



WORKER RIGHTS CONSORTIUM

**WORKER RIGHTS CONSORTIUM ASSESSMENT
ITIC APPAREL (DOMINICAN REPUBLIC)
FINDINGS AND RECOMMENDATIONS**

February 8, 2012

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A. Introduction

This report outlines findings and recommendations reached by the WRC in its 2011 investigation of labor practices at ITIC Apparel, an apparel manufacturing facility in the Dominican Republic which is a supplier of uniforms for prison inmates to Robinson Textiles, Inc., a Gardena, California-based vendor of such apparel to many U.S. detention and correctional facilities. ITIC's management reports that 50% of the plant's production is comprised of inmate uniforms supplied to Robinson Textiles.

ITIC Apparel is located in the free trade zone (FTZ) of San Pedro de Macorís.¹ As of January 2011, ITIC Apparel reported 475 employees. At the time of the WRC's visit to the factory on February 17th, 2011, however, the factory's owner stated that he currently employs only 230 workers. ITIC Apparel's garment manufacturing operations at the facility include sewing, cutting, screen printing, embroidery and packaging. ITIC Apparel produces 20,000-23,000 uniforms per week.

The WRC undertook its compliance assessment of ITIC Apparel pursuant to its role as the independent monitor for the City and County of San Francisco ("San Francisco") under San Francisco's Sweatfree Contracting Ordinance, which sets labor rights standards for the manufacturers of apparel supplied by its vendors.² ITIC Apparel had been disclosed by Robinson Textiles as a supplier of work shirts and work pants to San Francisco under San Francisco's Inmate Clothing Contract No. 81172. As a result, the ITIC Apparel factory was subject to the provisions of the Sweatfree Contracting Ordinance.³

The Sweatfree Contracting Ordinance requires suppliers, and their subcontractors, to comply with all applicable labor and employment laws of the country in which they operate, as well as certain additional labor standards including payment of a non-poverty wage and protections for the rights of women workers.⁴ More than sixty other state, county and municipal governments

¹ The San Pedro de Macorís Free Trade Zone, which was established in 1972, is the second oldest FTZ in the Dominican Republic. It has the largest number of employees of any zone in the eastern region of the country, and the fourth largest number of employees among all zones nationally, with 11,125 employees reported in 2010. The San Pedro de Macorís FTZ has experienced the same trend of factory closures that other FTZs in the country have faced, and the number of companies operating in the zone has fallen from forty-three in 2009 to thirty-eight in 2010. ITIC Apparel occupies two buildings in the FTZ. See "Informe Estadístico, Sector Zona Franca 2010" Consejo Nacional de Zonas Francas de Exportacion,

http://www.adozona.org/upload/file/Informe_Estadistico_2010_en_Espanol.pdf

² *Codified as*, San Francisco, Cal., Administrative Code, ch.12.U ("Code") (2005), *as amended*, Feb. 11, 2010, <http://www.sfgsa.org/Modules/ShowDocument.aspx?documentid=6894>.

³ *Ibid.*

⁴ See, Code, ch. 12.U.3. (a) ("Each Contractor and Subcontractor, regarding any Worker, shall comply with all human and labor rights and labor standards imposed by treaty or law on the country in which the Goods are made or assembled, and shall not engage in Sweatshop Labor.").

across the country have adopted similar standards for their apparel vendors.⁵ The WRC's factory assessment found that ITIC Apparel violates the Sweatfree Contracting Ordinance's requirements in the following areas: wages and hours (with respect to non-poverty wage, overtime and pay errors), freedom of association, harassment and abuse (including sexual harassment), legally mandated benefits, and occupational health and safety.

After completing its assessment of the factory, the WRC presented its findings to both ITIC Apparel and San Francisco's Office of Labor Standards Enforcement (OLSE), which is responsible for overseeing vendor compliance with the Sweatfree Contracting Ordinance, along with recommendations for how the factory could remedy the violations that had been identified. Unfortunately, ITIC failed to respond to these recommendations or otherwise commit to remedy the violations, despite repeated requests from the WRC and multiple promises from factory management that it would comply with the ordinance.

In September 2011, the OLSE shared the WRC's findings of violations of the Sweatfree Contracting Ordinance at ITIC Apparel with Robinson Textile and requested that the latter seek the factory's compliance with the ordinance. Rather than engage substantively with ITIC Apparel to achieve compliance, however, Robinson Textile offered only to find another supplier for the uniforms provided to San Francisco -- but indicated that it would continue doing business with ITIC Apparel to supply its other public sector customers.

The OLSE pointed out to Robinson Textile that this response was inconsistent with the latter's commitment, at the time of its contracting with San Francisco, to require its subcontractors to comply with the Sweatfree Contracting Ordinance and to make good faith efforts where needed to achieve such compliance. In December 2011, Robinson Textile informed San Francisco that it would cease supplying inmate uniforms to San Francisco, altogether, rather than require its supplier to remedy the violations identified by the WRC.

The WRC believes that both the violations found at the ITIC Apparel factory and the responses of both ITIC's management and Robinson Textile to its findings are indicative of a clear lack of commitment, on the part of both companies, to comply with the sweat-free contracting standards that have been adopted by not only San Francisco, but dozens of other public entities across the United States. For this reason, the report's findings are worthy of consideration by all parties concerned with labor rights compliance in public sector apparel supply chains.

