

WORKER RIGHTS CONSORTIUM ASSESSMENT LEAGUE CENTRAL AMERICA (EL SALVADOR)

FINDINGS, RECOMMENDATIONS, AND COMPANY RESPONSE

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I. Executive Summary

This report outlines the WRC's findings and recommendations, along with the response to each as provided by the company, following a labor rights assessment at League Central America (LCA), a garment factory located in the American Park free trade zone in El Salvador. At the time of the WRC's visit to the factory, LCA reported a total workforce of 530 employees.

The factory is owned and operated by the apparel company League Collegiate Wear, Inc., an important supplier of collegiate licensed apparel located in Bridgeport, Pennsylvania. League Collegiate Wear (League) utilizes League Central America (LCA) to produce university-licensed apparel and, as such, is obligated to ensure that the facility complies with all university codes of conduct. These codes require that production of licensed apparel occurs in facilities that adhere to the labor law in the country where the products are produced,¹ in this case, El Salvador.

The WRC undertook this general assessment of labor rights at LCA in our role as monitor of compliance with university codes of conduct. The WRC's assessment of LCA found violations of Salvadoran law in several areas of the factory's labor practices, all of which League has committed to correct. The violations are reviewed in detail in Section III of this report and are summarized below.

Wages and Hours of Work. Worker participation in factory-organized educational programs at LCA has been an integral part of the factory's ethos. While the establishment of these programs was surely laudable in intent, and while they have conferred valuable benefits on participating workers, the manner in which they were implemented resulted in violations of wage and hour law and substantial hardship for some workers. First, the WRC found that the company was requiring workers to be at the factory every day for an extra half hour, without pay. The purpose was to enable workers' mandatory participation in a daily half-hour-long English class. As a result, LCA employees logged about eleven hours per month of unpaid overtime. Second, many workers were pressured by management to participate in literacy, high school, or university education programs and were unable to decline participation without fear of losing their jobs or suffering other adverse consequences. All of these programs required substantial time commitments outside of regular work hours. In the case of the university program, workers report having to spend up to 24 hours per week in classes; according to League, the figure is 22.5 hours weekly (the company pointed out to the WRC that not every student attended the full class schedule every week). The university studies program also imposed a heavy financial burden: the factory deducted roughly one-third of the wages of each worker who was required to participate in this program to cover tuition. These involuntary and unlawful wage deductions pushed workers' effective compensation below the legal minimum wage.

¹ IMG College Licensing, Special Agreement Regarding Labor Codes of Conduct.

Religious Freedom. At the time of the WRC's assessment at LCA, all workers were required to attend denominational morning prayers, led by factory management, on a daily basis. This constituted a violation of workers' right to religious freedom, as protected by Salvadoran law.

Verbal Harassment and Abuse. The WRC identified incidents of verbal harassment and abuse by factory supervisors and top factory managers, a violation of Salvadoran labor law.

Discrimination Against Workers Who Are Members of the LGBTQ Community. The WRC identified incidents of discrimination against LGBTQ workers by factory supervisors and managers. In addition to discriminatory remarks made to these workers by supervisors and managers, the WRC documented three cases in which the workers were fired because of their sexual orientation.

Occupational Health and Safety. The WRC conducted a limited review of occupational health and safety at the factory, identifying only one area of non-compliance, concerning excessive ambient temperatures in the factory, relative to legal standards.

From the time of the WRC's initial contact with League to carry out the assessment, the company expressed willingness to provide access and information to the WRC. While extensive discussion, over a substantial length of time, was necessary to achieve a final remediation plan, League made it clear from the outset of its engagement with the WRC that it was committed to addressing any problems identified and the company agreed, in December 2018, to a comprehensive plan that fully remedies all breaches of applicable standards and brought the company into compliance with Salvadoran law and university labor codes.

This corrective action plan included substantial back pay for workers, changes to educational programs to ensure that participation is genuinely voluntary, reinstatement of unlawfully dismissed workers, non-discrimination training for managers and supervisors, and changes to factory policies to ensure that they are consistent with Salvadoran law. The elements of this plan are reviewed in detail in Section III of this report.

Annex: Retaliation for Nonparticipation in Educational Programs

Subsequent to the company's adoption of this plan, the WRC received an additional complaint concerning an incident that had occurred in March 2018 in which several employees from the factory reportedly were unlawfully terminated in retaliation for their having refused to participate in the company's study programs. As discussed in an annex to this report (see Annex I), the WRC investigated, reached findings on, and shared with LCA recommendations for remedial action to correct these retaliatory terminations.

As the annex explains, the company responded to these recommendations by agreeing to provide back wages to all of the 12 terminated workers and offer reinstatement to four of these employees (in addition to two of them, whom the factory had already rehired)

whom the WRC determined conclusively had been dismissed in retaliation for their nonparticipation in the study programs. The WRC concluded that these remedial measures adequately corrected the violations of university standards that the WRC found had occurred as a result of these dismissals.

II. Methodology

The findings and recommendations detailed in this report are based on the following sources:

- Off-site interviews with 15 LCA employees, all of which were conducted in locations away from the factory worksite, beginning in January 2018;
- An on-site inspection of the LCA factory conducted by a WRC representative on April 12 and 13, 2018. The inspection included:
 - Interviews with factory management – including representatives of the departments of human resources; social responsibility; health, safety, and environment; and of the savings and loan cooperative – as well as with factory supervisors;
 - A review of relevant documents including factory payroll, documents related to the factory’s study programs, employment contracts, company policies, and others;
 - A limited review of health and safety conditions and practices.
- Extensive communications with League Collegiate Wear following the visit to the factory and further review of written information supplied by League in the course of these communications.
- A review of applicable labor standards.

III. Findings, Recommendations, and Company Response

Following its inquiry at LCA, the WRC outlined concerns to League and sought further information, in verbal and written communications beginning in June 2018. The WRC issued formal findings and recommendations to League on October 27, 2018. In response to these findings and recommendations, League proposed a corrective action plan; further discussion led to revisions and enhancements to this plan. The plan was finalized in December 2018 and, as of the date of this report, implementation is underway.

