WORKER RIGHTS CONSORTIUM

Preliminary Report on Unlawful Dismissals at Genesis, S.A. (Haiti)

October 11, 2011

This preliminary report outlines findings of labor rights violations at a collegiate factory in Haiti, Genesis S.A., and related violations at two other Haitian factories. Genesis has been the most serious offender in a multi-factory campaign of retaliatory dismissals, targeted at the leaders of a new labor rights and union organizing effort in Haiti's capital, Port-au-Prince.

On September 16, a new industry-wide union named *Sendika Ouvriye Takstil ak Abiman* (SOTA) received its legal registration to represent workers in the apparel and textile industry in Haiti and publicly announced its plans to campaign for better wages and working conditions for Haiti's apparel workers. At present, Haitian apparel workers receive the lowest wages in the hemisphere and face some of the harshest working conditions anywhere in the global apparel industry.

SOTA announced a leadership committee of seven workers, from several different textile factories. Within two weeks, six of the seven leaders had been fired or pressured into resigning, by three separate factories. Four of the dismissals took place at Genesis. Employer retaliation against workers for their union activity is a violation of international labor standards, university codes of conduct, and Haitian law. The Haitian Labor Code specifically forbids the termination of workers "to prevent an employee from joining a union, organizing a trade union or exercising his rights of unionization."[1]

The circumstances of the individual firings, and the fact that six out of the seven leaders were fired within two weeks of the union's public emergence, leaves no doubt that these were retaliatory firings. As such, they constitute an attack on fundamental rights of association and free speech. Indeed, in carrying out the dismissals, factory managers and security forces summoned by them expressed particular hostility toward these leaders' efforts to distribute educational materials to workers, outside their factories. Given the history, and present reality, of political violence in Haiti, which is often targeted at critics of the nation's tiny business elite, it took extraordinary courage for these workers to step forward as leaders and advocates. It is of grave concern that their employers responded to their lawful exercise of their associational rights

[1] Haitian Labor Code, Clause 251

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by firing them and, in some cases, summoning security forces to prevent them from sharing information with their fellow workers.

Two collegiate licensees, Ad Resources and Cotton Gallery, disclose Genesis as a collegiate factory. Both brands buy their products through Gildan, which purchases virtually all of the factory's output. The WRC is communicating with both licensees. In addition, a second factory involved in the firings, Multiwear, S.A., while not disclosed as a collegiate factory, produces much of its volume of shirts for HanesBrands, which owns Gear for Sports. We are also communicating with both Gildan and Hanes and have asked them to take swift action to ensure that workers are reinstated, with back pay. In addition, Genesis, and the other factories involved, should publicly make clear their commitment to respect their workers' associational and free speech rights and, to this end, should begin an open dialogue with SOTA.

The WRC will continue to monitor this situation and issue additional findings as developments unfold. Below, please find a chronological summary of the key events.

Chronology

The chronology of events in Haiti is as follows.

Friday, September 16th: SOTA received its legal union registration from the Haitian Ministry of Social Affairs and Labor (MAST). MAST indicated that it had verified that SOTA had completed the legal requirements for union registration and provided the union a registration document valid from September 2011 to September 2013.

SOTA is an industry-wide apparel and textile union representing workers in various free trade zone factories in Haiti. SOTA is affiliated with the Batay Ouvriye May First Union Federation (ESPM-BO, in Creole) a national union federation in Haiti which also has an affiliate union representing free trade zone factory workers at the Codevi Free Trade Zone in Ouanaminthe, Haiti.

Also on Friday, September 16th, SOTA held a press conference announcing the establishment of the union in which the executive committee members participated. The worker leaders spoke out about violations of workers' rights in Free Trade Zones including forced overtime and minimum wage violations.

Friday, September 23rd: Genesis S.A. – a factory in Port-au-Prince owned by Gerald Apaid and producing largely or exclusively for Gildan – forced its employee, Johny Joseph, the Treasurer of SOTA, to resign. Mr. Joseph was the first of the leaders to lose his job. ESPM-BO has reported that Mr. Joseph was pressured into resigning after he was refused permission to leave work at the end of his shift, despite being ill. ESPM-BO reports that Mr. Joseph initially asked for permission to leave work because he was ill during his shift. The factory management refused to allow him to leave. Mr. Joseph took medication and continued working. By the end of his shift, Mr. Joseph's condition had worsened; however, a human resources manager then told Mr. Joseph that he still could not leave and instead had to stay to work overtime. He was told that if he wanted to leave, he would have to turn in his employee identification badge and resign

from his job. Mr. Joseph was feeling too sick to continue and felt he had no choice but to resign, which he did.