B. Methodology

The WRC's investigation of ITIC Apparel was conducted by WRC representatives, assisted by a

⁵ For a listing of such public entities, see: Sweatfree Communities, *Adopted Policies*, <http://www.sweatfree.org/policieslist>.

team of local labor rights experts, including researchers from a DR-based non-profit organization and by occupational safety and health expert, Mariano Kramer.⁶

Initial research conducted by the WRC in the Dominican Republic in late 2010, indicated the likely presence of significant violations of the Sweatfree Contracting Ordinance at ITIC Apparel. Based on this research, the City of San Francisco authorized an in-depth investigation of labor conditions at the factory, which commenced in December 2010.

On February 17, 2011, Mr. Kramer, WRC Executive Director Scott Nova, and Sarah Adler-Milstein, WRC Field Representative for the Caribbean, conducted an onsite inspection of ITIC, which included a comprehensive health and safety inspection, extensive review of factory records, and interviews with the owner, his chief deputy, and other senior and midlevel managers. In-depth offsite interviews with workers were conducted both before and after the onsite inspection.⁷

The findings in this report are based on the following sources of evidence:

- Detailed interviews with thirty-one current employees of ITIC Apparel, conducted in offsite locations chosen by the employees.
- Review of paystubs provided by workers in offsite interviews.
- Interviews with members of ITIC management including: Tom Heydt, owner; Jacquelin Lorenzo, General Manager; Santa Rodriguez Guerrero, Payroll Manager; and Nieves Rodriguez, Human Resources Manager.
- An interview with two current ITIC supervisors.
- A physical inspection of the plant focusing on occupational health and safety.
- A review of relevant documentation including: payroll and financial statements; accident reports; communications and official documents provided to the *Secretaria del Estado de Trabajo* (Dominican Secretary of Labor), including communications regarding layoffs, firings, and vacation periods; official documents from the *Tesoreria de la Seguridad* (Social Security Treasury, “TSS”); documents relevant to the employee credit and loan programs; and a sample of employee personnel files.
- Drinking water samples, collected and tested in a local laboratory.

⁶ Mr. Kramer is a former Cal/OSHA Senior Safety Engineer and a member of the Berkeley-based Maquiladora Health and Safety Support Network (MHSSN). Before retiring from Cal/OSHA, he coordinated that agency’s enforcement program for an estimated 5,000 garment plants in the Los Angeles area. He currently works as a safety and health consultant and trainer in Southern California.

⁷ The WRC conducts interviews with employees offsite and arranges these interviews through local organizations and individuals who are known to and trusted by workers. This approach is widely recognized to produce far more reliable findings and be much more protective of worker confidentiality than the onsite worker interviews utilized by most factory auditors.

- Consultation with a representative of the *Dirección de Información y Defensa de los Afiliados a la Seguridad Social* (Dominican Agency for the Information and Defense of Affiliates of Social Security, “DIDA”).
- Review and analysis of applicable laws of the Dominican Republic.

C. Findings and Recommendations

The WRC’s findings, based on the evidentiary sources listed above, are outlined in the following section and are accompanied by recommendations for corrective action.

I. Legally Mandated Benefits

a. Vacations

Findings

The WRC found, based both on documentary evidence and mutually corroborated worker testimony, that ITIC does not follow the legally mandated procedure for determining employees’ vacation periods. Article 177 of the *Código de Trabajo de la República Dominicana* (Labor Code of the Dominican Republic) states that the employer has the obligation to provide a paid vacation period of 18 uninterrupted business days of vacation per year to all workers who have completed more than five years of continuous employment and 14 days to those who have completed one to five years. The law requires that the mandated vacation period not be divided or interrupted, except by agreement between the employees and the employer.

Documentary evidence provided during the site visit, including posted notices announcing non-standard vacation schedules, demonstrated that vacation periods were set unilaterally by the ITIC management and deviated from the statutory requirements. Workers testified offsite that vacation periods are typically split in half and provided in June and December, and that the company does not ask their consent. Evidence indicates that in 2010, vacations were split into three segments.

Thus, while ITIC Apparel is providing the legal minimum number of paid vacation days to its employees, it is violating Article 177 of the Dominican Labor Code by unilaterally imposing a non-standard vacation schedule. This is a matter of genuine importance to workers, which is why the law requires that an employer must obtain their consent before any change can be made in the statutory schedule.

Recommendations

The WRC recommends that ITIC Apparel make the following change in its management practices in order to comply with applicable law:

- If management wishes to deviate from the normal vacation schedule, workers must be given the option to accept or reject management’s proposed schedule. Because there is no

collective representation in the factory, this must be done on an individual basis. Employees choosing to accept the alternative schedule must provide written consent. If management does not wish to have different workers on different schedules, then it must utilize the statutory schedule for all workers.

b. Medical Leave and Accident Reporting

Findings

The WRC found that ITIC Apparel is violating Dominican Law 87-01, which covers accident reporting and medical leave, and the regulations of the *Consejo Nacional de Seguridad Social* (National Council on Social Security, CNSS), which administers programs established by this law.⁸

Law 87-01, which establishes the Dominican social security system, creates a workplace risk insurance program, under which workers are compensated for the cost of medical care when they suffer a workplace injury or illness, and for lost wages when they are absent from work as a result. The system is funded by employer contributions.⁹ In addition, TSS provides coverage for lost wages for illness or temporary disability that is not work related (for those workers who have completed at least one year of employment).