This section of the report outlines each of the WRC’s findings, the corresponding recommendations that were provided to League, and the remedial actions that the company has agreed to take.

A. Wages and Hours of Work

1. Failure to compensate workers for 30 minutes of overtime per day; imposition of obligatory overtime

Findings

Workers interviewed offsite by the WRC reported that they were, for a period of more than three years, required daily to work 30 minutes beyond El Salvador's legal limit for regular working hours. Until recently, workers reported, and management confirmed, that they were required to spend 30 unpaid minutes at the factory every day in order to participate in an English study program. The English classes, which management reported implementing in January 2015, were mandatory for all LCA employees, who took turns throughout the day participating in sessions of the class and then made up the time devoted to the class by working an extra 30 minutes every day. Worker testimony and a review of payroll documents revealed that the company did not compensate the workers for this work time, which, under the law, must not only be paid, but paid at the premium overtime rate.

Each week, LCA's employees worked 9.5 hours each day from Monday to Thursday and 8.5 hours on Friday, for a total of 46.5 hours per week, two and a half hours more than the country's 44-hour statutory workweek. Workers interviewed offsite by the WRC reported that they were required to work at LCA from 6:30 a.m. to 4:45 p.m., Monday through Thursday, and from 6:30 a.m. to 3:45 p.m. on Friday, with an unpaid lunch break of 45 minutes each day. While the interviews revealed that some employees who play administrative roles at the factory were not required to report to work until 7 a.m., every worker interviewed by the WRC who is a plant-level operator reported that he or she was required to work this 46.5 hour-schedule every workweek since the English classes commenced in 2015.

Article 163 of the Salvadoran Labor Code states that any time during which a worker is required to report to the employer must be considered to be working hours and must be paid accordingly. The 46.5-hour workweek at LCA was a management-established factory schedule and was mandatory for every production worker, which therefore means that the time was compensable.

Article 89 of the Salvadoran Labor Code states that the regular workweek cannot surpass 44 hours of work and that any hours that a worker performs beyond 44 hours are considered overtime, compensable at two times the regular rate of salary. The LCA workers reported, and a review of payroll documents confirmed, that the workers received payment for only 44 hours each week, paid at the regular pay rate, which is the Salvadoran minimum wage.²

² The minimum wage in El Salvador in 2018 is \$9.84 per day. This information was published by the Ministry of Labor and Social Provision of El Salvador, <http://www.mtps.gob.sv/avisos/salarios-minimos-2018/>.

Before issuing its findings, the WRC discussed with League Collegiate Wear the factory's requirement that workers attend English class and the fact that the resulting 2.5 hours of compensable overtime were not being paid by the factory. In a May 11, 2018 memo to the WRC, League stated that every factory employee had signed an agreement stating that he or she was voluntarily participating in English classes. The WRC reviewed the agreement, which stated that workers would "pay back" the half an hour of work spent taking the English class by reporting to work from 6:30 a.m. to 7 a.m. However, as the WRC communicated to League, the fact that this document – expressing agreement to accept extended, unpaid work hours – was signed by every single employee, without exception, together with testimony from numerous workers expressing discontent with the additional half an hour of work every day, constituted convincing evidence that workers' decision to sign the agreement was not voluntary.

The fact that this additional 30-minutes per day of work time was not voluntary, but directed by the employer, placed LCA in violation of Article 170 of the Salvadoran Labor Code, which requires that all overtime be voluntarily agreed upon (a requirement, also, of the Fair Labor Association (FLA) Code, which is applicable to League as an FLA participating company) and obligated LCA to compensate workers for this time since, as noted above, time spent at work at the disposition of the employer is compensable.

In a subsequent communication to the WRC, dated July 31, 2018, League reported that, in response to the WRC's finding, LCA conducted an anonymous survey of all employees. The company reported that this survey showed that 70% of all employees wished to stop participating in the required English classes.

Following this communication, additional interviews with workers revealed that, on or about August 1, 2018, LCA discontinued the required English study program and that workers continued to report to work at 6:30 a.m. but were no longer required to stay at the factory a half an hour beyond the end of their regular work shift. The workers reported that, as of August 1, 2018, their workday now ends at 4:15 p.m. from Monday to Thursday and at 3:15 p.m. on Friday.

Recommendations

Given that, prior to issuing its findings to League, workers reported that the classes were no longer occurring, the WRC informed League that the violation had been remedied going forward. However, the WRC recommended to the company that, in order to achieve full remediation of the violation, LCA must provide back pay to all production workers for the uncompensated hours worked as a result of the factory's unlawful practice. This amounted to 2.5 hours per worker, per week, paid at the overtime rate of twice the regular pay rate. El Salvador's Labor Code establishes that the statute of limitations for claims by workers for unpaid wages is 180 days.³ Therefore, the period for which workers must be compensated dated from April 26, 2018 (six months prior to the

³ See, Labor Code of El Salvador, Articles 613 ("Actions by workers to reclaim payment of wages ... will expire in 180 days, counted from the date on which the payment was due.") and 618 ("The limitation is interrupted ... by the interposition of a demand").

date of the October 2018 memorandum issued by the WRC to League, in which we cited the need for back pay) to the date the practice ended. Accordingly, each affected worker was owed approximately \$75. The WRC recommended that LCA undertake a precise calculation of the amount owed to each worker, based on the factory's knowledge of the exact date on which the practice ceased.

The WRC also recommended that, if LCA wished to continue providing English classes for all employees, it take one of two lawful options. The WRC informed League that the company could either schedule the classes within regular work hours, so as not to extend the required workweek beyond 44 hours, or schedule the classes outside of regular work hours (for example, immediately after the conclusion of the workday) and make participation truly voluntary. This would allow for those workers who wish to avail themselves of the classes, and who are willing to voluntarily extend their daily time at work, to have the opportunity to do so while ensuring that no worker is required to accept this extended schedule and that the time is not, therefore, compensable.

