

Maquila Solidarity update



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ABOVE: Alejandra Ancheíta, Director of ProDESC, and Javier Hernández Valencia, Mexico Representative of the UN Office of the High Commissioner on Human Rights (OCHR) speak at a news conference about the CAT

Violence forces the CAT to close Puebla office

FACED WITH ONGOING harassment, physical assaults and death threats, MSN's long-time friends and allies at the Worker Support Centre (CAT) in Puebla, Mexico have been

forced to close their office and suspend their support work with the state's maquiladora workers.

The decision came after another round of threats and

attacks on CAT members. On May 15, José Enrique Morales Montaña was kidnapped by unknown men, held at gunpoint for more than 17 hours, ● see 'Kidnapping ...', p. 8



Lynda Yanz

In our last issue of the *Update*, we reported on the controversy surrounding a recent investigation of three Apple Inc. supplier factories in China owned by Foxconn, the world’s largest electronics manufacturer. The Fair Labor Association’s (FLA’s) investigation found evidence of widespread violations of local laws and the FLA’s code of conduct, including overtime hours well above legal limits, failure to provide workers their full overtime premium pay, numerous health and safety violations, and union committees in which most of the representatives were management personnel.

THE INVESTIGATION ITSELF was not without controversy. Labour rights advocates like the Hong-Kong-based Students and Scholars Against Corporate Misbehaviour (SACOM) felt it underestimated the seriousness of some persistent violations, missed others entirely, and failed to require adequate remediation.

MSN shared SACOM’s criticisms of the weaknesses in the investigation and corrective action plan. We were also disappointed that in the first test of the FLA’s new and strengthened Code of Conduct, which acknowledges that workers have a right to compensation that their meets basic needs and provides some discretionary income, no assessment was carried out of what would constitute a basic needs wage

and no plan was developed to achieve this level of compensation over time.

As we go to press, that controversy is being re-ignited by a follow-up report released August 21 by the FLA. The FLA conducted verification audits at the same three Foxconn facilities to determine whether the company had carried out the agreed remediation plans. According to the report, Foxconn has completed 79% of remedial actions, many ahead of schedule, and the remaining items are in progress. For example, the FLA reports that Foxconn has reduced working hours to 60 per week, a significant reduction, but notes that the legal limit is 40 hours plus 9 overtime hours – meaning that Foxconn is still violating China’s hours of work laws.

SACOM’s initial response to the updated report is that the FLA has overstated the improvements at Foxconn, noting that the majority of improvements were changes in policy, and that it remains to be seen if these changes will result in real improvements for workers.

The Worker Rights Consortium (WRC) agrees. In a letter to the FLA, the WRC notes that promising not to short-change workers in the future doesn’t compensate them for all the back pay owed after years of miscalculating the overtime hours worked. The FLA update says nothing about the issue, nor does it say anything about whether wages are meeting workers’ basic needs.

SACOM and the WRC also question Foxconn’s commitment to freedom of associa-

tion — a difficult, but extremely important issue in China. The FLA update shows that the majority of “worker representatives” on union committees are still management personnel, rather than workers elected by their peers.

As the story unfolds, MSN will be working with SACOM and other labour rights groups to pressure and encourage Foxconn and Apple to ensure that policy changes translate into concrete action to improve workers’ wages and working conditions and respect for their rights. ■

Lynda Yanz
for the MSN team

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Editorial Staff:
Ana Enriquez
Bob Jeffcott
Kevin Thomas
Lynda Yanz
Translation: Anibal Vitón

Maquila Solidarity Network
606 Shaw Street
Toronto, ON, M6G 3L6 Canada
Phone: 416-532-8584
Fax: 416-532-7688

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www.maquilasolidarity.org

FLA investigation ignores root causes of workplace injuries

IN FEBRUARY 2011, THE Honduran Women's Collective (CODEMUH) filed a complaint with the Fair Labor Association (FLA) alleging that 57 workers at Honduran factories owned by Canadian t-shirt manufacturer Gildan Activewear had suffered debilitating injuries due to long work shifts, the intense pace of production and high production targets.

A YEAR AND A HALF later, the FLA has yet to release its investigative report or corrective action plan.