Under these systems, employees report workplace accidents and illnesses to their employer, who must then submit the necessary documentation to the *Administradora de Riesgos Laborales* (Workplace Risk Administration, “ARL”). In the case of non-work related illness or disability, the reports are made to TSS. There is no mechanism by which workers can report medical leave, accidents and illnesses directly to the ARL or TSS; workers are dependent on their employer’s compliance in order to access these legally mandated benefits. Employers are also obligated to ensure that workers are well-informed about the availability of these benefits and the steps workers must take to obtain them.

These benefits are as follows: In the case of workplace injury or illness, including all accidents that occur during work hours or in transit to and from work, the worker is entitled to 75% of her or his average salary for any period of absence from four days to fifty-two weeks in length. This amount is paid by the government, except that the first three days of leave must be paid directly by the employer. In addition, all medical costs are covered 100%, with the government picking up any costs not covered by the worker’s regular health insurance.

⁸ See CNSS, *Reglamento Sobre El Subsidio por Enfermedad Comun* (Regulation Regarding the Subsidy for Common Illnesses) and *Reglamento Sobre Subsidio por Descapacidad Temporal* (Regulation Regarding Subsidy for Temporary Disability) (copies on file with the WRC).

⁹ Ibid.

In cases of medical or disability leaves that are taken for non-workplace injuries and illnesses, the employee must have completed at least twelve months of employment in order to receive any benefits. The benefit for lost wages in such cases is pegged to the worker's average pay over the six months prior to the injury or illness. The payment is 60% of the worker's average salary if she receives ambulatory care and 40% of her average salary if she is hospitalized. These benefits are paid when leave is deemed medically necessary, for a period of four days to twenty-six weeks. The first three days of medical leave are not compensated, nor are medical expenses beyond those covered by the worker's normal health insurance.

According to worker testimony, many workers at ITIC have not received the full benefits they are due under the law, either because ITIC management failed to submit necessary and accurate paperwork to the ARL and TSS or because management had not properly informed workers about their right to these benefits and how to access them. Most of the workers interviewed in the course of the WRC's inquiry reported that ITIC management had not provided them with any information on how to access these benefits.

Some workers testified that they had received information from the company that was clearly incorrect – for example, that they could not receive any benefits for a workplace injury unless they had been employed at the factory for at least a year. As noted above, there is no such requirement; the one year minimum applies only to non-work related injuries and illnesses.

Among those workers who reported to the WRC that they had suffered a significant workplace illness or injury, none had received the full medical and lost wage benefits to which they were entitled. Some reported receiving partial benefits; others received no benefits at all. In addition to first-hand testimony from injured workers, many other workers testified that they were aware of coworkers who had been injured on the job and had paid out-of-pocket for their own medical care or were not compensated for time spent on medical leave.

This worker testimony was corroborated by factory records. The WRC asked ITIC to provide all records, for the twelve months prior to our visit, of workers who received benefits as a result of a work-related injury or illness and all workers who received benefits as a result of a non-work related injury or illness. With respect to workplace injuries, the factory provided no records and claimed that this was because there had been no case of any worker entitled to such benefits. It was clear from the social security records, the factory's injury log, and statements made by Human Resources Manager Nieves Rodriguez, that the lack of any benefit payments was not due to the absence of compensable work-related injuries, but to the factory's failure to properly acknowledge and act upon injuries reported by its workers. The WRC identified cases of work-related injuries misclassified by the factory as non-work-related, and cases in which management failed to report workplace injuries to the government on the erroneous ground that the workers in

question were ineligible for benefits due to insufficient tenure. Indeed, Ms. Rodriguez stated that it was the factory's policy not to report workplace injuries involving workers employed for less than a year.

As a result of these and other improper management practices, injured workers at ITIC have been systematically denied the benefits due to them under Dominican law. All cases of compensable work-related injuries that occurred at the factory over the last year resulted in either nonpayment or underpayment of legally mandated benefits – either because the factory misclassified the injury, misapplied the law, or failed to provide the affected workers with accurate information about their eligibility and the procedure for accessing benefits.

Recommendations

The WRC recommends that ITIC take the following steps to remedy cases where workers were not paid legally mandated benefits and to ensure compliance with social security regulations in the future:

- Identify all cases of accidents where workers were denied their legally mandated benefits and provide workers retroactive compensation for the disability payments and medical cost reimbursements lost as a result.
- Immediately provide verbal and written notice to employees explaining, accurately, the legally mandated benefits that are available to workers who suffer workplace accidents and illnesses, the eligibility requirement, and the mechanisms for accessing these benefits.
- Schedule trainings to be conducted by DIDA, the government agency which provides education and oversight services for the social security system, to more thoroughly inform human resources staff and workers about these issues. Such workshops should be provided to all employees on paid work time.
- Going forward, ensure that all workplace accidents are reported and classified correctly. Specifically, cease the practice of classifying work-related injuries as non-work-related and the practice of denying benefits to workers injured on the job prior to completing a year of employment. Promptly and accurately report all compensable injuries and illnesses to the proper government authority.
- Ensure that all transit or traffic accidents that occur en route to or from work or during the work day are classified as workplace accidents, as these are considered work-related injuries under Dominican law.

II. Wage and Hour

a. Payment of Hours and Overtime

Findings

The WRC found credible evidence that ITIC Apparel has violated the Dominican Labor Code's stipulations regarding payment of hours and overtime. Most recently, workers stated that since the late spring of 2011, ITIC Apparel has required employees to work unpaid overtime to make up for time that they are inactive during the regular workday, a practice which began during a period of heavy rainfall that caused flooding which idled production at the factory. In addition, a review of workers' paystubs indicated that mistakes which under-compensate employees for hours worked are common and that such errors are only corrected after workers bring them to the management's attention.