Monday, September 26th: One World Apparel, a factory in Port-au-Prince owned by Charles-Henri Baker and producing for multiple apparel brands, fired Mitial Rubin, the Secretary of SOTA. Mr. Rubin had been handing out SOTA flyers that morning, before his shift and outside of the factory – a lawful and appropriate exercise of his associational rights. When he entered the factory to begin his shift, one of the supervisors approached Mr. Rubin. The supervisor was holding a SOTA flyer. After a discussion in which Mr. Rubin defended his right to distribute the flyer, the supervisor sent Mr. Rubin to the personnel office. When Mr. Rubin arrived at the office he was presented with a dismissal notice.[2]

Also on Monday, September 26th, at Genesis, Wilner Elissaint (General Coordinator of SOTA), Cénatus Vilaire (Secretary of Grievances of SOTA), and Brevil Claude (Education and Public Information Secretary of SOTA) were terminated.

The events surrounding their dismissals were as follows. The three SOTA leaders at Genesis were alerted to the dismissal of their colleague Mr. Rubin at One World Apparel. The leaders each went to the office individually to request permission to leave the factory for one hour. The factory management granted the permission. One worker mentioned that the workers needed the leave in order to carry out union functions and provided the management with a copy of SOTA's registration, which the management photocopied. The worker reports that the manager responded by saying, in a negative tone, that "*Nou se chef*," which roughly translates as "you're the boss."

As the three workers proceeded toward the factory exit, they were followed by three security guards. Before they could leave, three supervisors approached them and asked where they were going and why. The SOTA leaders responded that they had been alerted to a dismissal at another factory and, as union leaders, were on their way to aid the worker in question. The security guards searched their bags (which is a normal factory practice). Their bags contained flyers and a copy of the SOTA registration. The guards then allowed them to leave.

When the three workers arrived at One World Apparel, the security guards refused to allow them to enter. The workers then returned to the Genesis factory, where the security guards again searched their bags. The security guards later indicated that they had recognized the union materials. The workers stored their bags in a communal area, as is usual, and went to their work stations.

In the afternoon, all three executive committee members were fired; they were called into the personnel office and given dismissal notices. At the end of the shift, the three SOTA members went to collect their belongings and found that all of the union materials had been removed from their bags, including copies of flyers, member affiliation forms, and copies of the union's registration. The three workers went back to the personnel office to request that the factory management return their materials. The managers claimed that the workers had never had any such material and then called the police.

[2] This dismissal notice was issued under the name "Inter American Tailor," although Mr. Rubin reports that his pay stubs and other official documentation bear the name of One World. We are investigating this discrepancy.

One plainclothes officer and one officer in uniform responded to the call. The police behaved in an aggressive and threatening manner toward the SOTA leaders, accusing them of lying and calling them "delinquents." The police accused the three leaders of fabricating the claim of the stolen documents in order to "make trouble." The SOTA leaders responded that all people should have access to justice and fair treatment by the authorities. One policeman then stated "poor people don't have any justice." Eventually the workers were allowed to leave; their union materials were not returned.

Tuesday September 27th: Five SOTA leaders (4 from Genesis and 1 from One World) went to the MAST offices. The Haitian Labor Code stipulates that if a worker is terminated by an employer and the employee disputes the termination, MAST has the legal authority to convene a conciliation session.[3] On September 27th, MAST provided SOTA members with official summons letters to be delivered to One World Apparel and Genesis management by SOTA leaders, directing the factories to send representatives to a conciliation meeting. When the SOTA leaders went to One World and Genesis to deliver the letters, the security guards refused to give the letters to management.

Also on September 27th, ESPM-BO representatives reported that they came to Genesis to hand out leaflets outside the factory. ESPM-BO received reports from workers at Genesis that, as soon as they arrived, representatives from Genesis began monitoring them from inside the factory. Shortly after this, heavily armed police with their faces covered by ski masks approached the workers, acting in a manner the workers describe as "menacing." In fear for their safety, the workers left the vicinity immediately.

On Thursday, September 29th: MAST conducted the conciliation session, but representatives from One World Apparel and Genesis failed to appear. MAST provided the workers from One World and Genesis with a second summons letter to provide to their respective employers.

On Friday, September 30th: Multiwear S.A., a Port-au-Prince factory owned by Richard Coles and producing apparel primarily for HanesBrands, fired Hilaire Jean-Francois, SOTA Secretary of Organization and Reporting. ESPM-BO reported that Mr. Jean-Francois was initially told he was being dismissed due to a shortage of raw materials. However, according to ESPM-BO, when Mr. Jean-Francois asked why he was the only person being dismissed, and whether this was related to his status as a leader of the newly formed SOTA union, management admitted that this was the real reason he was being fired.

[3] Article 43 of the Haitian Labor Code