Company Response

League responded to the WRC's findings and recommendations that, in addition to the steps that it had already taken to survey the workers with regard to their interest in the English class and the discontinuation of the required English class on July 31, 2018, it would comply with the WRC's recommendation to pay the workers the half an hour of overtime, from April 26, 2018 to the date that the classes were ended. The company reported that LCA had conducted a detailed review of payroll for this period and that the total amount owed to workers was \$39,647.29. The company also confirmed that all workers who participated in English classes during this period but are no longer working at the factory would be called in to the factory to collect the payment of back wages.

League and the WRC worked together to develop a communication informing workers about the termination of the English class and the payment of back wages. League provided the WRC with documents confirming the amount paid to each worker and the WRC confirmed with workers that they did receive the payments.

2. Involuntary participation in study programs conducted outside working hours and related involuntary wage deductions

Findings

Evidence collected by the WRC demonstrated that LCA used threats of adverse employment consequences, psychological pressure and public censure to compel hundreds of workers to participate in time-consuming – and, in some cases, expensive – educational programs that some of them would have declined if the programs had been voluntary.

LCA established educational programs for its workers for literacy and basic education, for the completion of a high school degree, and for study toward a university degree. At

the time that the WRC conducted its inquiry, literacy and basic education classes offered for factory workers were taking place after working hours, Monday to Thursday, from 4:50 p.m. to 5:30 p.m.; high school completion classes were held on Saturday from 7:30 a.m. to 3:45 p.m. Both took place inside the factory.

The university program was operated in conjunction with El Salvador's Don Bosco University. Some university classes were held at the factory, taking place from 5:15 p.m. until 7:30 p.m., Monday to Thursday. Additionally, workers in the university program were required to travel to the Don Bosco University's campus for a full day of class on Saturdays and a partial day of class on Sundays. Workers reported that 24 hours per week were required for the university program, plus travel time to and from the university on weekend days, in addition to the factory's standard 46.5-hour work week.⁴ According to League, the full university class schedule was 22.5 hours per week.

The basic literacy and high school degree programs did not involve a financial cost to workers; the university degree program was expensive. The WRC documented a cost to each worker of \$100 per month, more than one-third of the typical workers' take-home pay, as well as an annual enrollment fee of \$75 and significant transportation expenses.

Many workers reported to the WRC that they felt coerced to participate in these programs. Participation was not, in practice, an absolute condition of employment for all LCA workers and, at the time of the WRC's investigation, program rosters indicated that approximately half of the employees were not participating in any educational program. However, testimony revealed that management used various means to pressure workers, including public criticism of, and threats of adverse consequences for, nonparticipants. All workers the WRC interviewed who participated in the university study program testified that they felt compelled by management to remain in the program.

Management policy on this issue was contradictory in some respects, but management was consistent in communicating to workers that it wanted them to participate in the program and that declining would bring managerial disfavor. In some instances, managers stated outright that workers had to participate, and many participating workers reported to the WRC that they believed that they would have been fired had they declined participation. In some instances, managers stopped short of describing participation as mandatory, but pressed workers to participate, criticized those who did not, and/or threatened various forms of punishment that fell short of dismissal.

When the WRC asked League if participation was, in fact, a requirement of employment, the company response at that time was that "LCA encourages all associates to finish high school" and stated that university studies are "optional for all associates except to those persons [who] come from the Community School,"⁵ for whom studies are mandatory (the Community School is a high school whose graduates, LCA reports, are hired by the factory upon graduation). In responding to a question about whether or not participation

⁴ League shared attendance records with the WRC that showed that not all of the workers participating in the university program attended every Saturday and Sunday class.

⁵ Memo from League to WRC responding to questions related to the WRC's inquiry, May 11, 2018.

in the educational studies programs offered by LCA was obligatory for workers, LCA's Social Responsibility Manager, Jorge Morales, told the WRC at the time of the inquiry that, "It is company policy. If one of the workers says 'no' [I don't want to study], he or she is not obligated to participate. But we do tell them, 'I will give you work, but only if you are studying.'"

While Morales appeared to have sent a mixed message, stating that the worker was "not obligated" but also stating that workers could have a job "only if you are studying," the factory's general manager, Rodrigo Bolaños,⁶ was unequivocal. He publicly stated in a March 2018 interview with PBS *News Hour* that workers were required to participate as a condition of employment. Bolaños told the *News Hour* reporter, "If you don't study, this is not a place for you. You have to study."⁷ *News Hour* reported that Bolaños had fired workers who chose not to participate in the study programs.

While some workers were able to opt out, hundreds of workers participated in these programs: at the time of the WRC's investigation, a total of 259 (out of a total workforce of 498), according to data supplied by League. It is clear from worker testimony that a substantial number of workers participated, in whole or in part, because they feared employment consequences if they did not. In the case of the university program, 106 workers were enrolled despite a very high cost, in terms of both money and time. Some workers in this program told the WRC that they would have ended their participation if they did not fear adverse consequences from the employer.

Workers' testimony indicated that the primary objection to coerced participation in the university degree program was the financial cost. The \$100 per month for tuition, deducted directly from workers' pay checks, represented roughly one-third of the typical LCA worker's take-home pay. Workers reported that, as a result, they were unable to fully meet their regular living expenses. In low-wage countries, where garment workers' wages are far less than even a conservatively defined living wage, requiring workers to allocate more than a third of their earnings to a non-essential expenditure imposes an extraordinary burden. At some point in the past (the timing is unclear), workers reported that factory management subsidized workers' participation in the university program by paying half of the cost, but this had not been the case for many months prior to the WRC's investigation.

A number of workers interviewed by the WRC testified about the pressure they faced from management to participate in the educational program and the economic implications that the additional cost, and/or time away from home, implied for them and their families. The following are excerpts of worker testimony gathered during the investigation:

⁶ League informed the WRC, shortly before the issuance of this report, that the employment of Rodrigo Bolaños was terminated.

⁷ Fred de Sam Lazaro, "The factory that combines school and work to give El Salvador a brighter future," PBS *News Hour*, March 5, 2018, <https://www.pbs.org/newshour/show/the-factory-that-combines-school-and-work-to-give-el-salvador-a-brighter-future>.