The Dominican Labor Code defines the workday as all time in which workers cannot use their time freely because they are at the exclusive disposition of their employer.¹⁰ Article 151 of the Labor Code further states that workers must be paid for all time in which they are inactive during the workday due to circumstances that are not under workers' control. Article 147 of the Labor Code requires that employees' normal work day be set in their employment contracts, and Article 203 establishes that any hours worked beyond the normal workday or workweek must be paid at a 35% premium. After the employee has worked sixty-eight hours in a week, additional hours must be paid at a 100% premium.

Article 153 of the Labor Code requires that work beyond the normal workday be voluntary unless there are exceptional circumstances where it is essential to extend the workday, such as a) when accidents have occurred or in order to prevent an accident, b) when essential work must be performed on machinery which would cause grave damage if the work stopped, c) when stopping work could seriously alter raw materials, or d) in case of *force majeure*. Article 154 establishes that any employer who is extending the workday must report this to the local representatives of the Department of Labor in order for them to determine whether or not the circumstances comply with the stipulations of Article 153.

ITIC Apparel's recent practices in this area, as reported by workers, violate the Dominican Labor Code. Workers should be paid for any period during the workday that they are inactive during normal working hours due to flooding, and any work performed after normal working hours should be compensated as overtime at the relevant overtime premium of 35% for up to sixty-eight hours in a week and 100% for any additional hours. Moreover, unless the local representative of the labor department confirms that the flooding of the facility constitutes

¹⁰ See, Dominican Labor Code Art 146.

conditions that permit mandatory overtime under Article 153 of the Labor Code, ITIC Apparel cannot require its employees to work overtime in these circumstances.

In addition, a sampling of workers' pay slips showed regular pay errors. Four of five pay slips reviewed, which were issued to workers in different areas of the factory during different pay-periods, under-calculated workers' pay. The pay indicated on the paystubs had been crossed out and corrected by hand. The original amount calculated by ITIC Apparel and printed on the paystub represented, on average 86%, of the correct pay, and, in some cases, as little as 61.8% of the correct pay.

Workers stated that they regularly found errors on their pay slips and that the management only corrected these errors when workers brought them to its attention. When interviewed by the WRC, both the company's human resources manager and its payroll managers confirmed that they made corrections when workers raised concerns about the accuracy of their pay slips, and stated that the figures in the company's payroll documents represented the corrected figures. The prevalence of underpayment, however, raises concerns that there are pay errors which are not being corrected because the workers affected do not notice or are afraid to report the pay errors.

Recommendations

The WRC recommends that ITIC Apparel take the following actions to remedy past wage and hour violations and prevent further violations in the future:

- Pay workers their normal hourly wage for any time during the normal workday when employees are idle due to factory flooding or any other cause beyond their control.
- Pay workers the proper overtime rate for any hours worked beyond the normal workday, even in cases where workers are inactive during that workday due to flooding.
- Provide full back pay at overtime rates to all workers who worked and were not paid for additional time worked after the normal workday in the spring and summer of 2011 on days when work was delayed due to flooding.
- Ensure that, except where permitted by law, overtime hours are worked on a voluntary basis and that no worker is subject to retaliation for refusing to work overtime. ITIC Apparel can ensure that overtime is voluntary by issuing a statement to employees to this effect and implementing a system by which workers can indicate in writing their willingness to perform overtime when it is offered by the company.
- Conduct oversight of the pay system to identify the underlying cause of regular pay errors and, in the interim, inform workers that they have a right to bring pay errors to the company's attention and will not face retaliation for so doing.

b. San Francisco's Non-Poverty Wage Requirement

Findings

The Section 12U.3 (b) of the Sweatfree Contracting Ordinance states:

Each Contractor and Subcontractor shall pay at least the following minimum wages to Workers: (1) to Workers working in the United States a base hourly wage, to be set and adjusted annually by the Director, to produce for 2,080 hours worked, an annual income equal to or greater than the U.S. Department of Health and Human Services most recent poverty guidelines for a family of three plus an additional 20 percent of the wage level paid, including without limitation amounts paid as hourly wages or health benefits or retirement benefits; and (2) for Workers working in countries other than the United States, a wage, to be set and adjusted annually by the Director, that shall be comparable to the wage for domestic manufacturers established above, adjusted to reflect the country's level of economic development by using the World Bank's most recent Gross National Income per capita Purchasing Power Parity Index.

San Francisco has established a non-poverty wage standard under which workers producing goods manufactured in the Dominican Republic, which are purchased by the City of San Francisco's vendors, must be paid the equivalent of US \$2.27 per hour.¹¹ Converted to Dominican pesos using the present exchange rate of 38.11 pesos per dollar,¹² the non-poverty wage amounts to 86.51 Dominican pesos per hour.

Sewing machine operators and inspectors at ITIC Apparel, who make up the bulk of the workforce, currently earn a base salary equivalent to the Dominican Republic's minimum wage of 5400 Dominican pesos per month¹³ or RD\$28.34 per hour. Other more-skilled production positions such as "utility" operator (who can execute multiple sewing operations) and jobs in the cutting and painting department have slightly higher base wages of RD\$6000-7150 per month or RD\$31.47-37.50 per hour.

