



WORKER RIGHTS CONSORTIUM

**WORKER RIGHTS CONSORTIUM FACTORY
ASSESSMENT
GILDAN VILLANUEVA (HONDURAS)**

**FINDINGS, RECOMMENDATIONS AND COMPANY
RESPONSE**

August 4, 2015

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I. Introduction

This report details the findings and recommendations of the Worker Rights Consortium (WRC), and the response to date by Gildan, concerning labor practices at Gildan Villanueva, an apparel manufacturing facility in Honduras that is owned and operated by Gildan Activewear (“Gildan”), based in Montreal, Quebec, Canada. Gildan Villanueva is located in the Villanueva Industrial Park in Villanueva, Cortes, Honduras. At the time of the WRC’s onsite assessment, the factory reported employing a total of approximately 5,000 workers. Gildan Villanueva is a sewing facility that chiefly produces fleece sweat pants and sweat shirts. The factory is divided into five buildings, which are identified as: Buildings 6-1, 6-2, 6-3, 9-2, and 9-3.

Gildan Villanueva is disclosed as a supplier of goods procured by the City of Los Angeles by BUI, through its subcontractor, Staton. The City of Los Angeles’ Sweat-Free Ordinance (“the Ordinance”) requires that any factory supplying apparel to the City comply with the City’s Contractor Code of Conduct. In addition, Pro-Ad Sports, J America, and Cotton Gallery report that they source collegiate licensed apparel from this facility.

WRC staff conducted offsite interviews with Gildan Villanueva employees in March 2015. On April 30, May 1 and May 4, 2015, WRC staff performed an onsite inspection of the factory including a review of relevant company records.

As detailed in Section III of this report, the WRC’s assessment of Gildan Villanueva identified a number of violations of Honduran law. By extension, these also constitute violations of the Ordinance, which requires compliance with national law.¹ The company was found to be noncompliant with respect to these standards in the following areas: wages and hours of work, accommodations for pregnant and breastfeeding workers, verbal harassment, legally required benefits, freedom of association, and health and safety.

Gildan has already committed to take adequate remediative efforts in some areas; in several cases, Gildan has already begun to put these commitments into action. Gildan’s quick response to the freedom of association issues, in particular, is noteworthy. In other areas, Gildan’s initial proposal for remediation requires revision if it is to fully address the relevant violations.

Particularly regarding freedom of association and health and safety issues, Gildan has not only made positive commitments regarding remediation, but promptly began taking initial steps towards addressing the outstanding issues and developing a labor-management relationship based on mutual respect. As is further discussed below, workers at Gildan Villanueva have formed a union called Sitragavsa, affiliated to the Central General de Trabajadores (CGT) union federation. On May 27, Gildan held an initial

¹ Los Angeles Administrative Code, Division 10, Article 43.3.

meeting with the worker leaders of the union and their CGT advisors in which the parties discussed not only necessary remedial action, but also began discussing issues of concern to the workers, some of which are described in this report. The parties have subsequently met to continue discussing other points addressed in this report and have established a regular schedule for future meetings.

By moving quickly to address both freedom of association concerns and other issues, notably health and safety concerns, with the workers' representatives, Gildan has demonstrated a commitment to not only addressing the violations but establishing a new pattern of labor-management dialogue that has the potential to promptly identify and resolve future workplace issues.

II. Methodology

The WRC initiated its assessment of labor conditions at Gildan Villanueva in March 2015. As part of this assessment, the WRC conducted offsite interviews with 26 Gildan Villanueva employees concerning working conditions at the factory.

On April 30, May 1, and May 4, the WRC visited Gildan Villanueva to conduct a physical inspection of conditions at the factory, interview managerial and supervisory staff, and review documents, including payroll and records related to social security and health and safety. Finally, the WRC's assessment also involved a review of Honduran labor laws and regulations implicated by the conditions found at Gildan Villanueva.

III. Findings, Recommendations and Company Response

This section details the WRC's findings of noncompliance with the Ordinance. For each finding, the WRC provides recommendations for remedying the violation and ensuring compliance with the relevant standard going forward.

A. Wages and Hours of Work

1. Off-the-Clock Work

Findings

Gildan Villanueva structures its workforce in two shifts, each of which work four consecutive 11-hour days, for a total of 44 hours, followed by four consecutive days of rest, during which time the other shift is working at the factory. This schedule of four days on and four days off is known in Honduras as a "4 by 4" schedule.

The factory provides the workers with two 15-minute breaks during their work shift, one in the morning and one in the afternoon, and an unpaid lunch break of 30 minutes. During the visit to Gildan Villanueva, a supervisor interviewed by the WRC stated that the workers use their 15-minute breaks to visit the cafeteria in order to drink water or eat

fruit.

However, many of the workers interviewed reported that they work through their paid breaks and often work through part of their 30-minute unpaid break.

A number of workers interviewed by the WRC reported that they work through breaks in order to meet the production goals established by the company. One worker told the WRC that the “majority” of workers do not take their 15-minute paid breaks. Another worker said, “We choose not to take the breaks, just our lunch break, because there is a lot of pressure from the supervisors to produce and to meet the production goal. Some days we meet the goal but usually we don’t because the goal is so high—254 dozens per day. We are able to get to 212 dozens, which means that we get a free lunch coupon.” A third worker reported, “I almost never take the breaks because I want to keep working to meet the high production goals that we have.” Another worker said, “We don’t take the 15-minute breaks because if we take them we won’t meet the goal and sometimes, even if we give up our break, we don’t meet the goals because our sewing machine breaks and we can’t produce while we wait for it to be fixed.”

Article 322 of the Honduran Constitution states that regular working hours for employees assigned to a day shift should not exceed eight hours per day or 44 hours per week. Article 330 establishes that any hours beyond this amount will be compensated at an overtime rate calculated at 125% of the regular hourly wage. Because the regular work schedule that Gildan Villanueva requires of employees already includes 44 hours of work per week, the time that employees work off-the-clock during the 15-minute or lunch breaks must be paid at this premium rate.

Since these excess hours are not recorded, it is clear that this time is not taken into account in calculating workers’ compensation. This constitutes a violation of Honduran law and, thus, a violation of the Ordinance, which requires that suppliers “comply with all human and labor rights and labor obligations that are imposed by treaty or law” in the country where the goods are produced. Even where workers are provided with production-based bonuses, employers must ensure that workers are compensated no less than the legal minimum to which they are entitled based on all hours worked.

Initial Recommendations

To comply with Honduran law, Gildan Villanueva should ensure that it pays its employees for all of the time during which they are performing work. Because any time worked beyond the employees’ regular work shift exceeds the 44-hour regular workweek established by Honduran law, this additional time worked must be paid at the statutory premium rate for overtime of 125% of the regular wage.

Company Response

On May 27, Gildan reported that “employees’ salaries are calculated based on production

and not on hours worked.” Compensating workers based on production, rather than hours, is standard practice in the industry. This practice is acceptable under Honduran law and codes of conduct *as long as* workers receive at least the equivalent of the minimum wage, including any applicable overtime premiums, for each hour they work. If Gildan allows workers to perform work off-the-clock, and thus does not track the hours that are performed by each worker, the company cannot guarantee that workers are being compensated at the legally required level.

In addition, workers’ employment contracts state that they will work from 7:00 am to 6:30 pm, with a total of 30 minutes for lunch and 30 minutes in additional breaks. The contracts also state that workers will be compensated for 44 hours per four-day period, indicating that each day includes 11 hours of work, 30 minutes of paid break time, and 30 minutes of unpaid break time. Treating break time as work time contradicts the employment contract, which, according to Honduran law, governs the workers’ schedules.²

On July 2, Gildan reported to the WRC that, in its June 25 meeting with the union, it clarified that workers are not required to work during their break. The company agreed to make a statement to this effect to the workforce.

Current Recommendations

The steps taken by the company to communicate with the union on this issue represent positive progress in remedying the violation of off-the-clock work.

However, the WRC makes note that most workers who work during their break time are not doing so because it is explicitly required but rather because production goals are so high that they cannot be met by workers during the regular work shift. The WRC recommends that the company and the union work together to seek a mutually-acceptable solution to address this problem. The WRC will re-evaluate its recommendations in this area once such a solution has been agreed upon.

2. Mandatory Work Outside Contractual Work Hours

Findings

Twenty-one of the 26 workers interviewed for this assessment reported that Gildan Villanueva has required them either to (1) perform overtime or (2) work a night schedule that is different from their regular work shift.

During the WRC’s April-May visit to the factory, Human Resources Manager Laura Aguilar reported that all overtime is voluntary and presented the WRC with a log which workers are asked to sign to express their consent with working overtime. Aguilar also

² See, Labor Code, Article 319.

reported that day shift workers who temporarily work the night shift do so on a voluntary basis.

However, the company's claim that the workers willingly work the day shift and the contract's statement that work on the night shift is performed only with the worker's consent were contradicted by mutually corroborative testimony from multiple employees.