- “We make \$295 a month, after deductions, \$68 a week, but then they deduct the amount that we have to pay for the university. . . . The managers treat the workers who don’t study like they are inferior. . . . They make comments about the people who aren’t studying and people feel bad. They deduct the university fees [from workers’ pay]. They used to call it a scholarship. The worst part was that they deducted \$75 from the year-end bonus and that was during the holidays.”
- “What we are upset about is the fact that, in reality, there is no scholarship. We are paying \$100 a month and our salaries aren’t sufficient to pay that. There are workers who have many children and I really don’t know how they do it because they only have \$20 or \$25 left in their paycheck. They are deducting \$25 per week and \$100 per month. A year ago, they gave us a half scholarship – we only paid \$50 a month and \$12.50 per week.”
- “At one of our morning meetings, the General Manager yelled at two of the university students who decided to quit the program and said he would ‘find them selling candy on the bus’ now that they aren’t studying anymore.”
- “The managers say that the workers who don’t study will never get ahead . . . they look down on the people who don’t want to study.”
- “In October 2017, I told Oscar Lopez [Educational Program Coordinator] that I was going to stop studying and he told me that I couldn’t stop because the company has an agreement with the university and I only had one more year to go and, if I quit the university, things would go down hill for me [at the factory] and that I should look out for my best interests. He told me that they [the company] could fire me or give my position to another person who is studying . . . that is why I decided to continue studying, because of the threat that I would lose my job.”
- “At the beginning of the year, the manager called together everyone who is not studying and he treated them very badly. . . . He said the women who just want to ‘sell their womb’ aren’t going to be able to do that because there are other workers to take their place. . . . He told people they had to come on Saturday to sign up for classes and that he would be there to see who signed up. He said he would give us two weeks to sign up and then he would start to fire people and that he would give all those people a big hug goodbye and tell them to leave his plant. He said we all have to study, that we shouldn’t just be stupid and wait around doing nothing. A lot of people are indignant about this. He treated us like we are prostitutes and now he is calling us stupid.”
- “Of the 100 people who are studying [in the university program], I think that 40 or more would rather not continue as a result of the high cost. That is not because we don’t want to continue studying. We would like to continue, but it is very expensive and we have to take care of our families. And if one or two of us said that we didn’t want to continue, I am sure that they would fire us. If the whole

group said that, then I don't know what would happen. No one has brought this up to the company because everyone is afraid of losing their jobs.”

The WRC was contacted by one former LCA employee, who learned from current workers about the WRC's investigation. This worker reported to the WRC that he was fired from the company in early March of 2018, along with a sizable group of other workers, and that he and the other workers were told explicitly by senior management that the reason for their termination was their failure to participate in education programs.

According to this worker, the factory's general manager, Rodrigo Bolaños, called the group of workers into a meeting to deliver this news, telling them “it is not enough to just be an employee at the factory,” that workers also have to study and that those who do not do so are “taking this opportunity away from another worker who wants it.” The worker said that Bolaños addressed him personally, saying “I told you that you should get involved with the [educational] project but since you don't want to, you are out.” The worker informed the WRC that Bolaños said a prayer at the end of the meeting and then told the workers, “Good luck.”

Both documentary evidence and the testimony of other workers corroborate this worker's account. The WRC reviewed records of worker dismissals provided by LCA, which showed that this worker's employment was terminated on March 2, 2018 and that, on that same day, a total of eleven other workers were terminated. The WRC was able to contact two other workers from this list. One of the workers testified that she too participated in the meeting with Rodrigo Bolaños and she confirmed that Bolaños fired her and the other workers present and told them the reason was their nonparticipation in educational programs. The third worker did not reference the meeting but reported that he had, on multiple occasions, been warned by management that there would be consequences for his failure to enter an education program and that it was clear to him that this was the reason for his dismissal.

The evidence summarized above demonstrates that LCA management inappropriately coerced workers to participate in educational programs outside of normal work hours and, in the case of the more than one hundred workers in the university program, to pay substantial tuition and related costs, amounting to a third of workers' income. The factory's deduction of these costs, directly from workers' pay, constituted an illegal deduction of wages, in contravention of provisions of Salvadoran labor law that prohibit such deductions.⁸ In many cases, the deductions pushed workers' wages for a given payroll period below the minimum wage (\$1.23 per hour), which also resulted in violations of the law concerning minimum wage.

Recommendations

In order to remedy violations outlined above, the WRC recommended that LCA take the following steps:

⁸ See, Labor Code of El Salvador, Articles 29 (section10), 127 and 134.

- Compensate workers in the university study program by reimbursing their monthly tuition cost and annual enrollment fee. Consistent with the statute of limitations referenced in the previous finding, the WRC advised League that this compensation must cover all fees and tuition paid by workers, from 180 days prior to the date on which the WRC conveyed its October 2018 statement of findings to League until the violations were halted.
- Adopt an explicit factory policy that participation in all education programs is voluntary, that it is not a condition of employment, that there will be no adverse consequences for those workers who choose not to participate or to end their current participation, and that there will be no favorable treatment for those who do choose to participate. The WRC recommended that the factory ensure that all managers and supervisors be informed that adherence to this policy is mandatory. Finally, the WRC recommended that LCA notify workers of the policy verbally, via a factory announcement, and in writing.

The WRC recognizes the beneficial nature of the educational programs for those workers who are willing and able to participate. The WRC encouraged LCA to continue to offer these to workers, but to ensure that participation is truly voluntary. The WRC advised League that, while the company has no obligation to subsidize the cost of the university program provided the program is made voluntary, it is clear from worker testimony that subsidies/scholarships would make it considerably more desirable and feasible for workers to participate.

Company Response

In response to the WRC's recommendations with regard to the required deductions for participation in the university study program, League informed the WRC that it would reimburse the cost of university tuition and fees to all university students for the period April 26 through January 31, 2018, an amount that the company reported as \$64,206. League agreed to work with the WRC to develop a communication to the workers informing them about the reason for the payments.

