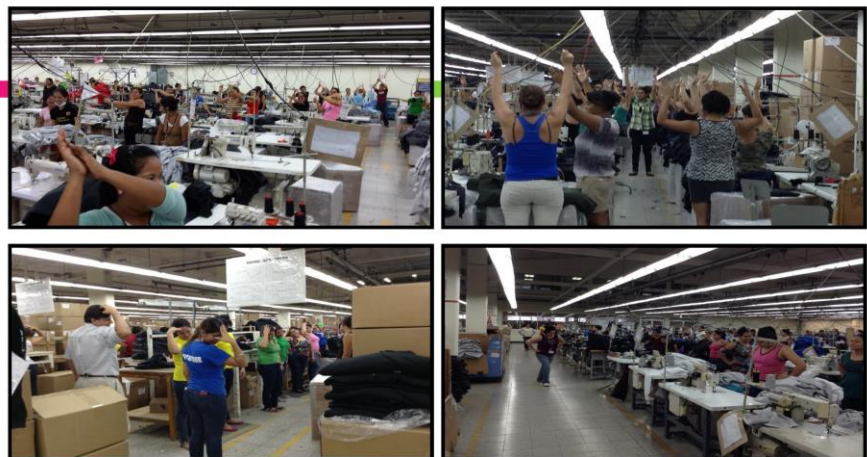
- Supply production workers with ergonomic chairs that provide lumbar support; are adjustable horizontally and vertically; and have a swivel base; as well as ensuring that work surfaces are adjustable to each worker's height;
- Implement an ergonomic exercise program for workers that allows employees to stretch and move at intervals throughout the workday; and
- Review the plant's ergonomic environment and equipment, retaining an outside expert if necessary, and make any additional changes necessary to protect the health and safety of its workers.

*c. Company Response*

INDEX stated that it would replace the factory chairs in order to meet the OSHA standards (swivel seat, adjustable back support, adjustable height, five legs, padded seat, and back cushions). The factory committed, after receiving and replacing the chairs, starting in June 2015, to engaging all operators in a demonstration and training on how to adjust the new chairs and the health benefits that result from good ergonomic practices.



Effective August 18, 2014, the company stated that it had implemented a twice-daily exercise routine. The exercise session, which lasts for five minutes, was developed based on recommendations from a Nicaraguan health and safety research group using exercises that were developed specifically for garment workers.



### 3. Excessive Heat Levels

#### *a. Findings*

Honduran occupational safety and health regulations state that environmental conditions in the workplace should not create discomfort for employees and that high temperatures and extreme humidity should be avoided.<sup>32</sup> Interviews with INDEX workers and supervisors indicated that the factory was failing to comply with this standard, as temperatures in some areas of the plant were excessively hot. One supervisor acknowledged, “It is extremely hot in the Jacaleapa plant.” During the physical inspection of the INDEX facilities, the WRC confirmed that temperatures in this plant and in the factory’s screen printing unit were uncomfortably hot.

Government safety and health regulations require employers to evaluate thermal stress caused by heat and other factors in the workplace by conducting a Wet Bulb Globe Temperature analysis and to maintain an ambient temperature between 14° and 25° Celsius (57.2° - 77° Fahrenheit).<sup>33</sup>

When the WRC asked INDEX management whether it had measured the temperatures in the plant, the company stated that it had commissioned a third-party study of temperatures in the plant in 2011 and that the Honduran Ministry of Labor had inspected the plant’s screen printing room in 2012, with both reporting that temperatures at the factory were within acceptable parameters. The company further indicated that it was conducting another study of the issue in March 2015.

Both the workers and the WRC made note of the excessive temperature in some areas of the plant, a violation of Honduran law and buyer and university codes of conduct. While the 2011 and 2012 temperature reviews are positive, they are insufficient to demonstrate that the temperatures are consistently maintained at a safe, legal level.