Specifically, employees provided the following testimony with regard to the mandatory nature of overtime work or night shift work:

- More than one third of the workers who were interviewed by the WRC stated that they believed that if they refused to work overtime or to work on the night shift, they risked being assigned to a production line that is designed to train employees and therefore carries no production bonus scale.
- Multiple employees stated that supervisors "get mad" at them when they refuse to work overtime or the altered shift and that they are intimidated by pressure from supervisors to perform the hours. If workers still refuse to work overtime, they reported, they are told to visit the human resources office or to meet with other members of management where they are pressured by management to work overtime. If the worker still refuses, their failure to work overtime can, sometimes, result in the worker receiving a disciplinary note.
- One worker reported that, in order to refuse to work overtime or to work the night shift, managers require the workers to present written proof as to the reason that they cannot perform the additional hours or altered shift. Written proof of many personal or familial evening commitments is impossible to obtain, and, in any case, requiring such proof is inconsistent with overtime being purely voluntary.

Both requiring workers to perform mandatory overtime hours and requiring day shift workers to work the night shift constitute violations of the law and, by extension, the Ordinance.

Honduran law states that a worker's regular schedule is that which has been agreed upon by the employer and the worker.³ For day shift workers at Gildan Villanueva, this is a 7:00 a.m. – 6:30 p.m. shift, as outlined in the employment contract. The law also states that the relationship between the employer and the employee is governed by the employment contract.⁴ The contract for day shift workers at Gildan Villanueva states that night shifts will only be worked if the worker agrees to do so. Requiring workers, under threat of various penalties, to work a schedule that is stated in the contract to be optional constitutes a violation of the contract and of Honduran law.

³ See, Labor Code, Article 319.

⁴ See, Labor Code, Article 21.

Requiring workers, under threat of various penalties, to work overtime is also a violation of international conventions ratified by the Honduran government. The International Labor Organization (ILO) Committee of Experts has stated that where employers press workers to perform overtime by threatening penalties or dismissal, this constitutes a violation of ILO Conventions 29 and 105, both of which have been ratified by Honduras.⁵ As noted above, the Ordinance requires that suppliers “comply with all human and labor rights and labor obligations that are imposed by treaty or law” in the country where the goods are produced, including ILO Conventions.

Given the consistency of workers’ testimony that they are required to work hours outside their contractual shifts, both overtime and night work, the WRC finds that Gildan has violated the Ordinance on this point. The WRC notes that while Gildan presented a log of signatures allegedly indicating that workers had agreed to perform overtime of their own free will, if these signatures are obtained under duress, as the workers testified, they are meaningless for this purpose.

Initial Recommendations

In order to remedy its prior violations of Honduran law’s prohibition on involuntary overtime and obligatory work on the night shift and ensure compliance going forward, Gildan Villanueva management should:

- Adopt, implement, and maintain a policy that, going forward, performance of overtime and temporary night shift assignments must be voluntary on the part of employees and that no employee shall be discriminated against or penalized in any way for declining to perform overtime.
- Remove from employees’ files and expunge from their disciplinary records any form of discipline applied because of an employee’s refusal to perform overtime or night shift work and inform employees in writing when this is done.
- Communicate, through a written and verbal announcement to employees, delivered during working hours and posted in the factory for no fewer than 30 days, that performance of overtime and night shift work is strictly voluntary and that no employee shall be disciplined or discriminated against in any way for refusal to work overtime or to work the night shift. These announcements should be coordinated with, and observed by, the WRC.

Company Response

Gildan reported on May 27 that company policy states that workers should not be penalized for refusing to work overtime and night shifts, and that workers are not

⁵ International Labor Organization, *General Survey concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105)*, 2007, §134. Honduras ratified Convention 29 on February 21, 1957, and Convention 105 on August 4, 1958.

required to present written evidence of their reasons for not accepting overtime or night shifts.

Gildan also stated that workers should not be given any disciplinary notes for refusing to work overtime or night shifts and, on July 2, reported that it had not been able to identify any such cases. Gildan committed to investigate any specific cases identified by the WRC and to remove disciplinary records from employee files if related to the failure to work overtime or night shifts.

In the last week of June and the first week of July, the company confirmed that, in the presence of union representatives, it had communicated to workers on both shifts regarding its policy that overtime and alternative shifts be voluntary. The president of the Sitragavsá union signed a letter affirming that this statement was made to workers in his presence.

Current Recommendations

This action represents significant progress towards compliance and if it is accompanied by a change in supervisors' day-to-day behavior, it will address this violation. The WRC will continue to monitor this situation.

3. Incomplete Information on Worker Paystubs

Findings

A review of paystubs, along with worker interviews, indicated that paystubs at Gildan Villanueva lack certain basic information. While this does not constitute a violation of Honduran law or the Ordinance, the WRC notes that it is not consistent with Gildan's commitments or with best practices in the industry.

First, workers' paystubs do not clearly name their employer. The failure of the company to include this information could create potential problems for the workers in accessing government benefits, providing employment history to a potential new employer, accessing credit or obtaining employment or severance information from the Ministry of Labor.

Second, workers' paystubs do not clearly explain the calculations behind their compensation, resulting in confusion among workers as to why they were paid a given amount. Workers at Gildan Villanueva are paid at a piece rate; the amount that they are paid per piece varies with the total amount that they have produced during the course of their four-day shift. The more pieces they produce, the higher the rate they are paid for each individual piece.⁶ While the paystub indicates the total number of pieces produced,

⁶ As part of its review of payroll documents, the WRC verified that, regardless of the worker's production level, the company ensures that she receives the minimum wage. If the piece rate does not generate a pay

and the total compensation received by the worker, workers report that they do not have adequate information as to what the thresholds or compensation bands are. In other words, workers know what they earned per piece, but don't know how much more they would need to produce to achieve a higher rate of compensation.

Workers reported to the WRC that while they understand that there exists a sliding scale per piece, they do not have clear information on the company's production scale and how many pieces they must produce in order to earn the different piece rates. More than half of the workers interviewed by the WRC said that they did not know how the piece rate was calculated. One worker stated, "If my production is low I know that I earn minimum wage but if my production increases I don't know how much I am making." Another worker told the WRC, "I don't understand how the calculation is made but I know that the rate is based on our production."

A third piece of information not provided to workers through paystubs or other means are regular summaries of their debt and repayment status with regard to a company loan program known as the "Plan 100." The Plan 100 provides loans from the company to the workers when requested; repayments for the loans are deducted from workers' weekly paycheck. While workers reported to the WRC that they are pleased to have access to this program, they expressed confusion and lack of information as to the total amount that they had repaid and to the amount that they still owed to the factory in order to repay the loan. One worker told the WRC, "I took a loan of 6,400 lempiras (approximately US\$291) in my first year of work, but I have no idea how much I have paid back. I just know that every week they take 25 lempiras (US\$1.14) out of my check." Another worker told the WRC, "I pay 25 lempiras every week toward my loan but I don't know how much I have paid total and how much I still owe. I understand that the company gives you that information when you are fired and then it deducts the difference from your severance. We think that they aren't deducting the amount that we pay each week."

The WRC's initial review of Honduran law indicates that the law is silent on the question of what information must be included on paystubs. Thus, the WRC does not find Gildan to be in violation of Honduran law or the Ordinance on this point. However, the WRC notes that Gildan's own Code of Conduct requires compliance with the Code of the Fair Labor Association (FLA).⁷ The FLA Workplace Code of Conduct and Compliance Benchmarks, in turn, require both that workers be regularly provided with pay statements that include wage calculations, and that, where sums are being voluntarily deducted from a worker's paycheck, "workers shall have access to regular and full information concerning the status of relevant accounts and the status and level of their payments thereto."⁸ The FLA Benchmarks go on to require that "employers shall make every

rate equivalent to the Honduran minimum wage, the company makes an adjustment to the worker's pay to ensure that she earns no less than the legal minimum.

⁷ See, Gildan Code of Ethics and Code of Conduct, July 2010, p 15,

http://www1.gildan.com/corporate/IR/popup/man_ethic_code_en.pdf.

⁸ Fair Labor Association Workplace Code of Conduct and Compliance Benchmarks, October 5, 2011, C.12-C.13, http://www.fairlabor.org/sites/default/files/fla_complete_code_and_benchmarks.pdf.

reasonable effort to ensure workers understand their compensation,” including the manner in which wages are calculated.⁹

Initial Recommendations

As Gildan Villanueva is not in violation of City standards on this point, the WRC will not make formal recommendations as to steps that must be taken in order to ensure compliance with the Ordinance. However, the WRC encourages Gildan to (1) include the employer’s name on all paystubs, (2) provide workers with information on the compensation rates that will be provided to workers depending on their production, for each product line, on a regular basis, either via postings at the work site or via their paystubs, and (3) provide workers participating in the Plan 100 program with written statements of the amount borrowed, amount repaid, and amount owed on a regular basis, either via workers’ paystubs or via separate documentation provided no less frequently than every three months.

Company Response

Gildan reported to the WRC on July 2 that it would include the employer’s name on paystubs and that it would evaluate the possibility of including the worker’s hire date on the same document. The company stated that the compensation rates are publicly posted in the factory, and in a June 25 meeting with the union, agreed that this adequately addressed the workers’ need to obtain information about the production rate of pay. Gildan also informed the WRC that, pursuant to an agreement made with the union during the June 25 meeting, it would provide a written statement to workers twice a year in order to inform workers of the status of their Plan 100 loan.

Current Recommendations

The WRC continues to encourage Gildan to provide information to workers in order to further explain the piece rate calculation, which could be provided in conjunction with the trainings on freedom of association recommended elsewhere in this document, either before or after the content on freedom of association.