League further committed to undertake a "holistic assessment of the current University program" by hiring an outside consultant in order to determine "if it is financially feasible to offer and implement a University program that benefits our employees and offers them opportunities often not available to garment workers." The consultant hired by LCA for this purpose initiated this work in January 2019. The WRC was present at the first meeting between the consultant and the students, in which each student was interviewed about his or her experience with the university study program. The consultant informed the workers that he was conducting an analysis of the university program and its impact on workers and that they were not required to participate in any study program going forward. This process will serve to ensure workers that, going forward, the study program is truly voluntary.

The company committed to develop and adopt a factory policy stating that there will be no adverse consequences for workers who do not participate in the program or choose to end their participation in any of the educational programs and no favorable treatment for those who do participate.

League provided the WRC with a list of the students who received the payments and the amount received by each one as well as documents generated as a result of the process undertaken by the factory and the consultant to ensure that workers understand that continued participation in the university program is voluntary. The WRC will continue to monitor to ensure compliance with the company's commitments.

B. Religious Freedom

Findings

Workers interviewed by the WRC reported that the LCA facility required all employees to attend morning prayers at the start of each workday. According to workers interviewed, the workday began with prayers and a morning informational meeting led by factory management. While many of the workers interviewed did not express opposition to participation in morning prayers, some of the workers expressly stated that they did not wish to participate in morning prayers, but that they did so because they understood participation to be obligatory for all employees. For example, one of the workers interviewed by the WRC stated, "The factory holds morning prayers and other activities that it calls 'devotionals.' These activities are a requirement for the workers, even if we don't want to participate."

In response, representatives of League stated that LCA did hold prayers in the morning, but that it was not the factory's official policy to require worker participation in religious activities. However, worker testimony was clear that the production employees understood that they had to be present during the prayers. Indeed, all workers were required to be at the factory at 6:30 a.m. when the only activities that were taking place were prayers and reports from managers. Furthermore, the LCA Employee Manual informed workers of two objectives of a daily meeting held in the morning, one of which is "to offer to the Creator the work activities of the day." The manual states that the morning meetings are for all members of management, administration, and plant operations, "without exception."

League pointed out that workers were not specifically required to say the words of the prayers. The WRC notes this distinction, while also recognizing that the requirement to be present for management-run prayers is a violation regardless of whether people are required to pray audibly and that some workers clearly felt pressure to pray audibly, even in the absence of an explicit requirement.

Article 30 of the Salvadoran Labor Code prohibits the employer from discriminating against workers based on race, skin color, sex, religion, political opinion, or national origin. Notably, the LCA Employee Manual also states that no employee will be

subjected to workplace discrimination based on gender, race, religion, age, incapacity, sexual orientation, nationality, political or social opinion or ethnic origin. Making attendance at expressions of religious devotion a mandatory activity for employees constituted discrimination against those who did not wish to engage in such expressions in the workplace.

In response to the WRC's findings, League reported to the WRC on July 31, 2018, that it would work with LCA management to remedy the violation. It stated that it would educate senior management at LCA on the prohibition established by the Labor Code and would review organized activities at the factory in order to "separate business updates from any non-business related gatherings." League also stated that it would "continue to provide an opportunity for employees to meet as a group for religious observance or other reason." However, despite this commitment, workers interviewed by the WRC after July 31 reported that the factory continued with the practice of mandatory morning prayers.

Recommendations

In order to correct the violation of religious freedom, the WRC recommended that LCA:

- Adopt an explicit policy stating that any participation in religious activities by LCA employees, inside or outside the workplace, is voluntary and ensure that managers understand that adherence to this policy is mandatory. The WRC recommended that the factory inform workers of this policy verbally, via a factory announcement, and in writing.
- Discontinue management-led morning prayers. If there is going to be "opportunity for employees to meet as a group for religious observance or other reason" in the workplace, LCA should ensure that any such activity is not led by and does not include the participation of factory management. Since workers have understood that participation in religious activities at LCA is a requirement of their employment at the factory, any continued leadership or participation by managers in religious activity would convey the message that participation is still expected of workers.

Company Response

In response to the WRC's recommendations, League reported to the WRC that it would verbally inform employees, at a company-wide meeting held in November 2018, that effective immediately the morning prayers would be discontinued. League worked together with the WRC to prepare a written communication for workers explaining the reason for the discontinuation of the morning prayer in the most appropriate manner.

The WRC spoke with workers following the factory's commitment and confirmed that morning prayers were discontinued in November 2018. The WRC will continue monitoring to ensure that the factory upholds its commitment with regard to religious freedom.

C. Verbal Harassment and Abuse

Findings

Many of the workers interviewed by the WRC reported incidents of verbal harassment and abuse by LCA supervisors and managers, including managers at the highest level. The following are excerpts from worker interviews outlining examples of the harassment and abuse that occurred at the factory:

- “Sometimes they [managers] make comments during the morning meetings to humiliate workers in front of the group.”
- “The supervisor Delmy Solis is verbally abusive and uses insults when speaking with the workers . . . I suffer a lot of abuse from her. There was a time that she yelled at one of my co-workers during lunch that he should go and turn on his sewing machine. She shouted at him, ‘Go turn that shit on!’ and he yelled back at her and the managers sanctioned the worker but not the supervisor.”
- “There has always been a lot of verbal harassment and abuse. Rogelio is machista and a misogynist; he doesn’t like working with women. He has yelled at me many times and, since I have told him not to do that, he gets mad and finds ways to humiliate me.”
- “During one of the morning meetings, Rodrigo Bolaños yelled at a worker and fired her in front of all the employees calling her a ‘fucking money lender . . . unforgiveable for the company and before the eyes of God.’ The worker had helped one of the other workers to find someone to give her a street loan. The worker was unable to pay the loan back and told the management what had happened.”

The Salvadoran Labor Code states that employers have the obligation to “treat workers with due consideration, abstaining from mistreatment by deed or by word.”⁹ The LCA Employee Manual states, “All employees should be treated with respect and dignity. No employee should be subject to any type of physical, sexual, psychological, or verbal harassment or abuse.”