However, based on an unreleased copy of the report and recommendations sent to MSN by CODEMUH, it appears that the FLA will not be demanding any changes in Gildan's production practices or work shifts, but instead will focus on encouraging increased worker participation in the company's existing health and safety program.

The investigative report acknowledges that Gildan's ergonomic evaluations are not systematic and that workers are not sufficiently aware of the program or involved in its implementation, but it concludes that the program is "robust" and "well structured." The cumulative health impacts of long work days and high production targets were not assessed by the FLA's investigative team.



ABOVE: A promotional photo from Gildan shows workers stretching

PHOTO: GILDAN ACTIVEWEAR

Prior to the Gildan complaint, CODEMUH had filed a very similar complaint with the FLA concerning health and safety issues at Honduran factories owned by Gildan's main competitor, Hanesbrands. While both the Gildan and Hanesbrands complaints were accepted by the FLA in March 2011, the Hanesbrands investigation was not slated to take place until the end of August 2012. The decision to use the same research team and the same terms of reference suggests that the Hanesbrands investigation will likely arrive at similar conclusions.

CODEMUH's complaints allege that Gildan and Hanesbrands have been well

aware of the verified cases of work-related injuries suffered by dozens of their employees who are required to work at an inhumane pace for 11½ hours a day for four consecutive days a week followed by four rest days, but the companies have done nothing to change these practices.

In an April 14 letter to the FLA following a review of the draft report, CODEMUH's coordinator Maria Luisa Regalado expressed their frustration with the weaknesses of the report. "The FLA investigation does not analyze or explore in depth those elements that are central to the CODEMUH complaint, including the 4x4 system, high production goals and the defi-

ciencies in the design of the work." CODEMUH provided detailed critical comment on the contents of the report.

As a member of the FLA NGO Caucus and Board of Directors, MSN has been lobbying internally for an investigation that assesses the root causes of the workplace injuries at the Gildan and Hanesbrands factories.

"Way back in 2009, Gildan agreed to cooperate with an independent assessment of its health and safety program, and various organizations, including MSN, spent a lot of time working through the terms of reference for that investigation. However the company abruptly reversed ● see 'Long hours...', page 8



Should brands be liable when factories close?

Adidas faces an Indonesian impasse

Should adidas be held accountable when a factory that produced its apparel closes and the owner flees the country without providing workers their legal severance pay? Labour rights groups say yes. Adidas says no. Yet surprisingly, in a controversial closure in Indonesia, two other notable brands have broken ranks and contributed to paying the displaced workers.

THE PT KIZONE FACTORY in Indonesia shut down in the beginning of 2011 and its owner fled the country, leaving 2,686 workers without jobs and short \$3.4 million in legally mandated severance pay. Since then, both Nike and Dallas Cowboys Merchandising, for whom the factory was producing apparel, have provided funds for the workers, leaving \$1.8 million still owing. Adidas, however, has refused to join the other PT Kizone customers in providing

funds to the displaced workers.

In a statement released to media in February 2012, adidas said: "We cannot assume, or accept, the liability for the severance owed by the former owner of PT Kizone who violated Indonesian law and fled. Enforcing the rule of law is core to sustainable business and we cannot be held responsible for someone else breaking the law."

Labour rights advocates disagree. The Clean Clothes Campaign (CCC) and the

Worker Rights Consortium (WRC) both point out that under its numerous licensing contracts with US universities adidas accepts responsibility for ensuring that local laws and international labour standards are respected by their suppliers.

As the WRC says, those agreements "make no distinction between violations that can be remedied at little or no financial cost and those, like the violations at PT Kizone, where a remedy requires that someone pay. We understand why adidas wants to distinguish between violations that it can correct at no cost to itself and violations where remediation may carry a price

tag, but university codes of conduct do not embrace this dichotomy.”

Adidas responds that it has provided workers with food vouchers, lobbied the government to prevent foreign owners from evading the law, and is discussing the possibility of an employee benefit fund to address these kinds of cases in the future. It has also taken steps to help PT Kizone workers find new employment. Even where this has been successful, however, many positions were far away from where workers live, and took the form of short-term contracts instead of the open-ended employment the workers had at PT Kizone.