Production workers earn additional income based on their production level. Workers' pay is determined by the number of bundles they produce during the week, and each bundle has a ticket with the value of the production bonus attached to it, which varies based on the complexity of the operation performed. Workers reported that they generally receive 200-300 pesos per week, above their base wages if they reach their production goal, and earn even more if they work overtime hours.

¹¹ Office of Labor Standards Enforcement (San Francisco, Cal.), *Sweatfree Contracting Ordinance (Administrative Code Chapter 12U) Current Wage Rates for Overseas* (2010), <http://www.sfgsa.org/Modules/ShowDocument.aspx?documentid=6884>.

¹² See Interbank Exchange Rate, June 15, 2011.

¹³ Minimum wage in the free trade zones is established by the National Council on Salaries. The current fair trade zone minimum wage was established in resolution No. 4 on November 25, 2009 in Numeral II. The minimum wage of 5400 pesos is for 44 hours worked weekly.

From an examination of paystubs of workers in different departments and with different skill levels, the WRC determined that workers earn from RD\$28.34 to 41.83 per hour, with an average wage of RD\$34.70 per hour.

The guaranteed base salary ITIC Apparel pays to the majority of its workers is, therefore, slightly less than a third of the non-poverty wage required under the Sweatfree Contracting Ordinance. Even if they reach the maximum production bonus, which is not guaranteed and which most workers do not receive every week, for most employees, their pay still amounts to less than half of the non-poverty wage. For example, a utility sewing machine operator at the factory, who was among the higher paid production staff, reported an hourly wage of RD\$39.81 per hour, including production bonus, which amounts to just 46% of the non-poverty wage.

Workers indicated to the WRC that the wages they receive are not sufficient to meet their basic living expenses. Workers reported regularly seeking loans and other forms of credit to cover their basic necessities including housing, food and school fees for their children.

Recommendations

The WRC recommends that the base wage at ITIC be raised to meet San Francisco's non-poverty wage standard. To make this feasible, the WRC recognizes the need for the factory's customers to adjust the prices that they pay for products. For its part, ITIC Apparel could help achieve this goal by incorporating the production bonuses into base wages and adopting other management practices to achieve the same efficiency purposes.

Because labor costs for garments manufactured in developing countries typically account for only 0.5-1.5% of prices paid by the ultimate purchasers in the United States, the WRC anticipates that the non-poverty wage standard could be met with only a nominal increase in cost to the ultimate purchasers. Toward this end, the WRC recommended that the company participate, as quickly as possible, in a consultation process with its buyers and other stakeholders to develop a plan to implement the non-poverty wage.

III. Harassment and Abuse

a. Sexual Harassment

Findings

The Dominican labor code and the country's penal code prohibit sexual harassment.¹⁴ Article 47 of the labor code, which sets general conditions of employment, prohibits employers from engaging in actions which could be considered sexual harassment or failing to intervene in the case that one of their representatives engage in sexual harassment.

¹⁴ See Código Laboral (Labor Code) arts. 47 and 97 and Law N. 24-07, ¶ II, arts. 333-2.

Worker interviews revealed serious concerns about sexual harassment. Several of the workers interviewed provided mutually consistent testimony stating that they believed male supervisors and managers were sexually harassing female employees. Several workers reported one case in particular, where a top manager, with the help of a supervisor and technical personnel, pressured a younger female worker to have a sexual relationship with the manager. When she refused to do so, she reportedly was fired. Other workers commented in more general terms that there are several supervisors and managers who have made sexual advances toward younger women who worked at the factory, and that they believed that women who refused sexual relationships had been fired as a result.

Despite multiple attempts to arrange interviews with them, the workers directly involved in these incidents were not willing to speak with the WRC. In addition, the majority of the workers who reported incidents of sexual harassment against other employees did not wish to name the supervisors or managers responsible for fear of retribution.

Given the fact that several workers independently provided mutually corroborating testimony concerning incidents of sexual harassment that had been reported to them by coworkers, the WRC found a basis for serious concern that sexual harassment is occurring at ITIC Apparel, in violation of both the penal and labor codes of the Dominican Republic.

Recommendations

The WRC recommends that ITIC take the following actions in order to address the serious concerns about sexual harassment and work to guarantee that employees have a workplace free from sexual harassment:

- Arrange with a well-respected civil society organization that conducts workplace education on sexual harassment and its prevention, to hold workshops for all employees and managers during working hours on what conduct constitutes sexual harassment, company sanctions and civil and criminal penalties which may be imposed on perpetrators, and the mechanisms available for workers to report incidents of sexual harassment.
- Conduct an internal inquiry regarding sexual harassment and take disciplinary measures against any managers or supervisors who have engaged in such behavior.

b. Verbal Harassment

Findings

Offsite worker interviews also raised concerns regarding non-sexual verbal harassment of employees. Both Dominican law¹⁵ and San Francisco's Sweatfree Contracting Ordinance¹⁶ prohibit employers from engaging in verbal harassment of employees. Article 46 of the Dominican Labor Code states that it is the employer's obligation, as part of any employment relationship, to abstain from any verbal or physical abuse.

Seven of the twenty-five workers initially interviewed offsite reported that certain supervisors engage in verbal harassment of employees by yelling at workers and insulting them with obscenities. One worker provided detailed testimony that after the worker complained at work about a supervisor's use of obscene words, the supervisor isolated the worker so that the worker could not speak to other employees. Workers also reported that when complaints are brought to the human resources department regarding verbal harassment of employees, no action is taken against the supervisors who are responsible. Workers consistently reported supervisors Carlos Pantaleon and Felix Antonio Santana as being particularly abusive and using obscene language when addressing workers.