Recommendations

The WRC recommended that LCA ensure that managers and supervisors do not treat factory employees in an abusive manner. Effective remediation required LCA to communicate to all of its employees with a supervisory role, up to and including the general manager, that verbal abuse and harassment will not be tolerated – and properly discipline any managers or supervisors who engage in this behavior.

⁹ Id., Article 29.

In discussions with the WRC prior to receiving its findings, League stated that it would address the verbal harassment and abuse that was occurring in the factory by contracting with an outside party to provide harassment training. The WRC informed League that it supported this proposal and recommended that the company consult with the WRC in choosing the service provider and allow a representative of the WRC to be present at the time that the training is delivered to observe.

Company Response

In response to the WRC's findings and recommendations, League committed to speak with managers, informing them that this behavior would not be tolerated and that any new reports of such violations would result in disciplinary action.

League worked with the WRC to select an outside facilitator to conduct a two-day training, held on January 21-22, 2019, to educate supervisors and managers on company policy and the legal requirements with regard to verbal harassment and abuse. The WRC participated as an observer at this training.

The WRC will continue to monitor the conditions at League with regard to harassment and abuse and will report to factory management should instances of non-compliance be brought to our attention by workers.

D. Discrimination Against Workers Who Are Members of the LGBTQ Community

Findings

LCA workers interviewed by the WRC reported discriminatory treatment of workers who are members of the LGBTQ community. The workers reported incidents in which managers and supervisors openly expressed hostility toward LGBTQ employees. Workers also testified that, on at least two occasions, managers discriminatorily terminated LGBTQ employees.

Multiple workers reported to the WRC that, in February 2017, either five or six workers were fired on the same day and that two of these workers were openly gay or transgender. Workers interviewed provided the names of these two workers and the WRC has identified them on a list of terminated LCA employees provided to the WRC by League. Their termination date was February 1, 2017.

The workers interviewed reported that the two workers, who were assigned male at birth, had attended work dressed in feminine clothing and that one of the two workers wore cosmetics. Workers informed the WRC that, prior to the dismissals, they had heard supervisors refer to these two workers as "deviants" and state that they brought "bad luck" to the company. One of the workers interviewed by the WRC stated that a supervisor, Silvia Calles, told a group of workers she had had a "vision" and that the reason that the factory did not have more orders from customers was because these two workers were "the devil." Other workers interviewed by the WRC reported that, during

the management-led morning meeting that occurred the day after the dismissals, General Manager Rodrigo Bolaños informed the workforce that he was happy because he had made changes to the workforce the day before and that, as a result, “the company was going to prosper and be blessed with more work.”

Workers informed the WRC that all of the workers dismissed on the same day as these two workers were swiftly recalled to the factory – except for the two who are part of the LGBTQ community. One worker told her co-worker, who in turn gave testimony to the WRC, that the Human Resources manager, Sandra, recalled her to the factory two days after her dismissal and told her that she had not actually been fired, but rather had been given two days of leave. The WRC’s review of the list of dismissed workers provided by League showed that only three workers were recorded as having been officially dismissed on February 1, 2017, including the two LGBTQ workers. These facts corroborated workers’ assertions that the real purpose of the February 1 dismissal was to rid the factory of the two openly LGBTQ workers.

The WRC interviewed a third worker who reported that he was discriminatorily fired from the factory in 2015. This worker, who informed the WRC that he is openly gay, reported that two supervisors, Silvia and Olga, said to him on multiple occasions that they were prophets and that they had visions. According to the worker’s testimony, these supervisors stated that the visions informed them that the worker was “a deviant and was ruining the [production] modules.” The worker reported that, during his term of employment at LCA, he was frequently the subject of harassment from maintenance workers, including catcalls, whistling, and offensive comments. The worker described an altercation with two mechanics, following which all three workers were called to the human resources office. The worker reported to the WRC that, following this incident, he was informed by the human resources manager that he should avoid any further problems by going to the bathroom by himself so that he would not encounter people who would bother him. Factory management then arranged for the worker to meet with a psychologist, but the worker informed the WRC that he did not continue to attend sessions with the psychologist because he found her comments to be offensive and, in some instances, personally hurtful. For example, the psychologist reportedly told the worker that she thought he was doing everything possible to call attention to himself and that the only thing that he was lacking was “a blond wig, a purse, and some high heels.”

Salvadoran law prohibits discrimination based on sexual orientation and gender identity in the public sector.¹⁰ The LCA Employee Manual states that no employee will be subjected to workplace discrimination, “including hiring, salary, benefits, promotions, discipline, dismissal or retirement” based on gender, race, religion, age, incapacity, sexual orientation, nationality, political or social opinion, or ethnic origin. Furthermore, El Salvador has ratified an international convention that guarantees that, with regard to employment, the state shall not discriminate for “any kind of reasons related to . . . sex

¹⁰ Presidential Decree Number 56, “Dispositions to avoid all types of discrimination in Public Administration for reasons of gender identity and/or sexual orientation,” 2010, http://asp.salud.gob.sv/regulacion/pdf/decretos/acuerdo_56_discriminacion_sexual.pdf.

... or any social condition.”¹¹ Evidence shows that LCA management carried out discriminatory dismissals in violation of these standards and committed – and allowed non-managerial employees to commit – acts of harassment in violation of these standards.

Recommendations

In order to correct the violations of discrimination against LGBTQ workers, the WRC recommended that LCA:

- Make offers of reinstatement to the three workers who were identified in the WRC’s investigation as having been dismissed as a result of their perceived or actual sexual orientation and gender expression. For each worker who accepts reinstatement, the WRC recommended that LCA return them to their original positions, with no loss of seniority, and with full payment of back pay from the date of their dismissal to the date of their reinstatement. For any worker who does not accept reinstatement, the factory should provide back pay for all days between the dates of their dismissal and the date when the reinstatement offer is made.
- Hire an outside party to conduct trainings concerning discrimination and harassment based on sexual orientation and gender identity. The WRC recommended that LCA work with the WRC to identify the name of an individual or organization that would conduct the training and allow the WRC to be present for the training.
- Inform all supervisors and managers that discrimination, for any reason, would not be tolerated and the company would impose discipline, up to and including dismissal, on any supervisors or managers that engage in this behavior.