Further, as the WRC notes, “hiring programs, while they may be of significant benefit to workers, do not, even if they are successful, constitute a remedy for severance violations – because they do nothing to secure for workers any of the funds they are legally owed for the labor they have already performed.”

An ongoing debate

The debate over brand liability has arisen repeatedly in the wake of irresponsible factory closures. Initially, brands were uniformly reluctant to step in when their suppliers failed to meet their legal obligations for severance payments and back wages.

Agreeing to assume a supplier’s financial obligations to workers, companies argue, would create a “moral hazard,” leading to owners absconding with the knowledge that

brands would pay their bills.

Labour rights advocates respond that brands should not be able to profit from low factory prices while financial obligations to workers are insufficiently funded. Requiring shared responsibility would motivate brands to carry out proper due diligence to ensure that suppliers make their legally-mandated contributions for severance and other benefits.

A crack in the wall

With sufficient pressure brand reluctance to accept shared responsibility when factories close has been overcome in few specific cases.

In 2010, facing a growing student-led campaign in the USA, Nike signed an agreement with the General Workers’ Central of Honduras (CGT) to provide a relief fund of \$1.5 million to a group of Honduran workers displaced after closures of two Nike supplier factories in that country.

Although the company took pains to say that Nike was not “compensating” the workers, the money had the effect of covering 80% of what workers were owed after the closures.

In more recent cases, Nike did not emphasize that distinction. In 2011, Nike offered to partially compensate workers for severance payments owing at another Indonesian factory named PT Dong One (although the factory was subsequently re-opened and the workers re-employed).

Nike’s payment to PT Kizone workers was explicitly based on calculations of sev-

erance owing and Nike’s share of production.

Degrees of responsibility

Although all parties agree that workers should receive at least what they are entitled to by national law in the event of factory closures, differences arise about the degree of responsibility of different buyers sourcing from the same factories.

While welcoming Nike’s contributions in the Indonesian cases, the WRC criticized the idea of paying only a percentage of severance based on the company’s share of factory production.

“In a case where a factory had illegally fired ten workers,” the WRC says, “we would not accept a licensee’s claim that because it represented 40% of the factory’s sales, it was only responsible for securing the reinstatement of four of the ten workers.”

In the PT Kizone case, adidas makes much of the fact that its last order was placed more than six months before the factory closed. The CCC responds that production for adidas continued up until November 2010, at which point non-payment of severance had already occurred at the factory.

Moreover severance payments are earned over years of service, not just on the last day of work. Adidas, they say, had a duty to ensure these obligations were fully funded while they were present in the factory.

Also, to allow a brand to avoid responsibility for sever-

ance payments because they left the factory a few months before it closed would encourage brands to leave struggling factories at the first sign of trouble, avoiding responsibility for workers severance but also, perversely, making closure all the more likely.

Keeping the focus on workers

Ultimately, the focus has to be on ensuring that workers receive what they are legally entitled to, every penny owing, regardless of who has to foot the bill. To accept less is to penalize those at the bottom end of the supply chain, those who are least able to bear the risk of non-payment.

That’s a message that companies like adidas are increasingly hearing from their customers – and, recently, from universities with whom they have lucrative licensing arrangements. In July, the University of Wisconsin filed a lawsuit against adidas, arguing that failure to provide workers severance pay was a breach of the conditions of its licensing contract with the university, which includes agreement to ensure that workers making U of W-branded apparel are paid all legally-mandated benefits.

While the case has not yet been heard, it is an indication that brand arguments against joint liability may no longer shield them from assuming their responsibilities to workers when supplier factories are closed. ■

Can National Competitiveness Strategies Include Decent Work?

What options are open to poor garment-producing countries in a period of trade liberalization and global economic crisis? Must they join the race to the bottom on wages and working conditions or can they take a different road to competitiveness that respects workers' rights and provides decent work?

A NEW JOINT STUDY by the Honduran Independent Monitoring Team (EMIH), Professionals for Corporate Social Auditing (PASE) of Nicaragua, and the Maquila Solidarity Network (MSN) attempts to answer these questions based on research carried out in the two competing Central American countries, as well as interviews with international apparel brands and manufacturers.

