



Students & Scholars Against Corporate Misbehavior

Telephone: (852) 2392 5464 Fax: (852) 2392 5463

Email: sacom@sacom.hk Website: www.sacom.hk

Mailing Address: P.O.Box No. 79583, Mongkok Post Office, HONG KONG

Disney, Walmart and ICTI Together Make Workers Rights Violations Normal and Sustainable

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This is not the first time Students & Scholars Against Corporate Misbehavior (SACOM) reports on the violations of basic workers rights found at Walmart and Disney supplier factories, and International Council of Toy Industries (ICTI) certified factories. It is a big shame that these organizations, given the enormous amount of resources they have, do not perform effectively to monitor their suppliers and certified factories, and actually, by being incompetent in monitoring and helping factories to improve, they allow abuse of workers rights to continue, or even worse still, become a normal and commonplace practice.

In the past six months, SACOM researchers have paid several visits to two factories, Sunny Toys (Shenzhen) Co. Ltd. and Dongguan Crown-Ace Toys Company Ltd., which are both certified by ICTI, and producing for Disney and Walmart. Unsurprisingly, in the supply chain of Walmart and Disney, SACOM found the following violations of basic workers rights:

- excessive overtime up to 160 hours a month, with overnight work, more than four times of the limit stipulated in the Chinese Labour Law
- no overtime premium
- no rest day in a whole month, or only 1 or 2 days in a month
- forced and unfair deduction for housing and food from workers not living in dormitory
- punitive fines
- lack of proper social insurance for workers
- sex discrimination in recruitment
- basic health and safety problems
- ineffective worker representative mechanism or union
- child worker
- deceptions in audits

The above are in blatant violations of the labour laws in China. They are also systematic management issues which led SACOM to wonder, what Walmart, Disney and ICTI have been doing in their corporate social responsibility program to monitor these factories? The companies arrange audits to monitor their supply chains, but the quality of these audits are highly questionable and unable to discover the violations happening to workers in reality.

On 10 July 2010, it was reported in the *South China Morning Post* that, the Vice President of ICTI CARE Foundation's Asian operations, spoke at a seminar that "bribery and wages are not the only problems... We have found child labour cases every month." However, when SACOM and Stop Toying Around wrote to the governance board of the foundation, asking for more relevant information on the bribery, wage and child labour issues, ICTI refused to provide concrete figures about the violations it has found. The information is also missing in its recently published biannual report. SACOM regrets the lack of transparency of ICTI and its attempt to cover up the real magnitude of the labour rights violations in toy industry in China.

Sunny Toys (Shenzhen) Co. Ltd.

Factory Profile

Address	Meng Tuo Li Road, Sha Yi Sha Pu Song Gang Street, Boan District, Shenzhen City, Guangdong Province, China
Tel	(86) 0755 2705 0710
Fax	(86) 0755 2705 0716
Products	electronic and plush toys

The factory supplies to both Walmart and Disney. It also is certified by ICTI CARE Process (seal no.: C2883). Its information shows as follows on ICTI website:

Compliance Search Results:

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Factory	Seal Number	Employees	Location	Status
Sunny Toys (Shenzhen) Co.,Ltd	C2883	214	SHENZHEN, GUANGDONG CHN	Certified
Toy category: Contact factory for details.				
Factory Processes: Contact factory for details.				
Expiry Date:				
Meng Tuo Li Road, Sha Yi Sha Pu Song Gang Street ,, Boan District, null, SHENZHEN, GUANGDONG, CHN Apr 08 2011 12:00A				
Phone: 0755-27050710				

Source: ICP Factory Database, ICTI

Sunny Toys was established 15 years ago. Headquartered in Hong Kong, it has three factories and two research and development centers in Mainland China. The factory also has a trading unit which receives orders directly from buyers. If the factory does not have enough capacity for production, it subcontracts the orders to other factories. Products are sold to the US, European and Japan.

There are about 300 workers in the factory, mostly female workers. Workers come from different provinces like Henan, Hubei, Guangxi, Sichuan, Anhui and Jiangxi, etc.

Research Methodology

The research at Sunny Toys took place from May to October 2010. A researcher applied job at Sunny Toys as an undercover worker in late September and left in early October. Offsite interviews were also conducted and about 30 workers responded to the researchers outside the factory.

Findings

Wage

Workers are paid at time rate or piece rate, depending on which department she or he belongs to. In the sample-making department, the basic wage is based on the legal minimum wage CNY 1100 plus bonus. The amount of bonus differs every month and workers do not know how bonus is calculated.

Low and arbitrary wage

Workers in other departments are paid by piece rate and do not have overtime premium. They also do not know the level of piece rate until the whole product type is finished and wage is paid. If new workers are not fast enough, they will be remunerated at minimum wage only.