4. Failure to Properly Compensate Workers During Furloughs

Findings

Many of the workers interviewed by the WRC reported that, when the factory shuts down temporarily for operational reasons, factory management requires workers to use vacation time during the day(s) that they do not work.

⁹ Ibid, C.17.

Workers reported that this has occurred multiple times in the past four years, specifically since Hector Garrido assumed the position of Plant Manager. Several workers cited a specific example, which occurred on March 4, 2015. Workers on the “A” shift reported that on the last day of the preceding four-day shift, February 27, 2015, Plant Manager Garrido announced over the loudspeaker that they would not work the first day of the next shift, Wednesday, March 4. Rather, they would return to work on March 5 for the remaining three days of their four-day shift. The manager informed the workers that this decision had been made because the company did not have all of the materials it needed in order to continue production. Furthermore, he informed the workers that this day would be treated as one of their vacation days, granted to them by Honduran labor law.¹⁰

Factory payroll documents reviewed by the WRC indicate that on March 4, all workers were paid, and were marked as having taken a day of personal leave. Personal leave in Honduran factories is generally unpaid leave that is requested by workers and granted at the factory’s discretion. Factory staff informed the WRC that there is no code for vacation days, as all workers are provided vacation days in December, a common practice in the region.

This practice is a violation of Honduran law and, by extension, the Ordinance. Article 95(2) of the Honduran Labor Code requires the employer to compensate its employees for any days that employees cannot work for reasons attributable to the employer, rather than the employee.¹¹ This obligation is in addition to the employer’s obligation under the law to provide workers with vacation days, which is stipulated in Article 345. It is not consistent with the law to require that workers use their vacation on a day when workers cannot work for production-related reasons; the law clearly states that workers should be compensated for these days by the employer without any cost to the worker, including loss of vacation days.

In addition, Article 350 of the Labor Code states that the workers are entitled to take the full vacation period without interruption (10-20 days depending on the individual worker’s length of service) and that the only exception to this is that, if there is an urgent need to do so, the employer may require the worker to return to work before the full vacation has been taken with the right to resume the remaining vacation days at a later date. Requiring that workers take one day at a time dictated by the employer, rather than allowing workers to take their full time in December as per usual practice, violates this clause of the law.

Furthermore, Article 348 states that the employer will inform the worker at least ten days in advance of a date in which s/he is entitled to take vacation. Even if it were otherwise

¹⁰ Labor Code of Honduras, Article 345, states that workers are entitled to annual vacations and Article 346 specifies the number of days that each worker is entitled to take as vacation, depending on the worker’s length of service.

¹¹ This clause is consistent with a general principle of the Labor Code, stated in Article 23, that the employee should “never assume the risks or losses of the employer.”

legitimate to treat furlough days as vacation days, in this case the company did not provide adequate notice.

Initial Recommendations

The WRC recommends that, in order to remedy the violations outlined in this section, Gildan should take the following actions:

- Return to the workers one day of their vacation in exchange for the day that was debited on March 4.
- Review the records for the period during which the factory has produced for the City of Angeles, and thus is subject to the terms of the Ordinance, and provide workers with additional vacation days for other days of vacation that were taken away from them during this period for the same reason.
- Refrain from requiring workers in the future to use their vacation on days when workers are furloughed for business reasons and, rather, compensate workers for those days as required by law.

Company Response

Gildan reports that the March 4 is the only occasion on which this type of situation occurred. The company confirmed that the one-day shutdown on March 4 was due to a lack of raw material. Gildan reports that “When shutdowns are caused by this type of events, which are not direct responsibility of the employer, minimum salary is commonly paid to employees in the industry. In this specific date, employees were given a vacation day and their payment was calculated using average production. If vacation day is returned, then facility would need to make a deduction of the difference between average and minimum salary.”

On July 2, Gildan informed the WRC that it had considered the recommendation and that it would provide an additional day of vacation to workers in December, paid at the minimum wage rate.

Gildan also pledges that, “in the future, if employees are furloughed for business reasons, the facility will make payments as legally required.”

Current Recommendations

If Gildan provides workers with an additional day of vacation paid at the minimum wage rate at the time of the workers’ December holiday, the company will have remedied the violation.

B. Verbal Harassment

Findings

Workers consistently reported that they are subject to verbal abuse by plant supervisors. In one worker's words, "the supervisors yell at the line operators, this is a normal practice."

Much of this abuse is related to pressure to meet performance targets. Another worker reported that verbal abuse of supervisors towards line operators "is a standard practice when we don't meet our production targets, or if we stop to try and adjust our chair because we are tired." A third worker reported, "Sometimes they are very rude to us. They don't like it when we don't meet our production goal. It is the end of our shift and we start to get up, and they get mad and tell us not to get up!"

Workers further report that their supervisors do not like it when they take time to go to the restroom or to get a drink of water, as this time also takes away from the time that the workers are working to meet production goals. A worker interviewed by the WRC gave the following testimony:

My supervisor yells at me when I ask for permission to go to the bathroom or to get a drink of water. She tells me that she is going to move the water dispenser next to my workstation or that she is going to bring me some disposable diapers just for me. This happens almost every time I ask her for permission to go to the bathroom or get a drink of water.

Abusive treatment of workers violates Article 95(6) of the Honduran Labor Code, and by extension, the Ordinance, which states that employers must treat their employees with due consideration, "abstaining from mistreatment by word or action and any other act that could affect their dignity."

Initial Recommendations

Gildan Villanueva should ensure that workers are not treated in an abusive manner by supervisors or managers. Management should communicate to supervisors that verbal abuse of workers will not be tolerated and should apply progressive discipline, up to and including termination, to supervisors who engage in such behavior.

Company Response

Gildan reported on May 27 that the verbal abuse reported by workers is a violation of its internal policies, and that the factory will retrain managers on this point. Gildan requested the names of specific supervisors implicated by worker testimony; the WRC will provide this information.

On July 2, 2015, the company reported that it was in the process of evaluating candidates to provide a training regarding harassment and abuse in the workplace, which would be one component of a broader training program that would include information on freedom of association. The first group of participants to receive the training, according to the company, will be middle managers.

Current Recommendations

Retraining, if properly implemented, will address this violation. The WRC will continue to monitor implementation of this process.

C. Legally Required Onsite Childcare

Findings

The WRC's onsite assessment of Gildan Villanueva confirmed that the factory does not provide a daycare center for the care of employees' young children during working hours. Honduran labor law requires that "any employer with more than twenty (20) female workers is required to provide a place for mothers to safely feed their children under three (3) years of age and where they can leave the children during working hours under the care of a suitable person who has been designated for this task and is paid for that purpose."¹² In addition, the country's Law of Equal Opportunities for Women states that:

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

As Gildan Villanueva employs approximately 5,000 workers, the majority of whom are women, and many of whom are mothers of young children, the company is violating both statutes, and by extension, the Ordinance, by failing to provide an onsite daycare center.

Initial Recommendations

In order to comply with Honduran law, Gildan Villanueva should provide safe and sanitary daycare facilities for the young children of its female workers, staffed by properly-trained individuals. The childcare center should be maintained in compliance with relevant Honduran legal standards and, as required under the Honduran Labor Code, should be certified by the Ministry of Labor.¹³

¹² Honduran Labor Code, Art. 142.

¹³ Ibid.

In making a specific recommendation, the WRC notes that, as part of a tripartite agreement signed in December 2014, garment industry representatives, the Honduran government, and worker representatives agreed to implement a pilot program of community daycare for the children of garment sector workers. Worker advocates have reported to the WRC that community daycare centers are preferable to workers, as opposed to daycare centers located on the factory premises, for reasons of proximity to home and safety. The pilot program that is currently underway is located in the city of Choloma, with commitments to expand to Villanueva and elsewhere in year two of the program.

This agreement neither negates Gildan Villanueva's obligation under the law nor provides a clear path for any given factory to come into legal compliance. Even in the cities with scheduled pilot programs, it is unclear how large these programs will be or whether they will benefit the workers at any given factory. However, it is a positive step given the current high level of noncompliance with the law. In light of this tripartite negotiation, the WRC recommends that Gildan Villanueva engage with the signatories of the tripartite agreement, or their local counterparts, to make a good-faith effort to ensure that, within the next 12 months, a mutually agreed upon pilot childcare center be established, or contracted with, to provide childcare for children of Gildan Villanueva workers.

Company Response

Gildan reported to the WRC that company representatives will participate in a meeting with local authorities, apparel brands sourcing from Honduras and local civil society organizations during the month of August in order to discuss the steps necessary to address the issue of childcare. The company reported to the WRC that it had shared this information with the union at a June 25 meeting.

Current Recommendations

The WRC appreciates Gildan's willingness to engage with the signatories of the tripartite agreement and other stakeholders in order to address the law requiring suitable childcare for its workers. The WRC recommends that Gildan continue to make a good-faith effort to establish, or identify and contract with, a childcare center to provide care for workers' children within 12 months.