Recommendations

In order to address violations identified in this area, the WRC recommends that ITIC Apparel require that supervisors and managers treat workers with dignity and respect, and refrain from shouting, yelling, or using obscene or otherwise demeaning language with employees. Specifically, the WRC advises that the company establish a clear disciplinary policy with respect to verbal harassment. Progressive discipline should be applied to any supervisor or manager who continues to engage in verbal harassment and abuse.

IV. Freedom of Association

Findings

The WRC found evidence in both worker and management interviews that raises concerns that ITIC Apparel has a working environment that is hostile to the exercise of freedom of association as protected under Dominican law, ILO Conventions,¹⁷ and San Francisco's Sweatfree

¹⁵ See Dominican Labor Code Art. 46.

¹⁶ See, Code, ch. 12U.3. H. (prohibiting all "illegal harassment or abuse" of covered workers). The conduct described here constitutes illegal harassment and abuse under Labor Code Art. 46.

¹⁷ See ILO Convention 87.

Contracting Ordinance.¹⁸ Freedom of association is enshrined in the constitution of the Dominican Republic and the Dominican Labor Code as a fundamental Economic and Social Right.¹⁹ In addition, Article 333 of the Dominican Labor Code prohibits employers from engaging in any practice which violates freedom of association, including demanding that workers or job applicants refrain from forming or joining a union.

Workers interviewed expressed a significant amount of fear that workers who exercised their associational rights would be fired and blacklisted, an outcome which, in turn, would prevent workers from finding employment in any other free trade zone in the Dominican Republic. Workers cited repression of union organizing efforts at another factory in the San Pedro de Macorís FTZ, where union leaders were fired in retaliation for attempting to form a union. Many workers expressed a strong preference not to discuss the topic of freedom of association for fear that their jobs would be at risk if they even discussed this topic with the WRC’s research team.

Consistent with worker testimony, ITIC Apparel owner Tom Heydt expressed hostile attitudes towards workers’ exercise of freedom of association. When asked if a union had ever formed in the ITIC factory, Mr. Heydt responded by stating that the factory was “still here” – clearly implying that had workers unionized, he would have closed the facility in response.

As Mr. Heydt’s remarks were not made in the presence of factory workers, no specific violations of provisions of the Dominican Labor Code or ILO Conventions concerning freedom of association were observed or reported during the investigation. However, the WRC found that both the management’s attitudes and worker testimony suggested that ITIC Apparel does not guarantee that its employees can exercise associational rights without significant fear of management retaliation.

Recommendations

The WRC recommends that ITIC take the following actions to help ensure workers’ rights to freedom of association:

- Issue a statement to the workforce, both verbally and in writing, stating that workers at ITIC Apparel have the right to join a union of their choosing and that management will in no way interfere with this choice nor take any adverse action in response to any decision that a worker makes in this regard.

¹⁸ See, Code, ch. 12.U.3. (m) (“Contractors and Subcontractors shall demonstrate commitment to best practices and continuous improvement in management practices to eliminate Sweatshop Labor, including the right to freedom of association and collective bargaining.”).

¹⁹ See Constitucion de la Republic Dominicana, Title II, Ch. I, Section II and Dominican Labor Code Art. 62

V. Occupational Health and Safety

The WRC's inspection of ITIC identified the following areas of noncompliance with Dominican laws and regulations on occupational health and safety:

a. Production Equipment and Ergonomics

Findings

In reviewing the factory's production equipment and ergonomics, the WRC noted the following violations of Dominican workplace health and safety laws:²⁰

- In Building One of the facility, industrial sewing machines have unguarded belt/pulley drives. The nip points of the top and lower pulleys on many of the industrial sewing machines in this building are exposed, which can cause injury upon contact during operation of the equipment.
- There is an unguarded belt/pulley on an air compressor in this building.
- In Building Two, a forklift has an unguarded sprocket chain drive.



²⁰ *Reglamento de Seguridad y Salud en el Trabajo*, Decree number 522-06, Sections 2.23 and 2.8.

- Also in Building Two, a dryer located near the operator lacks an emergency stop device.



- In terms of plant ergonomics, most of the workers observed performed their work sitting in front of their sewing machines. No makeshift chairs (stools, boxes, etc.) were observed, nor was there any record of musculoskeletal injuries. However, workers in the silk screening department who perform their tasks while standing should have ergonomic floor mats.

Recommendations

The WRC recommends that ITIC take the following actions:

- Conduct a full audit of all equipment to identify each unit that should have guarding enclosures, and construct and securely install guarding enclosures made of suitable material (i.e. sheet metal, Plexiglas, etc.).
- Make necessary adjustments to the dryer located in Building Two in order to bring it into compliance with Dominican law.
- Provide those employees in the screen printing department who work while standing with ergonomic mats.
- In order to ensure that all workers are informed of ergonomic risks, conduct training for all workers on the different types of musculoskeletal disorders, their signs and symptoms, and activities necessary to reduce their adverse effects.

b. Plant Hygiene and Safety

Findings

With regard to plant hygiene and safety, the WRC's inspection of ITIC identified the following areas of noncompliance with Dominican laws and regulations on occupational health and safety:²¹

- Buildings One and Two are lacking exit and directional signs that facilitate quick egress from the installations in case of an emergency.