The cutting department also pays workers by piece rate, but it is based on the work of the whole department, so workers also do not understand how their wage is calculated. Workers in the sewing department are also paid by piece rate. Some workers told SACOM researchers that they worked for 28 days a month. In August and September 2010, they received about CNY 1600-1800 per month. Meanwhile, workers at the packing department worked for 30 days in August with only one day off, and worked from 8 am to 11 pm throughout the month, with several days of overnight work, received only CNY 1500-1700. Interviewees complain about the hard work and the low wage. A worker who has worked in the factory for already 5 years exclaimed that his wage is the same as new workers.

Delay of payment

Wages are paid to workers' bank accounts from 22nd to 25th every month. Wages are paid one month in arrears. Many workers said that new workers left before the end of the first month could not get salary at all. Some workers even said that they had to work for at least 3 months before they could get paid at all. Some workers said that they do not have a wage stub.

Unreasonable Deduction of wage for food and dormitory

There is a full attendance bonus for CNY 30 per month if workers are punctual and come to work everyday. However, CNY 60 of housing charge is deducted from all new workers for the first 3 months no matter they live in the dormitory or not. Only after 3 months, workers do not need to pay for food or dormitory.

Working hour

There is only one work shift in the factory. Workers begin to work at 8 am everyday till 12 pm, and work from 1:30 pm to 5:30 pm in the afternoon. Overtime work starts at 6 pm. Since there is no overtime premium for piece rate workers, they are not required to punch timecards for overtime hours.

Very long working hours, even overnight works

Overtime work varies in different departments. In peak season, from May to November, workers have to work for very long hours. Workers in sewing department worked till 10 pm for most nights in September, and 10:30 pm in October. Handwork workers worked till midnight in October. The packing workers usually worked till 11 pm and had to work overnight sometimes. Workers reported that on September 30th, they worked till 4 am in the morning and continued to start work at 8 am the following day. Obviously, such practices violate article 36 of the Labour Law, which states that the working hour should not be more than 40 hours a week.



Workers in the packing department always have long working hours, sometimes even work until midnight.

Compulsory overtime work

Workers expressed that they were exhausted from work. They usually only have 2 days off in a month and some workers even complained that they worked throughout the month without a rest day. This is an infringement of article 38 of the Labour Law, which requires work units to ensure the workers at least one day off in every seven-day-work-cycle.

Workers said that the management was fierce and it was mandatory to stay in overtime shift.

During SACOM's investigation, there were the Mid-Autumn Festival in September and the National Day

Holiday. In 2010, there should be 3 days off for the Mid-Autumn Festival and 7 days off for the National Day according to arrangement approved by the State Council. However, the rest days in Sunny Toys were not arranged nor the overtime premium are not paid in accordance with the Labour Law requirement. Only one day off for the Mid-Autumn Festival and two days for the National Day were arranged for the workers. Apparently, these defy legal requirement of articles 40 and 44 of the Labour Law.

Management

Workers can have recess. They are allowed to drink water and go toilets at Sunny Toys. A notice posted beside the timecard machine in the dormitory listed a number of acts which are prohibited. One of the rules states that workers are forbidden to go outside without an approval from the factory. Another rule

states that workers are forbidden to chat with others during work.

Workers commented that frontline management was fierce and always scolded workers for low productivity. If workers are late for 3 times in a month, wage will be deducted. If there are defective products, fine will be imposed. Therefore, workers have to keep working to maintain a high productivity.

Social insurance

Social insurance benefits, including pension, industrial injury insurance and medical insurance, are entitlements of workers in accordance with article 3 of the Labour Law. Both employer and employee are obliged to contribute to the social insurance funds (articles 72 and 73). However, interviewees told that they were only protected by medical insurance. And CNY 4 is deducted from their salary every month. There is accident insurance only for the workers in the cutting department. And workers revealed that only management staff is protected by pension scheme.

Health and safety

Dust and noise are common hazards on the shop floor. When the SACOM researcher walked through the factory, there are four workers working in the filling department. Ventilation is poor. There is only a fan in the department. Thick layers of cotton dust accumulated on the shop floor. Workers' skin was covered by the cotton dust. It is noisy but only one worker is wearing earplugs. Workers said that they do not want to put on personal protective equipment due to the hot environment in the workshop. In the handwork department, workers need to weld the eyes of the toys. The temperature is high and it is easy to get burned, however, workers revealed that the gloves were not appropriate and it was inconvenient to use them. Therefore, workers do not wear mask and gloves on shop floor. Dust is also common in the cutting department but workers do not wear masks.



The noise level in the filling department is very high, but workers do not have any hearing protection.



Dim and damp in the dormitory room.

Dormitory

The dormitory building has three storeys. There are four double deck beds in each room, usually houses 5 to 6 workers. The space is very little in each room and the environment is dim and damp. Every room has a quota of free electricity usage. Workers have to pay for the extra usage.

Recruitment and resignation

There is sex discrimination in the recruitment of workers. According to the factory security guards, the factory used to hire both male and female workers. However, since June this year, the factory only hires female workers.