#### *b. Recommendations*

The WRC recommended that INDEX take the following steps to comply with national law and buyer and university codes of conduct:

- Conduct periodic monitoring of temperatures and humidity in work areas and install the necessary engineering and administrative controls to prevent heat stress and ensure worker comfort. Thermometers should be installed throughout the plant so that

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<sup>32</sup> Id., Art. 339.

<sup>33</sup> Id., Art. 338.

supervisors and employees can monitor temperatures in their work areas and report excessive heat levels to the factory management for corrective action; and

- Given the testimony provided by the workers and supervisors, and based on the WRC representative's first-hand experience, reschedule the study that was slated for March 2015 to a date within 60 days so that current conditions at the plant could be evaluated and addressed.

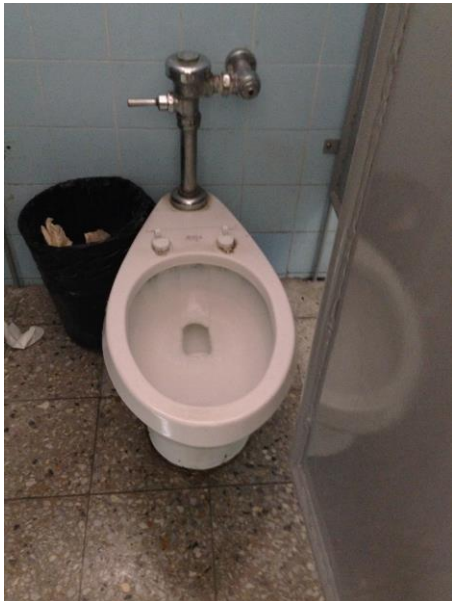
### *c. Company Response*

INDEX committed to install temperature measuring equipment, scheduled to arrive at the plant on October 15, 2014, and to assign the factory's Compliance Manager to ensure that temperature measurements are routinely evaluated. INDEX also committed to commission a heat measurement study no later than May 2015, which would be certified by an external third party.

On April 14, 2015, INDEX confirmed that the temperature measuring equipment had been installed and staff had been trained to conduct measurements. INDEX provided a sample of the weekly temperature readings, which were within the legal range.

## **4. Restrooms**

### *a. Findings*



Honduran law states that employers must provide toilets with running water, toilet paper, and adequate waste disposal and that toilets and urinals must be maintained in a clean and sanitary manner.<sup>34</sup> Moreover, the faucets must function and toilet stalls and seats must be suitable for use.<sup>35</sup>

A substantial proportion of the workers interviewed by the WRC gave testimony indicating that the factory was failing to comply with these standards, complaining that the restrooms at INDEX consistently lack toilet paper, soap, and hand towels. Several workers also stated that the bathrooms are often dirty or lack running water.

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<sup>34</sup> Id., Art. 70.

<sup>35</sup> Id., Art. 72.

The WRC's visual inspection of the plant's restroom facilities confirmed many of these problems and specifically: (1) toilet lids requiring repair or replacement (two in the Prisa unit, two in Index III, and one in the Embellishment unit); (2) toilets needing repair (two in Prisa, one in Index III, one in Index Jacaleapa, and one in the Index Fleece unit); (3) locks on bathroom stalls requiring repair or replacement (two in Prisa); (4) sink faucets requiring repair (two in Prisa, one in Index III, and two in Index Fleece); (5) lack of toilet paper and soap (in Prisa, Index III, and in the Embellishment unit); and (6) lack of lids on trash cans, which generated a strong odor in the bathrooms (all areas with the exception of Prisa).

The conditions of the bathrooms, including the failure of the company to provide running water, toilet paper and adequate waste disposal, along with the poor maintenance of the toilets, lids and bathroom stalls, represent a violation of Honduran health and safety standards.