²¹ *Reglamento de Seguridad y Salud en el Trabajo*, Decree number 522-06, Sections 1.20, 1.37, 1.38

- A horizontal sliding iron gate located in the northwest corner of Building One serves as an emergency exit. However, because an emergency exit door must swing out in the direction of travel, sliding gates are prohibited for use as an emergency exit.
- While first aid kits were readily accessible to workers in each building, the kits were missing several of the items required by Dominican law.
- There was significant airborne cotton dust that had accumulated on fans, electrical outlets, etc., which can lead to respiratory problems for workers and, under specific circumstances, combustible concentrations of dust.

Recommendations

The WRC recommends that ITIC take the following actions:

- Review all exit and directional signs in the plant and make sure that buildings are properly marked in compliance with Dominican law.
- Install a proper emergency door in the northwest corner of Building One that complies with legal standards.
- Regularly replenish first aid supplies in each of the factory's first aid kits to ensure that each kit contains all materials stipulated by Dominican law.
- Incorporate the following mechanisms to keep the plant clear of airborne cotton dust:
 - ✓ Use mobile industrial strength vacuum cleaners to periodically vacuum work stations and equipment to capture and remove dust on equipment and horizontal surfaces. This should be carried out at least one time per day, and two times per day if a large amount of dust is generated. A schedule should be established and the persons responsible for carrying out this task should keep a record indicating that the task has been completed each day. All personnel should be trained on the importance of this activity to protect the health of each worker.
 - ✓ Make paper dust masks available to all employees.
- Carry out regular inspections of the factory's noise, heat and dust levels to ensure that they comply with legal standards.²²

²² To ensure that there are no areas of noise overexposure, the WRC recommends that dosimeter readings be taken at the noisiest areas of the plant to ensure that there are no areas of overexposure.

c. Health and Safety Committee and Worker Training

Findings

Section Six of the *Reglamento de Seguridad y Salud en el Trabajo*, Decree Number 522-06, states that all employers who have more than fifteen workers must have a Workplace Health and Safety Committee. In a review of ITIC's written programs and records, the WRC found that, in 2006, ITIC received a permit from the *Estado de Salud Pública y Asistencia Social* indicating that the company had five committees focused on different issues, including emergencies (i.e. fire prevention, emergency evacuation), general safety (floor and work surfaces, machinery, housekeeping) and a central Health and Safety Committee.

Records from 2006 and 2007 indicate that workers were provided with trainings on first aid, fire drills, and handling of chemical products. However, there were no records documenting that the Health and Safety Committee had met, nor that further training had been conducted, since 2007.

Verbally, management indicated that a fire drill had been conducted and that fire extinguishers had been inspected and charged in August and September 2010, that the Committee had met, and that procedures for waste disposal had been reviewed in January 2011.

Recommendations

The WRC recommends that ITIC take the following actions:

- Convene a meeting of the factory Health and Safety Committee and ask workers to nominate/elect new members to fill any vacancies. Hold monthly meetings with the committee to discuss problems in the plant, review the accident log and inspection reports, and make corrective action plans to address any existing hazards. The company should file copies of the minutes of each meeting.
- Schedule a series of trainings on health and safety issues for workers and keep records as to the topics discussed and a list of participants. Topics to be covered should include:
 - ✓ new employee safety orientation;
 - ✓ ergonomics and repetitive motion hazards and control measures;
 - ✓ first aid/CPR training;
 - ✓ chemical use and exposures on site (including airborne cotton dust) and control measures;

- ✓ heat illness signs, symptoms and control measures;²³
 - ✓ correct use of personal protective equipment;
 - ✓ fire prevention and fire extinguisher use;
 - ✓ emergency action and evacuation plans for fires and earthquakes;
 - ✓ lockout/tag-out procedures for maintenance personnel;
 - ✓ machine guarding hazards on equipment;
 - ✓ electrical safety hazards;
 - ✓ safe use of ladders and any other worker positioning equipment;
 - ✓ effective functioning of health and safety committees; and
 - ✓ safety program administration, supervisor responsibilities, disciplinary action, etc.
- Hold regular fire drills in accordance with Dominican law and keep a log of the dates and times that the drills are executed.
 - Conduct a quarterly health and safety inspection in order to discover and correct any hazards in and around the factory. The inspection should include the following: verification that new employees are receiving training on health and safety; inspection of guards for sewing machines and cloth cutters; review lockout and tag-out procedures; inspect maintenance of all electrical equipment; review fire prevention practices including the disposal of combustible materials, storage of fabric, enforcement of no-smoking areas, inspection of fire extinguishers; review of emergency procedures; verification that the factory has a sufficient supply of cool and potable water; and verification that the company's first aid kits are stocked as per the guidelines of Dominican law.

²³ The WRC conducted its onsite inspection of ITIC in February 2011. Although there was no indication of heat illness at the facility at that time, it is reasonable to presume that, during hotter times of the year, higher temperatures, combined with heat generated by equipment and people, have the potential for causing such problems. Methods for mitigating the risk of heat illnesses include:

- ✓ Installing additional exhaust fans in the roof to remove heated air and draw in relatively cooler air at ground level;
- ✓ Applying a reflective coating to the roof's exterior that will reduce the ambient temperature inside the building.
- ✓ Spacing machinery inside the building so as to maximize air flow and personal space around workers;
- ✓ Establishing mandatory water breaks for workers at a given "trigger temperature" (90 or 95 degrees Fahrenheit); and
- ✓ Conducting heat illness training on the signs, symptoms and treatment of different types of heat illness.

d. Handling of Chemicals and Flammable Liquids

Findings

The WRC's inspection of ITIC identified the following violations in the area of fire safety:²⁴

- Oil drums located in Building One are not grounded or bonded, creating a fire hazard in the storage of flammable liquids.