Company Response

In response to the WRC’s findings, League stated that it would commit to full remediation by offering payment of all back wages. League noted that the WRC had, in connection to other areas of non-compliance, referenced the statute of limitations concerning wage-related violations and associated claims for compensation but did not do so in the context of back pay for the LGBTQ workers. The WRC acknowledged the oversight and advised League that the statute did apply and that back pay was required from 180 days before the date, June 13, when the WRC informed League of evidence of discriminatory dismissals until each worker’s date of reinstatement (or the date on which the worker declines an offer of reinstatement). The WRC confirmed with two of the three workers that they received payment of back wages from the date of their dismissal to the date of payment. Each worker received a payment of approximately \$5,500 in back wages. The WRC will monitor to ensure that the third worker, who is currently living

¹¹ American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (“Protocol of San Salvador”), November 17, 1988, ratified by El Salvador in 1995, <http://www.oas.org/juridico/english/treaties/a-52.html>.

outside of El Salvador, receives payment of the back wages and that all three workers receive a second installment of back wages from the date of the last payment to the date on which they are made an offer of employment.

LCA reported to the WRC that it did not have immediate positions available for the workers who were fired, but committed to providing these workers right of first refusal for any position that becomes available at LCA within the workers' areas of competence.

LCA agreed to engage an outside party to provide training concerning harassment, including harassment on the basis of sexual orientation and gender identity, to be offered to managers and supervisors in conjunction with the training on harassment and abuse on January 21-22. As mentioned above, the WRC participated as an observer at these trainings.

The WRC will continue to monitor the company's compliance with its commitments by ensuring that no other employees are hired at LCA in the workers' areas of competence, until the three workers have the opportunity to return to work at the factory, should they choose to do so, and that the workers receive a second payment of back wages up to the day on which such an offer is made.

E. Occupational Health and Safety

Findings

In a limited review of occupational health and safety practices at LCA, the WRC identified one area of non-compliance. Most workers interviewed complained about what they regarded as excessive ambient temperatures inside the factory building. During its onsite inspection, the WRC measured temperatures between 30.1 degrees Celsius (86 degrees Fahrenheit) and 30.8 degrees Celsius (88 degrees Fahrenheit). The legal limit in El Salvador for temperature at a workplace where "moderate activity" is occurring is 28 degrees Celsius (82 degrees Fahrenheit).¹² Inspections by other authorities conducted prior to the WRC's visit, which were provided to the WRC by League, also recorded temperature readings above 28 degrees Celsius.

Workers did not raise other significant health and safety concerns and the WRC did not identify evidence of additional, significant violations in on our limited onsite review, which, we note, did not involve an assessment by a certified industrial hygienist or a by building safety engineers.

Recommendations

The WRC's overall impression of the factory's health and safety approach was positive; however, in view of the WRC's finding of ambient temperatures in excess of legal limits, and given LCA's commitment to be a leader in socially responsible garment production, the WRC recommended that League commission a top-to-bottom safety and health

¹² Salvadoran General Regulation for Risk Prevention in the Workplace, Article 142.

inspection, to be carried out by a certified industrial hygienist recommended by the WRC, and to commit to any appropriate corrective action recommended by the inspector(s) and share the results with the WRC. The WRC informed League that this was a recommendation, not a requirement to achieve compliance.

The WRC informed League that, should it comply with the recommendation outlined above, the violation of legal standards limiting ambient temperatures could be addressed through this process. However, if League did not choose to commission such an inspection, the WRC asked that League work with the WRC to identify corrective actions necessary to address the temperature violation.

Company Response

In response to the WRC's recommendations with regard to occupational health and safety, League informed the WRC that LCA would not commission the top-to-bottom safety and health inspection suggested by the WRC. The company *did* commit to work with the WRC to create a plan to address the issue of ambient temperatures above the legal limit. The WRC will update universities, in a subsequent report, as to whether measures taken have succeeded in keeping temperatures below the legal maximum.

IV. Conclusion

If they are fully implemented, the corrective actions to which League has committed are adequate to remedy all violations identified by the WRC and bring LCA into compliance with Salvadoran law and university codes of conduct.

Annex I: Additional Findings, Recommendations, and Company Response: Dismissal of Workers for Nonparticipation in Study Programs

Summary

Following the publication of the preceding report on March 8, 2019, the WRC received and investigated new complaints from workers alleging that, in 2018, they had been dismissed by LCA management, in retaliation for their declining to participate in educational programs organized by the company. While the WRC's initial investigation at the factory previously had identified *threats* of termination against employees for failure to participate in the factory's educational programs, it did not identify actual specific incidents of dismissal. However, the workers who filed this subsequent complaint alleged that they in fact had been dismissed as a result of their unwillingness to participate in company-sponsored educational programs.

Employing the same methodology utilized in the initial investigation at the factory, the WRC interviewed workers and members of LCA management, reviewed company records, and engaged with representatives of League to review the workers' allegations, reach findings of fact and law, and work with the company and employees toward constructive resolution of the issues that had been raised.

The WRC's investigation of the workers' claims that they had been fired as a result of their nonparticipation in educational programs found that, in March 2018, the company had, in fact, dismissed a group of 12 workers and that, in these case of several of these employees, the dismissals had been retaliatory. The WRC contacted League to share these findings and to propose remedial action.

League responded to the WRC by agreeing to remedy these violations. The WRC's findings and recommendations with regard to this subsequent investigation at the factory are summarized here, along with the remedial actions to which the company committed.

Findings

The WRC was contacted by a former employee of LCA who reported that he was fired in March 2018 and was told by the factory's management, at the time of his being discharged, that his dismissal was the result of his refusal to participate in an LCA-sponsored educational program. This worker informed the WRC that on a Friday afternoon, during the first week of March 2018, he and 11 to 14 other workers were called to a meeting with the factory's then-General Manager, Rodrigo Bolaños.