D. Accommodations for Pregnant and Breastfeeding Workers

Findings

Honduras' Labor Code prohibits employers from requiring employees who are pregnant to perform strenuous work or to work at night on a shift of more than five hours. The law also requires more generally that work performed by all women should be adjusted according to their age, condition and physical state, and that night shift employees who

become pregnant must be permitted to transfer to a day shift for the duration of their pregnancies.¹⁴

Additional protections for pregnant workers are outlined in ILO Recommendation 95 on Maternity Protection (1952), which states that pregnant workers should be assigned to duties that will not prejudice the worker's health or the health of her child.¹⁵ While the ILO's recommendations are not legally binding, they serve as a guideline for best practices.

Gildan Villanueva management reported that workers whose pregnancies are deemed high-risk may work on the training line, where the work is theoretically lighter than regular production, and that worker will continue to earn the average piece rate that she earned on her regular production line.

Aside from this transfer to the training line in the case of a high-risk pregnancy, neither employees nor managers reported that the factory provides less-strenuous work assignments (i.e., "light duty") to protect the health of both the pregnant worker and her child.

Nineteen of the 26 Gildan Villanueva workers interviewed by the WRC reported that employees who become pregnant work under the same conditions as do non-pregnant employees, without receiving any special accommodation. One worker did report that she was given light duty during her pregnancy and given additional help in fulfilling her duties. Three of the workers stated that it was possible to be changed to an alternate position if the worker had special authorization from a physician, though one of them stated that this was only granted in the case of a high-risk pregnancy.

One worker interviewed by the WRC stated, "Pregnant workers beg to be changed to another position because they can't take the work any longer and they are told that this is not possible because there is no one to take their place." Two of the workers gave consistent testimony that the supervisors and managers made statements to the pregnant workers telling them "they are pregnant, not sick."

Another worker told the WRC, "There is no preferential treatment for pregnant workers; they work like all the other line operators. Two years ago I had to go to the clinic physician to request a change in my work station because I was seven months pregnant and my back hurt and my feet were swollen and I couldn't take it anymore."

¹⁴ Honduran Labor Code, Art. 147.

¹⁵ Recommendation 095, Article 5 on the "Protection of the Health of Employed Women During the Maternity Period" states in subparagraph (2) that "Employment of a woman on work prejudicial to her health or that of her child, as defined by the competent authority, should be prohibited during pregnancy and up to at least three months after confinement and longer if the woman is nursing her child." Subparagraph (3) states that "Work falling under the provisions of subparagraph (2) should include, in particular — (a) any hard labour involving — (i) heavy weight-lifting, pulling or pushing; or (ii) undue and unaccustomed physical strain, including prolonged standing; (b) work requiring special equilibrium; and (c) work with vibrating machines."

One worker reported to the WRC that pregnant workers are required to work the night shift during any period in which the team they are part of is moved to the night shift.

Gildan Villanueva's failure to routinely provide pregnant workers with special accommodations, and the factory's practice of requiring pregnant women to work the night shift violates both Honduran law and, by extension, the Ordinance, and best practices outlined by international standards.

Initial Recommendations

The WRC recommends that Gildan Villanueva adopt, implement, and maintain a policy that, going forward, (1) all pregnant women be provided with the option of light duty assignments and (2) all pregnant women be allowed to work the day shift, rather than the night shift.

Company Response

In its response dated May 27, Gildan reiterated management's statement that factory policy allows pregnant workers to shift to the training area, as a form of light duty, while continuing to receive compensation at their regular rate. Gildan also stated that the company has a strict policy preventing pregnant workers from working night shifts.

As evidence of this policy, Gildan presented a sample email from the plant physician stating that a certain worker's pregnancy is high-risk, and that she should be transferred to a work assignment allowing her to work from a seated position.

The worker testimony noted above and the letter from the plant physician suggest that while official factory policy may be to allow all pregnant women to shift to light duty, common practice is for workers to be offered this alternative only if their pregnancy is identified as high-risk.

Current Recommendations

Given that Gildan reports that current policy allows any pregnant woman to shift to the training area as a form of light duty, the WRC recommends that Gildan (1) reinforce this policy with all supervisors and (2) explain this policy to the entire workforce at the same time as the clarification regarding voluntary overtime and alternate shifts.

E. Freedom of Association

1. Remediation of 2013 Terminations

Findings

Last December, the WRC issued a report regarding a number of workers that were terminated in 2013 in retaliation for participating in an informal group that was meeting to discuss workplace issues and contacting the Centro de Derechos de Mujeres (CDM) to seek guidance on these issues.¹⁶ At the time the report was released, most of the workers who could be contacted had received an offer to return to work at the plant and had received partial back pay for their time off the job. Several workers' cases, however, remained outstanding at the time that the December report was released.

In the course of its investigation and engagement with Gildan on behalf of the City of Los Angeles, the WRC has revisited these remaining cases. The company has pledged to take specific steps with regards to the cases of three workers, and to revisit the compensation provided to a fourth worker. Once these steps are completed, the WRC will consider these violations remedied.

The primary outstanding issues concern three workers who have not yet been offered the opportunity to return to the factory. One of these workers was added to the rehire list belatedly as her name had been misstated in the initial list provided by the CDM. The WRC provided this worker's information to Gildan in December 2014. Gildan has committed to rehire this worker and provide her with compensation based on the same formula as the other workers.

The two additional workers who had been on the original list provided by CDM, but had not yet received offers to return to the factory, agreed that the CGT would represent them in a discussion with Gildan regarding their cases. As both workers informed the CGT that they no longer wished to return to the factory, the CGT and Gildan agreed that the workers would receive back pay dating back to the date agreed upon for all the workers in the group, October 8.

In addition, Gildan has committed to review, with the CGT, a dispute regarding the compensation provided to one of the workers who had already returned to work.

These steps, if carried out properly, will remedy the violations in this area.

¹⁶ "Worker Rights Consortium Assessment, Gildan Villanueva (Honduras): Findings, Recommendations, and Status," December 23, 2014, <http://www.workersrights.org/Reports/WRC%20Assessment%20re%20Gildan%20Villanueva%20%28Honduras%29%20-%202012.23.14.pdf>.

2. Additional Retaliatory Terminations and Coerced Resignations (March 2015)

Findings

Evidence of Anti-Union Animus

Workers reported several incidents in March-April 2015 that indicated that the factory maintained, during this period, a hostile attitude towards workers involved in an effort to discuss workplace issues, seek advice on workplace issues (whether from CDM or a union), and pursue unionization. As noted above, during this period workers were pursuing the formation of a factory-level union named Sitragavsa, affiliated to the CGT union federation. The workers have now registered this union with the Honduran Ministry of Labor.

One of the workers reinstated pursuant to Gildan's partial remediation of the 2013 terminations reported that, on March 20, he was called into a closed-door meeting with the Production Manager, Eduardo Flores. He reports that the Production Manager told him that, "things are happening ... there are people outside that are doing things and I don't know what their objective is." Flores went on to question him, asking, "What are you doing or what have you done? Why were you fired the first time?"

The same worker reports that on April 29, Human Resources Manager Laura Aguilar again raised these issues with him. The worker reported that he was called into Aguilar's office as a result of having taken an extra 15 minute break due to health reasons. The worker reported that, after asking the worker to sign a disciplinary note, she said, "The workers are worried and they are telling me that there are people who are having a negative influence on other workers. People who are close to you have told me this. There are rumors in the plant. It's not just those who are on the production floor who are going to be left with no work, it will be you and me and everyone. We should trust one another. Tell me that I can trust you. These huge companies are here today and tomorrow they are gone. This happens when people start to ask for a lot of things."

The worker reported to the WRC that he responded to Aguilar that he didn't know what she was talking about, and asked her to clarify. Aguilar then said, "You and I know what we are talking about. On the factory floor you are a bad influence on people. If the company closes, all of these people will be left without work. It's no problem for Gildan to leave here." Aguilar then specifically referenced the worker's organizing activities as something that could endanger the factory's survival, saying, "there are a lot of people who are worried about the rumors that you are organizing and outside the factory there are people who are acting in bad faith and they are just after money. All they want to do is take advantage of people. You might have a good heart but remember we are living in a corrupt country where the only thing that matters is money. All of the companies that used to work here [in Honduras] have moved to Nicaragua because they know how to treat the factory owners there."

Other workers involved in the formation of the CGT-affiliated union report similar statements by the company. The workers report that they experienced difficulty obtaining *constancias*, formal documents indicating their employment at the factory, from factory management. The workers required these documents to register their union with the Ministry of Labor. The workers initially requested these documents without stating that they wished to form a union, but the company did not promptly provide them. On April 29, one worker provided Aguilar with a list of workers requesting *constancias*, and informed Aguilar that they were requesting these *constancias* for purposes of submitting a union registration with the Ministry. That same afternoon, the workers on this list were called into a meeting with Aguilar and Garrido. The workers report that Garrido asked them why they were forming a union, and told them that other factories have closed as a result of unionization. They report that Aguilar reiterated that the factory could close if the workers further pursued unionization. Factory management did provide the requested *constancias*.

Terminations

The WRC has investigated a series of terminations that took place March 19-30, 2015.

Gildan noted to the WRC on April 8 that the company had initiated a policy in multiple factories, effective March 1, by which workers could take voluntary resignation with payment of full severance. Gildan also reported that, between March 20 and April 8, the company had reduced the workforce by 90 people due to production issues. Information provided by factory management during the WRC site visit on April 30, May 1, and May 4 indicated that, in total, 150 employees left the company between January 1 and May 4, 2015. Multiple workers provided mutually consistent testimony that, at Gildan Villanueva, the new policy regarding voluntary resignation was announced to one shift on March 19 and to the other shift on March 20. Workers also reported that the company informed them during this announcement that workers wishing to take advantage of the policy had to make the request to resign 30 days in advance of the date that they would leave the factory.