The study, which was launched in separate sessions in Nicaragua and Honduras in mid-July, found that while the Nicaraguan and Honduran governments are offering similar concessions and incentives to foreign investors and buyers, Nicaragua is beginning to distinguish itself as a country with a strong tradition of social dialogue, an improving industrial relations climate and greater respect for workers' right to organize and bargain collectively.

In contrast, social dialogue is at a very preliminary stage in Honduras, where the unilateral power of employers has

been strengthened by the country's 2009 military coup. According to civil society leaders interviewed by EMIH, the lack of meaningful social dialogue is a legacy of the coup, "but also a result of employers' lack of interest and commitment."

Although the existence of constructive social dialogue does not guarantee that a country has adopted a socially responsible competitiveness strategy, "the active participation of trade unions, women's groups and other civil society organizations in social dialogue with employers and government is... critical to achieving competitiveness strategies that seek a balance between the interests of workers and investors," says the report.

Abuses Continue

While acknowledging improvements in the industrial relations climate and respect for workers' rights in Nicaragua, the study found that the country's maquila workers continue to suffer many problems and abuses that are very similar to those



experienced by their counterparts in Honduras, including:

- poverty wages that don't begin to meet workers' basic needs;
- high production targets and relentless pressure to meet them;
- compulsory overtime and failure to pay the legal overtime rate;
- debilitating injuries associated with the rapid pace of production and long work shifts;
- lack of access to social security benefits;
- lack of protections or compensation when factories close; and
- gender-based discrimination and lack of attention

to specific problems and needs of women.

In addition, Honduran workers also continue to face severe repression and discrimination when the attempt to organize unions, as well as threats to their job security and social entitlements caused by the introduction of a Temporary Employment Law that allows employers to hire workers on short-term contracts.

EMIH, PASE and MSN have also published an accompanying series of demands to international apparel companies calling on them to take action to eliminate the problems and abuses described above. ■



The full report, a report summary and the demands to apparel companies are available at:

www.maquilasolidarity.org/competitiveness-decent-work



LEFT: Aminul's wife speaks at a rally calling for justice, Dhaka

Pressure mounts on Bangladeshi authorities to solve murder of labour activist

The tortured body of Bangladeshi trade union organizer Aminul Islam was found by the side of the road on April 5 of this year, the tragic culmination of a history of attacks by Bangladeshi security forces on Aminul and the organizations in which he was involved.

IN 2010, AMINUL WAS DETAINED AND beaten by police along with two other leaders of the Bangladesh Centre for Workers Solidarity (BCWS). The organization, which provides support to workers in Bangladesh's apparel industry, was stripped of its legal status. Its leaders were subjected to numerous trumped-up charges for supposedly causing unrest during the 2010 campaign by garment workers for a decent minimum wage.

During Aminul's previous arrest, police threatened to kill him and his wife. Aminul was also an organizer with the Bangladesh Garment and Industrial Workers Federation (BGIWF).

Since his murder, pressure has been mounting on the Bangladeshi govern-

ment to find and prosecute his murderers, including appeals from Bangladeshi trade unions and industry associations, eleven international industry associations, ambassadors of nine European countries, the US ambassador, members of the US Congress, the Canadian High Commission, the International Trade Union Confederation, and numerous trade union, human rights and non-governmental organizations.

In May, US Secretary of State Hillary Clinton spoke out about Aminul's murder during a visit to Dhaka, stating, "There needed to be an independent investigation into the murder of Mr. Islam, because certainly his family and his colleagues deserve answers about what happened to him."

A meeting in Dhaka on July 18th involving 19 of the country's biggest international apparel buyers, including Wal-Mart, Gap and H&M, resulted in a joint letter from the buyers to the Prime Minister urging action on the case.

Facing this unprecedented level of attention, the government appears to be pushing back. Recently, Bangladeshi Prime Minister Sheikh Hasina questioned Aminul's role as a labour organizer, suggesting to international media that no one had ever heard of him prior to his death – despite international campaigns, in which MSN participated, during his earlier detention by security forces.