The worker testified that the manager, Bolaños, informed him and some of the other workers in this group that they had been selected for dismissal as a result of their unwillingness to participate in educational programs. According to the worker, Bolaños told these workers "it is not enough to just be an employee at the factory", that study was also required and that those who refused to do so were "taking this opportunity away from another worker who wants it."

The worker reported that Bolaños also told the group, “Go to Varsity or Decotex [other factories in the area], they will give you work and won’t demand very much from you”. According to the worker, Bolaños addressed him personally at one point, saying, “I told you that you should get involved with the [company’s educational] project, but since you don’t want to, you are out.”

After receiving the worker’s complaint that he had been unlawfully terminated, the WRC consulted records that LCA had already provided of prior dismissals of employees from the factory. These documents showed that the worker was terminated on March 4, 2018, (a Sunday) and that, on the same day, 11 other workers also were dismissed by LCA.

In order to obtain additional worker testimony concerning these dismissals, the WRC conducted outreach to contact other workers who were fired on the same day as the worker that filed the complaint. As a result of this outreach, the WRC was able to interview two other workers in this group concerning the circumstances of their dismissal.

One of these workers also testified that he was called to the March 2018 meeting where he was told he was being fired because of his unwillingness to participate in one of the factory’s study programs. This worker also recounted multiple previous comments made by Bolaños to him and other workers threatening retaliation against employees who did not participate. For example, the worker reported a general meeting at the factory in January 2018 where Bolaños informed all of the plant’s workers that studying was an obligation and that any employee who was not willing to study “was of no use to the company”.

This worker also informed the WRC that, because he previously had attended school through the ninth grade, the factory management expected him to study in the high school study program. The employee told the WRC, however, that he did not want to continue his school studies in the program, because the time commitment required would have prevented him from working overtime, which he needed to do in order to earn additional wages to support his family.

The other dismissed worker whom the WRC contacted testified that she also was fired on Friday, March 2 and that her dismissal occurred after she was called to a group meeting with Bolaños. This worker told the WRC that Bolaños informed the group that some of the workers in this group were being terminated “because they refused to follow his orders” with regard to participation in the study programs. The worker recalled that approximately 15 workers were present at the meeting.

This worker told the WRC that, unlike some of the other employees in the group who were terminated, she was, in fact, participating in the LCA high school education program at the time of her dismissal. She informed the WRC that when she was hired at the factory, in January 2018, the factory manager, Bolaños, had told her that she was being hired under the condition that she participate in the study program. The employee

agreed to participate in the program and had started taking classes after beginning work at the factory.

All three of the workers informed the WRC that they had received a letter of dismissal from LCA stating that they were terminated as part of a staff reduction and that they had been paid the terminal benefits required by law in the case of dismissal without cause.

Subsequent to speaking with these workers, the WRC also was able to interview two more employees in the group of 12 who were dismissed on March 4, 2018, both of whom had not participated in the factory's study program and had testified that they had been informed that they were being terminated on this account.

The WRC found that the testimony provided by these workers, along with the corroboratory evidence found in the company's records, established that at least some of the workers dismissed on March 4, 2018, were fired by LCA's management in retaliation for their nonparticipation in the factory's study programs.

As the WRC had concluded in our initial investigation at the factory, it was unlawful for LCA to make the study programs mandatory for employees, because this policy required them to spend additional hours, outside of work, carrying out activities at the employer's behest, without additional compensation. Since the company could not legally require the workers to participate in the programs as a condition of employment, nonparticipation in the program could not represent a lawful ground for their dismissal. The dismissal of these workers, therefore, violated Salvadoran law and, by extension, university labor codes of conduct.

Recommendations

In order to remedy this violation, the WRC recommended that LCA offer reinstatement and provide back wages to the 12 workers who were dismissed on March 4, 2018. For each worker who accepted reinstatement, the WRC recommended that LCA return the worker to his or her original position, with no loss of seniority.

The WRC recommended that the factory should provide back wages to all of the workers regardless of whether or not a worker accepted the offer of reinstatement. Consistent with the WRC's standard methodology for calculating statutory back pay claims, the WRC recommended that the factory apply El Salvador's statute of limitations for wage-related claims of six months in determining the back pay that was due.

Company Response

The WRC contacted League on July 2, 2019, to inform the company of these additional findings and recommendations. In response, League stated that it did not agree with the WRC's findings and asked the WRC to interview the factory's management with regard to the circumstances of these workers' dismissals.

The WRC agreed to the company's request and, on August 29, 2019, interviewed four members of LCA management. These managers stated that they were present at the time that the 12 workers were dismissed on March 4, 2018, and claimed, in general terms, that the workers had not been targeted for dismissal on account of their nonparticipation in educational programs.

The WRC found, however, that the managers' general testimony did not address the specific circumstances of the dismissals of the four workers who had testified that they had been terminated in retaliation for nonparticipation in the study program. The WRC communicated to LCA that the interviews with its management did not alter the WRC's findings with this regard to these workers' termination.

With respect to the fifth worker whom the WRC had interviewed, who had been participating in the company's study program at the time of her dismissal, the company provided convincing evidence to demonstrate that this employee was terminated for valid job-related reasons and not in relation to the study program.

League informed the WRC that it was willing to pay the back wages to all 12 workers and that it would make offers of reinstatement, as positions at the factory became available, to the four former employees who had conclusively established that their terminations were retaliatory. The company further reported that an additional two workers from the list of 12 had already been rehired by the company, after having been dismissed in March 2018 but prior to the WRC's investigation of the incident.

In January 2020, League confirmed that payments of back wages totaling more than \$23,000 had been made to the 12 workers. The company also reported that offers of reinstatement to the four workers would be made as soon as open positions became available at the factory. The WRC concluded that implementation of these remedial measures would adequately correct the violations of university standards that had occurred as a result of the March 2018 terminations.