Mutually consistent testimony from multiple workers indicates that, on the same days that the new policy was announced, management began calling in certain workers for dismissal. The WRC is concerned with the cases of 14 workers who were dismissed or pressed to resign during this period who either (1) attended a meeting on March 16 between workers and representatives of the CGT union federation and/or (2) were family members of workers who had previously been terminated in retaliation for associational activities and subsequently rehired following Gildan's partial remediation of the violations documented by the WRC.

All 14 of these workers were told that they were terminated, but were then asked to sign a letter of resignation. A number of these workers reported to the WRC that they asked management why they needed to sign a resignation letter since they were being dismissed. Some workers were told that they would receive additional money if they

resigned; others were told that they would not be given the basic legally required severance pay if they refused to resign and insisted on being dismissed. Some workers reported being told by management that a “resignation” was preferable to dismissal so that the worker could maintain a clean personnel record enabling her to more easily apply for other jobs in the future. All of the workers interviewed were told that, if they wrote a letter of resignation, they would receive both their legally required severance pay and an additional sum, ranging in value from 7,000 to 10,000 lempiras (US\$318–\$454). Factory management provided all of the workers with a blank piece of paper and dictated to each of the workers text indicating that they were choosing to leave the factory of their own free will. All of the relevant workers interviewed by the WRC agreed to write the resignation letter.

These workers were not told specifically why they had been selected for termination; however, in several cases, workers who had attended the CGT meeting asked why they were being terminated, and were told, “You know what you did.”

The meeting on March 16, which involved 26 workers, was one of a series of meetings that ultimately led to the formal establishment of an independent trade union at Gildan Villanueva on April 11. Six workers who attended this meeting were dismissed or pressed to resign.

Of the remaining eight terminated workers, seven were cousins of a particular worker who was rehired as part of Gildan’s remediation of the 2013 terminations. (Two of the workers who participated in the meeting were also cousins of this worker.) Most share his surname. The final worker is the wife of another of the rehired workers. The worker whose cousins were terminated has provided testimony that he has been repeatedly called in by management to be questioned about his involvement in unionization efforts, and that management referred to him as a “bad influence” on other workers.

During the site visit, the WRC spoke with two managers, Human Resources Manager Laura Aguilar and Plant Manager Hector Garrido, regarding the terminations. When asked whether workers had been terminated during this period, Aguilar stated that layoffs had focused on workers producing a specific type of pant and that some workers had been terminated for disciplinary reasons. Garrido also stated that specific lines had been targeted for dismissals, and stated that workers were selected for termination based on their abilities.

During the site visit, the WRC reviewed records related to these 14 workers. These records indicated that the workers were not concentrated on any particular production line and that a significant number were producing hooded sweatshirts, so would not have been impacted by terminations related to a decrease in the production of pants. The workers’ personnel files did not indicate any disciplinary issues in 2014 or 2015 for any of these 14 workers.

The WRC also notes that many of these workers' files contained statements, ostensibly by the workers, of the reasons for their resignation, which did not appear to have been filled out by the workers themselves, as the handwriting did not match documents filled out by the worker in question. Each of these stated that the worker was choosing to resign because s/he preferred to work either in agriculture or as a domestic worker.

Analysis

Based on a review of this evidence, the WRC finds that the termination, or coerced resignation, of these 14 workers was in retaliation for their associational activities or their connection to workers engaged in organizing. While these terminations appear to have been part of an overall reduction in the workforce conducted for operational reasons, the WRC finds that these specific workers were singled out for termination, or coerced resignation, based on their involvement in efforts to form a CGT-affiliated union or their familial relationship to the rehired workers.

Termination of Workers Who Attended March 16 Meeting

Regarding the workers who attended the March 16 meeting, the WRC's findings are based on a number of factors. First is a statistical analysis. According to Gildan, 150 workers, or 3% of the workforce, were dismissed between January and early May 2015. Ninety workers, or 1.8% of the workforce, were dismissed between March 20 and April 8. Among workers who participated in the March 16 meeting with the CGT, however, the rate of terminations was 23%. In other words, a worker who participated in this meeting was more than seven times more likely to be terminated than an average worker at the factory.

Second, comments made by high-level managers, as described above, have continued to indicate that the factory is hostile to workers' efforts to organize. One of the incidents in which a worker was called in and interrogated as to the worker's involvement in unionization took place on March 20, the same day on which these workers were terminated.

Third, the two factory managers interviewed by the WRC provided explanations for the terminations which were contradictory to each other and were not supported by documentary evidence. While both factory managers indicated that certain production areas had been targeted for reduction, one stated that workers had been dismissed based on disciplinary issues, while the other reported that workers had been selected for dismissal based on productivity. The fact that these statements contradict each other leads the WRC to doubt their credibility. In addition, the 14 workers were not concentrated on any single production line, and their personnel records indicate that they did not have recent disciplinary charges in their records. Thus, it is not plausible that these workers were coincidentally all impacted by a layoff targeting particular lines, or that they were terminated based on disciplinary infractions.

Fourth, the timing is highly suggestive. The six workers in question were all terminated, or coerced into resigning, on the same day, March 20, only four days after the union meeting.

Based on these considerations, the WRC finds that the workers were terminated because of their union activity.

Termination of Family Members of Rehired Workers

The WRC also finds that the eight family members of the two rehired workers who did not participate in the March 16 meeting were dismissed, or pressed to resign, in retaliation for the rehired workers' exercise of their associational rights. As noted above, seven of these workers were cousins of one worker who has been particularly singled out by management. The worker reports that he has been called in at least twice, including once during the period that these terminations took place, by high-level plant managers who interrogated him about his associational activities. It is extremely unlikely that so many members of one family, and a family member of another rehired worker, would have coincidentally been terminated in an 11-day period, and during layoffs that impacted such a small portion of the factory. This evidence is particularly compelling in the context of the pattern of other retaliatory terminations in 2013 and March 2015.

Termination of family members of workers suspected to be involved in union activity is not an uncommon form of retaliation. Last month, the WRC released a report on another factory in the same city that had also engaged in this form of retaliation in March 2015.¹⁷

Conclusions

Termination of workers in retaliation for associational activity is a violation of Honduran law, international conventions ratified by Honduras, and the Ordinance. Article 78 of the Constitution of Honduras and Article 469 of the Honduran Labor Code protect the right to freedom of association. Furthermore, workers are protected from retaliation against their associational activities by Conventions 87 and 98 of the International Labor Organization (ILO), both of which have been ratified by Honduras. The International Labor Organization Committee on Freedom of Association, the highest international body charged with interpreting workers' associational rights, has specifically addressed this type of situation, in which an employer uses business-related layoffs as a pretext to discriminate against workers connected to a union. The Committee specifically states that "acts of anti-trade union discrimination should not be authorized under the pretext of

¹⁷ Worker Rights Consortium Assessment re Petralax (Honduras): Findings, Recommendations And Status," April 20, 2015, <http://www.workersrights.org/Freports/WRC%20Assessment%20re%20Petralax%20%28Honduras%29%204.20.15.pdf>.

dismissals based on economic necessity,” and that “the application of staff reduction programmes must not be used to carry out acts of anti-union discrimination.”¹⁸

The City’s Ordinance requires that suppliers “comply with all applicable... legal guarantees of freedom of association” and “comply with all human and labor rights and labor obligations that are imposed by treaty or law” in the country where the goods are produced. The right of freedom of association is also protected by university codes of conduct.¹⁹

Given this, these terminations constitute violations of the Ordinance.

Initial Recommendations

The WRC recommended that Gildan take the following actions:

- 1) Offer immediate reinstatement to the 14 workers terminated in March 2015 who either (a) had participated in the March 16 meeting with the CGT or (b) were relatives of workers reinstated as part of Gildan’s remediation efforts. Workers who accept reinstatement must be reinstated immediately to their original positions, with no loss of seniority.
- 2) Provide full back pay to all 14 of these workers, regardless of whether they accept the offer of reinstatement. This back pay should cover the period from the date of dismissal to the date of reinstatement or, if they choose not to return, the date on which the offer is made. Back pay should be calculated based on each worker’s average weekly earnings over the 12 weeks prior to his or her dismissal (exclusive of any days of unpaid vacation), including all bonuses (including the April educational bonus), incentives and overtime pay. Workers must not be required to return any severance or other terminal compensation they have received.
- 3) Issue a written statement, to be crafted in consultation with, and subject to the approval of, the CGT-affiliated union and the WRC stating the following: i) workers at Gildan Villanueva have the right to join a union of their choosing; ii) management will in no way interfere with this choice nor take any adverse action of any kind against any worker who makes this choice; iii) any manager, supervisor, or security guard who attempts in any way to coerce or threaten any worker because of his choice to unionize will be fired and will not be employed in the future by Gildan Villanueva. Every line and/or department supervisor should read this statement aloud to the employees under his or her direct supervision and a typed copy of the statement, on factory letterhead, should be provided to every

¹⁸ Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO ¶¶795-796 (ILO: 5th (rev.) ed., 2006).