Those security forces are suspected of involvement in the murder. Multiple sources told the Bangladesh *New Age* newspaper that Mostafiz Rahman, the person who Aminul set out to meet the night of his death, had been a paid source for the National Security Intelligence agency and the Industrial Police. In addition, *New Age* reports that cell phone records show Mostafiz communicated with intelligence agencies prior to and just after Aminul's disappearance. Mostafiz has since disappeared.

It is perhaps not surprising, then, that a local police investigation has so far failed to produce any arrests. The family of Aminul Islam, backed by a large group of international labour and human rights advocates, including MSN, are calling for the case to be transferred to the Criminal Investigation Department (CID) of the Bangladesh National Police, which has greater resources to investigate the murder.

Whether Aminul's murder is the beginning of a new wave of violence against labour rights advocates or an event that turns the tide against persecution of Bangladesh activists remains to be seen. ■

Kidnapping and death threats

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tortured, and threatened with death.

Shortly after Morales' release, CAT Executive Director Blanca Velásquez received death threats from Morales' cell phone, which had been stolen by the assailants.

The kidnapping and death threats were the latest in a series of incidents that have coincided with campaigns in which the CAT has provided advice and support to maquila workers attempting to form independent unions.

In December 2010, unknown persons broke into the CAT office, stole the Centre's computers and scrawled threats on the walls. The break-in took place at a time when the CAT was supporting workers' efforts to organize an independent union at the US-owned Johnson Controls Interiores (JCI) auto parts plant.

In July 2011, after the JCI workers had won the right to be represented by the independent National Union of

Mine and Metalworkers (Los Mineros) and negotiated a first collective bargaining agreement, Luis Espinosa, president of the state's manufacturers association (CANACINTRA), publicly labeled the CAT "a danger to Puebla" working to "destabilize companies."

In response to the accusations, International Metalworkers' Federation (IMF) president Jyrki Raina accused Espinosa of "generating a climate of terror and violence against the activists of the CAT."

In March 2012, Johnson Controls closed its Interiores plant, thereby ridding itself of the independent union. On April 12, the Puebla state leader of Mexico's largest "official" union, the Mexican

Confederation of Workers (CTM), and President of the Labour and Social Welfare Committee of the Mexican House of Deputies, Leobardo

Soto Martínez, publicly stated: "We will not allow [the CAT] to meddle in the union and business life of the state... We will defend businesses where we have collective bargaining agree-

ments no matter what the cost, even if there is violence."

Throughout this difficult ordeal, the CAT has been supported by Mexican and international allies, including ProDESC, National Network of Civil Human Rights Organizations "All Rights for All", PODER, Los Mineros, USLEAP, the IMF (now IndustriALL), the AFL-CIO



ABOVE: Leobardo Soto Martínez

PHOTO: PRI

Solidarity Center, US and Canadian unions, Amnesty International, the Clean Clothes Campaign and MSN.

In 2011, ProDESC and the CAT, with the support of their international allies, were successful in convincing the Mexican government to adopt precautionary measures to protect the members of the CAT. However, in April 2012, one month before the kidnapping of Morales, those measures were suspended without explanation. The CAT and ProDESC are working to ensure that those protective measures are restored.

The international campaign has been calling on the Mexican government to investigate all acts of violence against the CAT since 2010, to identify and prosecute those responsible, and to guarantee the safety of human and labour rights defenders as they carry out their essential work to train and support workers seeking to form or join independent unions in Mexico. ■

Long hours, high targets

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that decision, which led to the formal complaint," says MSN Executive Director Lynda Yanz. "It is very unfortunate that the FLA has not undertaken a serious assessment of Gildan's ergonomics program as well as the impacts of the company's production meth-

ods on workers' health."

A recently published study by MSN and two of our Central American partners, including the Honduran Independent Monitoring Team (EMIH), identified the impacts of long work shifts and high production targets on workers' health and quality

of life as two major problems facing maquila workers in Honduras.

"The impacts of these long working hours and the way production is organized are factors that need to be given a lot more attention," said Honduran sociologist Isbela Orellana in an interview by

EMIH. "Studies need to be done using professional, technical criteria in order to determine the implications that the production targets have on workers' health and for their present and future quality of life." ■