*b. Recommendations*

The WRC recommended that INDEX make the necessary repairs to the toilets, sinks, and bathroom stalls in order to comply with Honduran law and maintain these facilities in a sanitary and functional manner going forward. The WRC recommended that the company ensure that all trashcans have lids (preferably that can be opened by foot in order to maintain good sanitation) and provide soap and toilet paper in all restroom facilities.

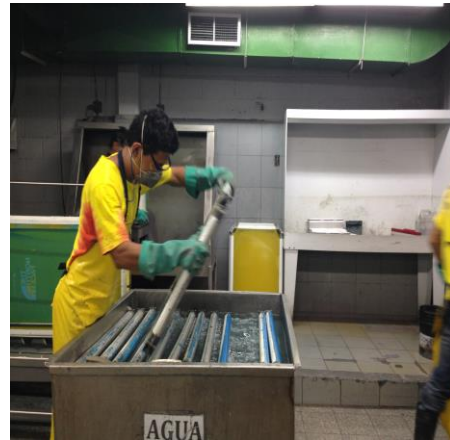
*c. Company Response*

In response to the WRC's findings, the company reported that it inspected all bathrooms, identified defective toilets and faucets, and repaired them. The company reported to the WRC that it completed this task on August 25, 2014. The factory further reported that it had hired an engineer who will oversee all building maintenance issues and that INDEX will generate a weekly report of bathroom maintenance issues. The management commits to reviewing and following up on the items mentioned in these reports on a monthly basis. On April 14, INDEX provided a sample of the logs of maintenance issues, which indicated that problems were being identified and rectified on a regular basis.

## 5. Protective Equipment

### *a. Findings*

Honduran workplace health and safety regulations require that employees who are exposed to gases and vapors use face masks equipped with chemical filters and that these filters be changed frequently, in accordance with the mask manufacturer's instructions and based on the specific conditions at the workplace.<sup>36</sup>



The WRC found that INDEX failed to comply with this standard as workers employed in the factory's screen printing ink lab were using masks that were insufficient to protect them from toxic exposure.

### *b. Recommendations*

The WRC recommended that INDEX take the following steps to comply with health and safety standards:

- Provide all workers in the factory's screen printing ink lab with face masks equipped with chemical filters and require that all workers in this department use these masks at all times; and
- Regularly replace the masks' filters, as recommended by the manufacturer of the masks.

### *c. Company Response*

INDEX stated that it would issue chemical filter masks to all workers employed in the screen printing ink room and that it would provide training to the workers in question on the use of the masks, both by October 30, 2014. On April 14, 2015, INDEX confirmed and provided documentary evidence that this had been completed.

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<sup>36</sup> Id., Art. 298.



## 6. First Aid Kits

### *a. Findings*

Honduran workplace health and safety laws require that factories maintain well-marked first aid kits with adequate supplies for the size of their workforces. The law provides a listing of the materials that must be included in these kits.<sup>37</sup>



The WRC's onsite inspection of the INDEX factory found that the company maintains first aid kits in the factory, but that these kits failed to contain all of the supplies specified in the law. For example, the kits were missing tourniquets, bandages, rubber bags for hot water or ice, a clinical thermometer, elastic bandages, and slings.

The fact that the first aid kits provided to workers did not include all of the supplies specified by the Honduran health and safety standard represents a violation of Honduran law and, thus, buyer and university codes of conduct.

### *b. Recommendations*

The WRC recommended that INDEX include all materials required by law in the facility's first aid kits.

### *c. Company Response*

INDEX reported to the WRC that it had reviewed the list of materials, required by law, to be stocked in the factory's first aid kits and would ensure that all kits contain the required items. The company reported that medicines will be kept by the factory doctor and will be dispensed by a nurse or doctor at the plant. It further stated that the factory's Compliance Manager will be charged with doing a weekly check of all first aid kits to ensure that they are properly stocked.

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<sup>37</sup> Id., Arts. 9, 73 and 424.