¹⁹ The Collegiate Licensing Company, for example, in its *Special Agreement Regarding Labor Codes of Conduct*, states that the “Licensee shall recognize and respect the right of employees to freedom of association and collective bargaining.”

- employee. WRC monitors should be allowed into the factory to observe these proceedings.
- 4) Swiftly negotiate a written agreement with the CGT-affiliated union that includes (1) a schedule for weekly meetings during which members of the CGT-affiliated union and their representatives will meet with decision-making members of the factory's management in order to address and remedy workplace concerns, (2) the development of procedures, jointly agreed upon by the union and management, by which worker representatives may bring grievances to factory management, and (3) terms under which CGT representatives may gain regular access to the factory to meet with workers during breaks and other non-work times.
 - 5) Contract with an independent organization, which should be agreed upon by the union and its representatives and the WRC, to provide managers and supervisors with training on compliance with freedom of association, as outlined by Honduran law, international standards and university codes of conduct. Informational sessions should be offered by the same organization for all workers, in groups of no more than 100 workers and without the presence of management, so that the workers can be made aware of their rights under these standards and have the opportunity to ask questions.
 - 6) Appropriately discipline supervisors and managers who have violated workers' associational rights.

Company Response

Gildan has responded to these findings promptly, not only by making commitments but by quickly taking action. Gildan arranged a meeting with Sitragavsa and the CGT that took place on May 27. Gildan was represented by the Plant Manager, a representative of the company's international staff, and other high-level plant staff. This meeting not only provided a venue to address a number of the WRC's recommendations, both regarding freedom of association and on other points, but also demonstrated a commitment to build a positive relationship with the newly formed union.

Gildan has made the following commitments regarding remediation.

- *Making terminated workers whole:* Gildan committed to offer reinstatement both to the 14 workers discussed in this report and three additional workers subsequently identified by the union. The union and the company met to negotiate the terms of the return and Gildan reported on July 2 that 13 of the aforementioned workers had agreed to return to their former positions and were reinstated by June 21. The union and the company confirmed that they were unable to reach the remaining four workers. Gildan committed to the WRC that

all 13 workers would receive back pay for the time off the job, and that payments would be made no later than July 7, 2015.²⁰

- *Freedom of Association Statement and Training:* Gildan is working with the union to implement these steps. The company committed to communicate to supervisors that the union had been formed and that the company would be engaging with that union in a spirit of respect. A freedom of association statement, the language of which was approved by the union, was shared with workers on both work shifts in the last week of June and the first week of July 2015. The union president confirmed that, per the agreement with the company, union leadership was present when the statement was shared with the workforce. The company is evaluating candidates for a trainer to provide information to workers on freedom of association, together with training on harassment and abuse as discussed in a previous section.
- *Labor-Management Dialogue and Agreement:* The WRC notes that, as part of the initial meeting, the parties reached agreement, in many cases memorialized in meeting minutes signed by both parties, on a number of issues primarily related to health and safety. Gildan reported to the WRC on July 2 that it had agreed upon a grievance procedure and access agreement with the CGT, and, as noted above, had begun meeting with the union to discuss workplace issues.
- *Disciplining Supervisors and Managers:* Gildan has committed to review the cases of particular supervisors and managers identified by the WRC as violating the Ordinance.

Current Recommendations

If implemented, these steps will fully remedy the violations. Indeed, by moving quickly to establish a new labor-management dialogue, Gildan has taken the first steps on a path of engaging with this newly-formed union in a way that has potential to prevent or quickly address future issues that go beyond freedom of association.

²⁰ As noted above, these workers received both severance payment based on the legal formula and also an additional sum at the time that they were terminated or pressed to resign. The key criterion for full remediation in cases of retaliatory termination is that workers be made whole, i.e., that they not suffer a loss due to the illegitimate termination. While this generally involves reinstatement in which workers preserve their initial hire date, in this case the union and Gildan have expressed a shared preference that workers' severance entitlements be "reset" and workers have a new hire date. In this case, the modest losses that workers would experience due to the change in official hire date (e.g., in severance and vacation accrual) is offset by the financial resolution, since workers not only received severance and will be made whole for the time they were off the job, but also received an additional payment in March.

F. Health and Safety

1. Excessive Heat Levels

Findings

Honduran occupational safety and health regulations state that environmental conditions in the workplace should not create discomfort for employees and that high temperatures and extreme humidity should be avoided.²¹ Interviews with Gildan Villanueva workers indicated that the factory is failing to comply with this standard as temperatures in the plant are excessively hot.

Government safety and health regulations require employers to evaluate thermal stress caused by heat and other factors in the workplace by conducting a Wet Bulb Globe Temperature analysis,²² and to maintain an ambient temperature between 14° and 25° Celsius (57.2° - 77° Fahrenheit).²³

All but one of the workers interviewed named the extreme heat in the plant as a serious problem, especially during the middle of the day. The workers described the conditions at the plant as “extremely hot” and “unbearable” and at least two workers said, “We feel like we are drowning in heat.” Another worker reported, “We sweat so much that some line operators go to the bathroom and wring out their shirts.”

Workers reported to the WRC that the excessive temperatures in the factory led to multiple health problems including: skin irritations, allergies, fainting, nausea, headaches, and elevated blood pressure. One worker commented that the health effects are most serious for pregnant workers.

The WRC took temperature measurements during its site visit that confirmed a temperature above the legal limit. The measurement for the factory floor was between 27° and 28° Celsius (80.6° - 82.4° Fahrenheit). The WRC representative reported that the temperature outside was cooler than average during these days and that the air conditioning was turned on during the days of the visit. Despite this, the temperature surpassed the legal limit. Furthermore, in the factory cafeteria’s kitchen, the temperature was measured at 39.3° Celsius (102.7° Fahrenheit), nearly 15° above the legal limit.

The WRC found no thermometers in the building accessible to workers. While the air conditioning may have been turned on during the WRC’s visit, multiple workers reported that the air conditioning is not consistently turned on and this is when the heat is most insufferable. One worker told the WRC prior to the WRC’s visit to the factory, “It is very hot and they only turn on the air conditioning when there are visitors.”

²¹ Honduran Regulation of the Preventative Measures of Workplace Accidents and Work-Related Illness, Executive Agreement Number STSS-053-04, Article 339, October 19, 2004.

²² *Id.*, Art. 338.

²³ *Id.*, Art. 339

When the WRC asked Gildan Villanueva management whether it had measured the temperatures in the plant, the company stated that it did not have thermometers on the factory floor but that the factory has undertaken studies of the ambient temperature.

Given the consistent testimony of a large percentage of the workers interviewed, and the measurements taken during the site visit, the WRC finds the factory to be in violation of Honduran law and, by extension, the Ordinance.

Initial Recommendations

The WRC recommends that Gildan Villanueva conduct periodic monitoring of temperatures and humidity in work areas and install the necessary engineering and administrative controls to prevent heat stress and ensure worker comfort. Thermometers should be installed throughout the plant so that supervisors and employees can monitor temperatures in their work areas and report excessive heat levels to the factory management for corrective action. If, in fact, the air conditioning system is not being operated at all times, this should be corrected; the air conditioning should be operated during all working hours unless the temperature is clearly below the legally required limit.

Company Response

Gildan reports that the firm operating the industrial park purchased new air conditioning units in May 2015, and that these will be installed in August 2015 to replace the current units. The company states that the air conditioning is kept on at all times when the facility is operating. Gildan also reports that the high temperatures in the kitchen were due to a non-functional heat extractor, which has been replaced. On July 2, the factory reported to the WRC that thermometers were installed at the plant.

Current Recommendations

These steps address the violations. The WRC will verify implementation.

2. Inadequate Staffing of Factory Clinic

Findings

Gildan Villanueva participates in a program of the Honduran Social Security Institute (IHSS), the branch of the government that provides healthcare for all Honduran workers, known as the “Company Physician System.” This program allows the company to hire an in-house physician or physicians to attend to workers’ health problems. This is often preferable from the company’s perspective, as it means that workers miss less work time when they need to see a doctor. These doctors can provide prescriptions and referrals that can be fulfilled in the IHSS system.

The Honduran regulation governing the Company Physician System states that the factory clinic should “offer medical attention and healthcare to workers in a timely, integrated, and efficient manner.”²⁴ The regulation does not require any specific ratio of health care practitioners to employees.

Gildan manager Aguilar reported to the WRC that the factory’s five buildings house a total of two clinics, one located in Plant 6.3 and the other located in Plant 9.2, and that each clinic has two physicians working in it each day. Two of the physicians reported that each physician is able to see a total of approximately 20-25 patients every day. When a patient needs to see the doctor, he or she reports to the clinic and leaves his or her name; the worker then returns to the production floor and is called back to the clinic when it is his or her turn to be seen.

Multiple workers report that each doctor treats fewer workers per day than the doctors suggested. Workers report that there are sign-up sheets posted at each clinic, and that the sign-up sheets have 10-15 slots per doctor per day. Workers interviewed by the WRC reported that the clinic was not able to provide timely care to all workers who required it. Workers reported that, “If you don’t have a fever, then the doctor won’t see you. That’s how it is every day,” and that, “there is never enough space to be seen.” One worker said, “I wish that we could have better medical attention at the clinic and that they would consider our health to be important. They only treat a few patients every day.”