- The plant uses a number of chemicals for stain removing, silk screening, and bathroom cleaning. The WRC's review of the Material Safety Data Sheets for the chemicals that are employed indicate that some of these chemicals are highly flammable²⁵ and that the majority require use of eye protection, neoprene or latex gloves, and respirators, if airborne vapors exceed permissible exposure levels.²⁶ The factory had no approved eyewash station available with at least fifteen minutes of running water, which is necessary in the case of an eye splash.

Recommendations

The WRC recommends that ITIC take the following actions:

- Ground and bond the oil drums located in Building One and inspect the storage of all flammable liquids in the plant.
- Install eyewash stations near all areas where chemicals are used and provide all workers who handle chemicals with eye protection, neoprene or latex gloves, and respirators, if the chemicals being handled emit airborne vapors that exceed permissible exposure levels.
- Ensure that highly flammable chemicals are not used or stored next to heat-emitting devices and that their containers stay covered at all times.

²⁴ *Reglamento de Seguridad y Salud en el Trabajo*, Decree number 522-06, section 2.3.28.

²⁵ Camie 480 Screen Opener, which is used at the facility in silk screening, is highly flammable.

²⁶ Chemicals in use at the facility include methylene chloride, which poses acute inhalation hazards and is a possible carcinogen, and naphtha and o-xylene, both of which can cause nervous system, liver and kidney disorders at high concentrations with frequent exposure.

e. Electrical Systems and Procedures

Findings

An inspection of ITIC's electrical systems and procedures found the following violations:²⁷

- In Building One, a sewing machine had pulled insulation, which exposes conductors.
- Also in Building One, the drop cord of one sewing machine is pulled, conductors are exposed, and insulation is cracked.
- On the east side of Building One an outlet has been wired incorrectly so that the polarity is reversed.
- Again in Building One, there is an overhead outlet with open knockouts, a ground conductor that is the wrong color, and no outer insulation.



²⁷ *Reglamento de Seguridad y Salud en el Trabajo*, Decree number 522-06, sections 2.17, 2.3.93, and 2.39.

- A pedestal fan in Building One is connected by an ungrounded cord. The splice is not protected with outer insulation and the gray cord is not appropriately marked to indicate whether or not it is being used appropriately. There is an accumulation of combustible cloth fiber on the grill of the fan.



- A second pedestal fan in Building One also is connected by an ungrounded cord. The splice here is also not protected with outer insulation that matches the original cord. Again, there is an accumulation of combustible cloth fiber on the grill of the fan.



- In Building One, there is an overhead outlet box that is uncovered, ungrounded, has no strain relief and whose conductors are not in the conduit.



- Also, in Building One, there is a second overhead outlet box that is not grounded, has no strain relief and whose conductors are not in the conduit.



- In Building One, there is a pedestal fan that has a splice wrapped with black tape. Equivalent protection should be given to the cord's outer insulation. There is also an accumulation of combustible cloth fiber on the grill of the fan.



- In Building One, there is a circuit breaker panel board with an empty circuit breaker switch opening, a defective circuit breaker (#5), and other circuit breakers that are unlabeled.



- In the Maintenance Shop in Building One, there is a fluorescent light that is powered by hot and neutral conductors that have been inserted into the outlet of a portable power strip. There are open conductors running in the background that should be enclosed.



- Also in Building One, there is an overhead outlet box with open contacts that are exposed. Romex wiring was used inappropriately here. There is also an accumulation of combustible cloth fiber on an energized outlet.



- In Building Two there is fluorescent lighting that has a broken conduit which exposes conductors. The cords to this lighting are hanging low which creates the risk of these cords being snagged.



- In Building Two there is fluorescent lighting that has a splice wrapped with black tape; it should have equivalent protection for outer insulation of the cord.



- In Building Two the cords on the cloth cutters have been cut or damaged, which exposes the conductors.



- In Building Two, the forklifts used for carrying cloth rolls have open, exposed and/or energized electrical equipment. There are oversized battery blocks on the hinged panel door of one forklift and on the other forklift the panel has been removed altogether.



- In Building Two, a cutter used to cut small squares has a spliced power cord wrapped in black tape, but should have equivalent protection to the outer insulation of its cord.



- In Building One, there is an air compressor that has exposed conductors and a broken conduit.



- The company does not have a formal lockout/tag-out system for maintenance personnel to follow when they are repairing and servicing sewing machines and doing other kinds of electrical work. A lockout/tag-out system ensures that dangerous machines are properly shut off and will not start up again before maintenance has been completed.

- In Building One, the elevator to the second floor storage area is operated by an electric-powered winch that has been fastened to overhead beams. Neither the elevator nor the winch includes information about their designed rated capacities. Additionally, the manufacturer of the winch should verify whether or not the winch can safely be used in this manner.



Recommendations

The WRC recommends that ITIC take the following actions:

- Review all electrical installations in Buildings One and Two and make repairs to the violations noted above and to any other electrical connections that do not meet Dominican legal standards.
- Develop and implement a lockout/tag-out system for the plant and train maintenance personnel on these procedures.
- Discontinue use of the elevator in Building One until such time as the manufacturer provides information about the safety of using the winch for this purpose. This information should be provided to the WRC once it has been obtained. If it is determined that the winch can safely operate the elevator, then the capacity rate for the winch-operated elevator should be visibly posted at the elevator.