## 7. Health and Safety Committee

### *a. Findings*

Article 412 of the Honduran Labor Code states that:

In every business or workplace where there are more than ten (10) workers, a Safety Commission [Committee] will be established, made up of an equal number of employer and worker representatives, in order to investigate the causes of professional risks, propose measures to prevent them, and ensure compliance with these measures.<sup>38</sup>

These committees are also charged with informing workers about safety risks in the workplace, preventative measures that the company and the committee are taking to counter these risks, and proper work methods.<sup>39</sup>

The law adds that, for a company with more than 1,000 employees, the committee must have 10 members, five of whom are representatives of management and five of whom are representatives of the workforce.<sup>40</sup> The factory management may choose the five members that represent the employer. Where there is no workplace union, the worker representatives must be chosen by secret-ballot election.<sup>41</sup>

INDEX's management confirmed that the factory has a functioning Safety Committee that is comprised of 15 members who meet once a month. The company also provided a list of the health and safety issues that the committee addresses and copies of the minutes of their meetings.

The composition of the committee and the method by which its members were selected failed to comply with the requirements of the law. Company Compliance Manager Alejandra Escobar told the WRC representative that of the 15 members of the committee, seven are managers, five are supervisors, one is a mechanic, one is an auditor, and one is a planner. None of the committee's members are production workers. Furthermore, one of the supervisors who reported participating in the committee stated that the company's Compliance Manager selected all of the members.

Furthermore, of the company personnel interviewed by the WRC, more than half of the workers, and even one of the factory's supervisors were unaware that the safety committee even existed. When asked about the work of the committee, another supervisor said, "I think there is a committee and I think that it has five members, but I don't know who they are and I don't know when they meet or what they talk about."

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<sup>38</sup> Id., Art. 12.

<sup>39</sup> Id., Art. 37.

<sup>40</sup> Id., Art. 14.

<sup>41</sup> Id., Art. 19.

The fact that the committee lacked any representation from the factory workforce – whose representatives should make up 50% of its membership and should have been chosen by the workers themselves – represents a violation of Honduran law, as does the fact that the committee has failed to inform employees of its work.

In addition to being required by law, properly functioning democratic health and safety committees are one of the best ways to address health and safety issues in apparel factories. Engaging workers in an ongoing process of identifying health and safety risks, working with management to address these risks, and communicating about key health and safety issues to their coworkers is an indispensable element of a factory health and safety program. With proper implementation and a commitment to compliance from management, properly functioning committees can bring significant improvements in ongoing workplace health and safety practices.

*b. Recommendations*

The WRC recommended that INDEX take the following steps with regards to the company's Health and Safety Committee:

- Restructure the Safety Committee to ensure that one half of the members of the committee are production workers;
- Provide for elections through which production workers can democratically select their representatives, as required by law. In light of the company's failure to comply with the legal requirement that workers select their own safety committee representatives, the WRC further recommended that the Central General de Trabajadores (CGT), a union body that has earned credibility for its fair representation of workers in the garment sector, be enlisted to assist workers in the process of conducting their own election to fill its slots on the committee; and
- Ensure that the committee meets regularly, performs all of the educational, oversight and reporting functions required by law, and keeps a detailed log of its activities.

In addition, the WRC recommended that INDEX consider creating additional Safety Committees for each of the factory's work shifts. Honduran law allows, but does not require, multiple safety committees in a single workplace where there are multiple work shifts.<sup>42</sup> Given the size of INDEX's workforce and the fact that the workforce is divided into multiple shifts, establishing one committee per shift would facilitate the process of ensuring that workers on all shifts are informed of and participating in decisions related to the plant's health and safety conditions.

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<sup>42</sup> Id at Art. 13.

*c. Company Response*

In the initial recommendations and in subsequent communications (e.g., communications dated December 10, 2014, and February 23, 2015), the WRC emphasized that efforts to ensure legitimate worker representation on the Committee must include participation by an organization directly accountable to workers and not funded by buyers or employers. As noted above, the WRC initially recommended the CGT for this role; the WRC subsequently offered, as an alternative, the respected women's rights organization Centro de Derechos de la Mujer (CDM). INDEX refused to allow any such independent organization to play a role in providing these trainings.