Worker testimony indicates that Gildan Villanueva is not fulfilling the legal requirement that it offer care to workers in a timely fashion, a violation of the Ordinance.

Initial Recommendations

The WRC recommends that Gildan ensure that the factory employs sufficient doctors to provide care to all workers who require it.

Company Response

Gildan committed on May 27 to “quantify the amount of employees seen per day per doctor and will make adjustments, if necessary, to increase their capacity to assist more employees.” In addition, the minutes of a labor-management meeting held the same day indicate that the issue of medical staffing has also been raised as a topic for discussion between the union and management. On July 2, the company reported that it had added additional medical personnel on weekends and physicians are now scheduled in order to see 20-25 patients per day, for a total of 80-100 patients total.

Current Recommendations

²⁴ Company Physician System Regulation, Agreement Number 09-JD-90, November 9, 1990, <http://www.ihss.hn/transparencia/regulacion/reglamentos/Documents/11.-%20REGLAMENTO%20DEL%20SISTEMA%20MEDICO%20DE%20EMPRESA.pdf>.

If properly implemented, this will address the violation. The WRC will review Gildan's progress on this point to assess progress.

3. Unhygienic, Poorly Maintained Restrooms

Findings

Honduran law states that employers must provide toilets with running water, toilet paper, and adequate waste disposal and that toilets and urinals must be maintained in a clean and sanitary manner.²⁵ Moreover, the law requires that the faucets function and that toilet stalls and seats be suitable for use.²⁶

A substantial proportion of the workers interviewed by the WRC gave testimony indicating that the factory was failing to comply with these standards. Almost every worker interviewed complained about the company's failure to maintain a proper standard of cleanliness in the restroom facilities, describing the restrooms as having a "bad smell", being "very dirty" and even "disgusting." Two of the workers interviewed stated that sometimes there are plumbing problems and the restroom floor fills with water.

Workers also reported that the stall doors often either do not have locks at all or the locks do not work, that the trash cans do not have lids, and that the company fails to consistently provide functioning hand dryers or paper towels. Workers also report that the company provides an inadequate amount of toilet paper, distributing a small amount to each worker each shift.

The WRC's visual inspection of the plant's restroom facilities confirmed many of these problems and specifically noted: (1) several toilet tanks missing their lids, covered with a piece of wood (Building 6.3); (2) restroom stalls that do not have a functioning lock (Building 9.2 and Building 9.3); (3) a bad smell in many of the restrooms, particularly noticeable in the women's restrooms in Building 9.2 and Building 9.3; (5) inadequate toilet paper; and (6) the absence of lids on any of the restroom trash cans, which may have contributed to the bad smell in the facilities.

The conditions of the restrooms, including the company's failure to maintain all equipment including toilet tanks and locks on the stalls, as well as the failure to provide trash can covers and adequate toilet paper, constitute a violation of Honduran health and safety standards and, by extension, the Ordinance.

Initial Recommendations

²⁵ Id.

²⁶ Id., Art. 72.

Gildan Villanueva should make the necessary repairs to the toilets and restroom stalls in order to comply with Honduran law. The facilities should be maintained in a sanitary and functional manner going forward. The company should ensure that all trash cans have lids (preferably of the type that can be opened by foot in order to maintain good sanitation) and should provide paper towels and toilet paper in all restroom facilities.

Company Response

Gildan committed on May 27 to improve bathroom conditions, including providing trash cans with lids and ensuring that hand dryers are functional. Gildan reiterated that it distributes toilet paper to each worker during each shift. On July 2, Gildan informed the WRC that it would ask the newly-formed Safety Committee (see below) to consider additional recommendations with regards to the bathroom facilities.

Current Recommendations

As workers report that the toilet paper distributed to each worker is not consistently adequate, the WRC recommends that adequate toilet paper be placed in bathrooms for all workers' use. If this recommendation is implemented along with Gildan's commitments to date, it will address the violations. The WRC will verify implementation.

4. Poor Quality Drinking Water

Findings

Workers interviewed by the WRC reported multiple problems related to the quality of the drinking water supplied by Gildan Villanueva for workers on the factory floor. In off-site interviews conducted by the WRC, 23 of the 26 workers interviewed complained about the quality of the water provided to workers. Additionally, the workers reported to the WRC that the factory does not allow them to bring their own drinking water from home.

Workers reported to the WRC that the drinking water provided from the water dispensers located on the factory floor is hot and they described it as tasting acidic, salty and of bleach. Other workers stated that the water was slimy and that it had black particles that made the water taste of dirt.

Specific testimony collected from workers about the quality of the water included the following statements:

- “The water tastes funny so I prefer not to drink the water that is provided and I wait until the break to buy bottled water from the cafeteria. The company doesn't allow us to bring a water bottle from home; we have to drink the water that they provide.”

- “The water tastes like bleach. It is salty and always hot. It is strange because the office staff drink from bottled water that is brought in from outside the factory, but we drink tap water.”
- “The workers all have stomach aches and diarrhea from the water we drink and it has a salty taste.”
- “The water is slimy; you can see it when you look at it in the glass. It has a taste of dirt. It’s not always cold because the dispenser is unplugged. Everyone in the office drinks purified water. Even the floor supervisors don’t drink the water, only the line operators are forced to drink this water.”
- “The factory should purify the water because many workers get sick from the water. It gives me a stomach ache.”

Article 68 of the Honduran Regulation of the Preventative Measures of Workplace Accidents and Work-Related Illness states that the employer must provide workers easy access to potable water in quantities proportionate to the number of workers at the worksite.

Based on this consistent testimony from workers, the WRC finds that it is likely that the company does not consistently provide clean drinking water on the factory floor, in violation of Honduran law and the Ordinance. The impact of this violation on workers is compounded by the factory’s prohibition against workers bringing their own water from home, which forces the workers to choose between drinking water that they do not trust to be clean or spending their limited income on purchasing bottled water from the factory’s cafeteria. In addition, workers are only able to purchase water during their breaks. This functional restriction on access to clean water creates a health risk for workers who are, as mentioned above, working long hours in hot temperatures.

Initial Recommendations

The WRC recommends that Gildan Villanueva either provide purchased, filtered drinking water to workers, or ensure that every drinking water dispenser providing water to workers have an appropriate filter that is functioning properly and connected at all times.

Furthermore, Gildan Villanueva should undertake a lab study of the quality of the drinking water to determine that it meets safety standards. This study should be conducted on a quarterly basis; results should be posted in the factory and shared with the Safety Committee.

Company Response

Gildan reported on May 27 that the factory has a thorough water purification system that is connected to all water drinking dispensers, and that the company monitors water

quality on a monthly basis. The company shared samples of these water quality reports with the WRC.

The company committed to post lab results on factory bulletin boards and to share them with the Safety Committee. The company also reported that it plans to install an additional 20 new water dispensers, and that it will investigate whether upgrades can be made to address employees' comments regarding the flavor of the water.

Current Recommendations

These commitments, if properly implemented, will address the violation. The WRC will verify implementation and, if necessary, commission independent testing of the drinking water.

5. Poor Air Quality

Findings

Almost half of the workers interviewed by the WRC reported problems related to the air quality at the factory.

While the factory does provide masks to workers, many of the workers choose not to use the masks, reporting that the excessive heat in the factory makes it difficult to work while using a mask.

Specific testimony collected from workers about the air quality at the factory included the following statements:

- “The dust in the air gives us allergies. We take off the masks because of the heat and when we breathe the fabric dust it irritates our respiratory system.”
- “A lot of people have respiratory problems. The fabric dust is horrible and you can feel it in the air all the time.”
- “The fabric dust is flying around in the air and for the past year I have been suffering from asthma. There is no system to absorb the fabric dust that is in the air.”
- “We are sweating and feel like we are drowning in heat and that is why we take off the mask, because we can't breathe. The fabric dust is so heavy that it causes allergies and respiratory problems.”

The WRC investigator noticed a particularly high level of fabric dust in the factory, and found it difficult to breathe normally at the plant due to the irritation caused by the dust.

Gildan Villanueva reported to the WRC that it does have dust extractors connected to the overlock sewing machines but not the other sewing machines, as the company claims that the other sewing machines do not generate as much dust as do the overlock sewing machines.

Honduran law requires the employer to take the steps necessary to ensure that the work environment protects workers' respiratory health.²⁷ The WRC is concerned, based on worker testimony and observation, that current conditions at Gildan Villanueva are in violation of this standard and, thus, the Ordinance, but will not make a definitive finding until the air quality assessment has been conducted (see below).

Initial Recommendations

The WRC recommends that Gildan Villanueva engage the support of an air quality specialist, approved by the WRC, to measure the level of contaminants in the air and to provide recommendations as to appropriate means to reduce the level of fabric dust and other contaminants. Gildan Villanueva should share the report provided by this specialist with the WRC and the factory's Safety Committee, and should implement a remediation plan based on the specialist's recommendations and approved by the WRC.

The factory should then undertake regular air quality assessments, at least once per year, in order to ensure that sufficient progress is being made in improving the factory's air quality. The results of these tests should be shared with the WRC and the factory's Safety Committee.