Instead, in response to the WRC's findings and recommendations on the company's Health and Safety Committee, the factory stated that it would work with the Honduran Social Security Institute to provide training for employees in the human resources and compliance departments, as well as for current members of the company's Health and Safety Committee. INDEX reported that it was enlisting the help of the Ministry of Labor to moderate an election process that was to be completed by November 15, 2014. The company further stated that, after the new members of the Health and Safety Committee were elected, they would receive training so as to undertake their responsibilities and that the Committee would be fully operational by December 2014.

When further pressed by its buyers on the issue of enlisting the support of an independent organization in order to provide trainings for a newly-elected Health and Safety Committee, the company responded, on August 31, 2015, that the factory would "continue to support training for the Health and Safety committee through the local Fire Department, Social Security Institute, and Honduran Maquila Association."

The company's decision to involve Honduran government agencies did not satisfy the WRC's recommendation that an independent organization accountable to workers participate in the process and did not create a high likelihood that workers' right to democratically select representatives on the Committee would be respected. The failings of the Honduran Ministry of Labor have been widely documented. Most recently, the U.S. Department of Labor wrote that it "has serious concerns regarding the protection and promotion of internationally recognized labor rights in Honduras, including concerns regarding the Government of Honduras's enforcement of its labor laws."<sup>43</sup> The Department of Labor specifically calls attention to failures by the Ministry of Labor to properly enforce Honduran law with regards to the two areas relevant to this violation, freedom of association and occupational health and safety.<sup>44</sup> In addition, at the time of

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<sup>43</sup> U.S. Department of Labor, Bureau of International Labor Affairs, Office of Trade and Labor Affairs, "Public Report of Review of U.S. Submission 2012-01 (Honduras), February 27, 2015, i.

<sup>44</sup> *See, e.g., Ibid., iii.*

the WRC report, the Ministry of Labor had turned a blind eye to INDEX's failure to comply with this point of Honduran law. Given this, the WRC cannot be confident that the Ministry's involvement, let alone the involvement of other factory owners, has rectified the lack of authentic worker representation on the health and safety committee.

INDEX failed to comply with the WRC's recommendation that an organization directly accountable to workers, and independent of buyers and employers, participate in providing these trainings. INDEX never substantively explained why it chose not to involve such an organization. This refusal is compounded by INDEX's decision to move forward with a unilateral program for providing training and reconstituting the Health and Safety Committee without the participation or observation of the WRC. Given these failures in the company's response, the WRC finds that INDEX has not taken adequate action in this area.

It is worth noting, as well, the WRC's concerns regarding health and safety trainings implemented by INDEX as a result of a recommendation by COVERCO. While these trainings were not based on WRC recommendations, the WRC informed INDEX that if such trainings were to occur, they should, like the trainings discussed above, include an organization that was independent of management. INDEX did not choose to follow this recommendation. According to INDEX, COVERCO provided freedom of association workshops in January-February 2015 to approximately 25% of the total workforce, and provided materials to the company's Human Resources department to provide a one-hour training on freedom of association and collective bargaining to each new hire starting in April 2015.

While the WRC respects the quality of COVERCO's work, COVERCO is acting in this case as a paid agent of INDEX and thus is not an independent organization accountable to workers. In addition, the fact that the initial trainings were provided to only 25% of the workforce would cause us to question the impact of such trainings regardless of the trainer. Furthermore, the fact that trainings are now being offered by management is a cause for concern given that Honduran law strictly prohibits the involvement of management in union affairs. While basic education as to the company's policies regarding respect for freedom of association could play a positive role, trainings conducted by the company with no third-party involvement or even observation can also provide the opportunity for supervisors to send a message directly in contradiction to the ostensible message of respect for freedom of association.