Company Response

Gildan reported on May 27 that the factory performs an annual survey of particle concentration, which has shown that the factory is in compliance with relevant standards, and provided a sample of these reports to the WRC. Following discussions related to remediation of the issues outlined in this section, Gildan agreed to work jointly with the WRC to conduct an air quality assessment. The WRC and Gildan will work together to select a specialist in the area of industrial air quality in order to carry out an assessment and make recommendations necessary to improve the air quality at the factory.

Current Recommendations

Once the assessment is complete, Gildan should implement any necessary changes per the specialist's recommendations. Once the assessment has been conducted and the recommendations have been implemented, the concerns outlined with regards to air quality will have been addressed. The WRC will continue to communicate with Gildan in order to engage the specialist in the near term.

²⁷ Id., Art. 301.

6. Unhygienic Food Provided by the Cafeteria

Findings

Gildan Villanueva maintains a cafeteria on the premises, and contracts with a catering company to provide food during workers' meal breaks. Twenty-one of the 26 workers interviewed the WRC reported that the food is of inferior quality. The workers reported that the food that is served during their meal break is often cold, uncooked or undercooked, or reheated from the day before. They further state that the food that is served generally smells and tastes bad and that, at times, workers have become sick after eating the food. They have found insects, hair, chicken feathers, cockroaches and bones in the food. One worker reported that, in the past, a worker found a bloody bandage in the food.

One of the workers interviewed offsite by the WRC reported having witnessed another worker who started to choke on a small bone that was in a tortilla served from the cafeteria. When this happened, the cafeteria manager, who witnessed what was happening, stated loud enough for those nearby to hear, "That is happening to you because you didn't chew your food."

Several workers reported having attempted to address their concerns about the quality of the food with Plant Manager Garrido. One worker reported that, in a meeting with workers in which the workers addressed the issue, Garrido responded, "Aren't you all from the countryside? Don't you ever have hair in your food? Just take it out and keep eating." Another worker reported that Garrido responded to the issue of food quality by saying, "Don't talk to me about the cafeteria. Our cafeteria has a four star rating from the ISO 9000 audit and it meets hygiene standards."

Article 85 of the Honduran Health Code states that it is illegal to make, sell and distribute foods that are adulterated, contaminated or unsuitable for human consumption.

The quality of food that is being served at the cafeteria at Gildan Villanueva violates Honduran law and, thereby, the Ordinance.

Initial Recommendations

Gildan Villanueva should ensure that all food provided at the factory is hygienic and safe for consumption.

Company Response

Gildan reports that that the factory cafeteria undergoes inspection four times per year regarding food handling and storage processes and food hygiene, including laboratory testing of a sample of food, surfaces involved in food preparation, etc. Gildan also reports that the factory has formed a Cafeteria Committee composed of employees to address

these issues. Gildan also pledged to “continue to work with cafeteria supplier, the external laboratory and Cafeteria Committee to continuously improve food quality and services.”

The WRC responded by recommending that, in order to ensure food quality and safety and to address the complaints of workers, ongoing monitoring of the cafeteria conditions should be undertaken by a democratically selected labor-management body. Gildan responded to this additional recommendation on July 2 by informing the WRC that, once the Safety Committee has been reestablished, with worker participation from the Sitragavsa union (see below), that supervision of the cafeteria conditions would be transferred to this committee.

Current Recommendations

When implemented, this commitment will address the violation. The WRC will verify implementation.

7. Lack of a Properly Constituted, Functioning Safety Committee

Findings

Article 412 of the Honduran Labor Code states that:

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

These committees are also charged with informing workers about safety risks in the workplace, preventative measures that the company and the committee are taking to counter these risks, and proper work methods.²⁸

The law adds that, for a company with more than 1,000 employees, the committee must have 10 members, five of whom are representatives of management and five of whom are representatives of the workforce.²⁹ The factory management may choose the five members that represent the employer. If the factory has a registered, independent union, the union is responsible for choosing the worker representatives. Where there is no workplace union, the worker representatives must be chosen by the workforce through secret-ballot election.³⁰

²⁸ Id., Art. 37.

²⁹ Id., Art. 14.

³⁰ Id., Art. 19.

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

Human Resources Manager Laura Aguilar confirmed that the factory has a functioning Safety Committee, though she was not sure how many members it included and told the WRC that it was “somewhere between three and five.” She said that the committee included one representative from each of the factory’s buildings. The company invites workers to express interest in participating as their building representative and, Aguilar reports, management considers which of the workers who have expressed interest are, in its estimation, most suitable for this job. Another staff member reported that the committee had more members than reported by Aguilar, and provided documents indicating that the committee met on a monthly basis.

Of the 26 workers interviewed offsite by the WRC, 11 reported that they did not know one way or the other if such a committee existed at the factory and four other workers reported that they were sure there was no such committee.

The composition of the committee and the method by which its members are selected, as described by factory management, fail to comply with the requirements of Honduran law. In addition, the committee does not appear to be fulfilling its legal mandate.

Regarding the committee composition, the law specifically states that the worker representatives on the committee must be freely chosen by the workforce, rather than selected by management, as is the current practice at Gildan Villanueva. The law also requires that a factory the size of Gildan Villanueva have a committee of ten members; factory management provided inconsistent testimony regarding the size of the committee.

In addition, the fact that half of the workers interviewed by the WRC were unaware of the committee’s existence indicates not only that workers were unaware of the opportunity to apply for participation in the committee, but also that the committee is not fulfilling its mandate to provide information on health and safety issues to the workforce.

The WRC thus finds that the current composition and efficacy of the committee fail to meet the legal standards and are in violation of the Ordinance.

Initial Recommendations

Gildan Villanueva should take the following steps with regards to the company’s Safety Committee:

- Restructure the Safety Committee to ensure that the committee includes the minimum legally required number of members, and that one-half of the members of the committee are production workers.
- Work with the Central General de Trabajadores (CGT) to assist workers in the process of conducting their own election to fill the 5 worker representative slots on the committee. While workers are still in the process of registering a CGT-affiliated union at Gildan Villanueva, the union is the body that will, once registered, be charged with electing the five worker representatives. Given the presence of a CGT union organization with Gildan Villanueva workers, it is appropriate that the union should assume this role with regards to selecting worker representatives for the Committee.
- Ensure that the committee meets regularly, performs all of the educational, oversight and reporting functions required by law, and keeps a detailed log of its activities.

In addition, Gildan Villanueva may wish to consider creating additional Safety Committees for each of the factory's work shifts. Honduran law allows, but does not require, multiple safety committees in a single workplace where there are multiple work shifts.³¹ Given the size of Gildan Villanueva's workforce and the fact that the workforce is divided into two shifts, establishing one committee per shift would facilitate the process of ensuring that workers on all shifts are informed of, and participating in decisions related to, the plant's health and safety conditions.

Company Response

Gildan committed on May 27 to restructure the Safety Committee in a manner that incorporates worker representatives selected by the union. The union reports that Gildan has already initiated this process, and has requested that the union supply the names of its chosen representatives. Gildan also committed that the Committee will continue to meet on a monthly basis, and will perform the activities it is legally required to complete.

Current Recommendations

These steps, if implemented, will address the violation. The WRC will verify implementation. The WRC notes that Gildan moved quickly to not only make commitments, but take concrete action, with regards to these recommendations.

³¹ Id., Art. 13.

8. Emergency Exits

Findings

Honduran law requires employers to ensure that workplaces have emergency exits that are easily accessible, sufficient in number for the evacuation of all workers, well-marked, and accessible to workers with disabilities.³² While some of the emergency exits at the factory had a ramp, not all of the emergency exits included a ramp which would allow workers with disabilities to easily exit the factory in case of an emergency.

Initial Recommendations

Gildan Villanueva should make the necessary changes to all emergency exits to ensure that they comply with Honduran law, including adding ramps to all emergency exits that do not currently have a ramp.

Company Response

On July 2, Gildan reported to the WRC that it was in the process of constructing ramps on those exit routes where such a ramp was feasible given space limitations. Furthermore, Gildan plans to assign employees with disabilities to areas with proper exit ramps.

Current Recommendations

These steps constitute appropriate remediation of the violation.

9. First Aid Kits

Findings

Honduran workplace health and safety laws require that factories maintain well-marked first aid kits with adequate supplies for the size of their workforces. The law provides a listing of the materials that must be included in these kits.³³

The WRC's onsite inspection of Gildan Villanueva found that the company maintains first aid kits in the factory, but that these kits did not contain all of the supplies specified in the law. For example, kits reviewed by the WRC were missing tourniquets, sterilized gloves, antiseptic soap, rubber bags for hot water or ice, a clinical thermometer, elastic bandages, and slings.

³² Id., Art. 61.

³³ Id., Arts. 9, 73 and 424.

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

Initial Recommendations

The WRC recommends that Gildan Villanueva include all materials required by law in the facility's first aid kits.

Company Response

Gildan reported on May 27 that the factory clinics are supplied with materials for emergencies. Gildan reported that "often, supplies placed in first aid kits are misused by employees as we maintain first aid kits open to ensure accessibility to basic supplies, such as bandages, gloves or antiseptics."

On July 2, Gildan reported to the WRC that the company had created a portable first aid kit, to be kept in the clinic, with all legally required supplies.

Current Recommendations

These commitments, if implemented, will address the violations. The WRC will verify implementation. The WRC also notes that this issue was also raised as a topic for labor-management dialogue.