Sunny Toys only signs contract with workers in the second work month of the workers. Article 10 of the Labour Contract Law stipulates that labour contracts have to be signed within the first month of employment. Therefore the practice of Sunny Toys is a breach of labour law.

Article 37 of the Labour Contract Law spells out that workers can leave with prior 3 days' notice within the probation period. The factory requires workers to work for at least three months before they resigned.

When further questioned, the factory still insists that workers can only leave after a 30-day notification is given regardless workers is on probation. However, many workers said that during the low season, it is very easy to resign and usually the factory allows workers to go on the day workers put in the resignation.

Worker representation system

Many workers do not know about worker representatives, only some of them say that worker representatives are those who raise opinions about dormitory and food. Workers also do not know the difference between worker representatives and the union, and are not sure if they have a union in the factory.

Deception during audits and uninformed CoC

Some workers said that they experienced factory inspections. Some workers even said that they have been interviewed by the auditors. However, supervisors tell workers to give “correct” answers to auditors. Workers commented that they do not think auditors can really help them.

While Disney and Walmart both issue their codes of conduct to their suppliers, workers have never heard about the codes or seen them posted in the factory. In other words, workers cannot use the codes to defend their rights.

Dongguan Crown-Ace Toys Company Ltd.



Factory Profile

Address	Humen Town, Dongguan City, Guangdong Province, China
Tel	(86) 076 9555 5828
Fax	(86) 076 9555 5870
Product	Electronic and plush toys, digital cameras

The factory supplies to both Walmart and Disney. It also is certified by ICTI CARE Process (seal no.: C0022). Its information shows as follows on ICTI website:

Compliance Search Results:

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Factory	Seal Number	Employees	Location	Status
Dongguan Crown-Ace Toys Company Ltd.	C0022	3735	Dongguan City, Guangdong CHN	Certified

Toy category: Contact factory for details.
Factory Processes: Contact factory for details. Expiry Date:
Humen Town, Dongguan City, Guangdong, CHN 523920 Jul 04 2011 12:00A
Phone: 86-769-85555828

Source: ICP Factory Database, ICTI

Dongguan Crown-Ace Toys was established in 1995. The biggest shareholder of the factory used to be the Hong Kong tycoon Li Ka Shing. It was sold to an Italian company in 2009. Currently, Crown-Ace has four production buildings which hold 4,000 to 5,000 workers. In 1999, the workforce was as high as 10,000 workers. Workers come from provinces like Hubei, Henan, Anhui, Hunan, Jiangxi, Sichuan and Gansu.

Crown-Ace's products are sold to the US, European and Japanese markets.

Research Methodology

The research at Dongguan Crown-Ace Toys took place from July to Oct 2010. Offsite interviews were conducted and about 40 workers responded to the researchers outside the factory.

Findings

Wages

The basic wage for workers of Crown-Ace is CNY 920, which is the same as the legal minimum wage. A 6-day workweek system was applied. Workers are paid 150% for overtime work even on Saturday. Only overtime work on Sunday will be paid 200% of the hourly wage.

Low wages barely enough for real life

During the peak season, if workers work really hard, up to 11 pm every night, they can get CNY 1800-2200 for the month. Some can even get CNY 2400 per month. In the low season, their overtime hours are less, and the wage is too low for survival.

Several middle-aged workers pointed out that they only continue to stay in the factory because it was difficult for them to find jobs elsewhere because they were already old. Meanwhile, younger workers said that they would not stay long in the factory and would not recommend their friends to come to work in the factory because during low season, wage was not enough for self-subsistence.



Many workers ask their family to bring them lunch boxes because they are unsatisfied with the food in the canteen.

Working hour

There are three badges of workers who begin to work in the factory, starting from 7:20, 8:15 and 8:30 am respectively. Lunch time starts at 12:15, 12:30 or 12:45 pm. Workers will work straight till 7 pm for a one-hour dinner break, and then they continue overtime at 8 pm to 11 pm or even midnight. Workers work 6.67 hours a day for their normal work days. This arrangement is to avoid double hourly wage for overtime on Saturdays. They are also asked to come to work 10 minutes earlier for “morning assembly”, but the time is not counted as work hours and is not paid.

Overnight work

Workers said that they usually work around 70 hours a week. In the peak season, working hours may amount to 80 hours per week. In the production workshop, it is common for workers to work till 11 pm or midnight. Workers in the assembling department worked overnight for several nights in September, and workers said that their monthly overtime hour in the peak season could be about 160 hours or even more, which is more than 4 times the hours allowed by the Labour Law. Some interviewees even told that sometimes they worked consecutively for 3 weeks and then they have the following whole week off. Some temporary workers said that they worked consecutively for over twenty days without any day off, and they could only rest after they have left the factory. Overtime work is not on voluntary basis. They must stay on the shop floor especially when the factory is busy.

Management

Workers will be fined CNY 100 for smoking. Starting from October, the factory introduces the attendance bonus. Being late for 1 minute, CNY 5 to 10 will be deducted. If workers are late for over 10 minutes, workers are not allowed to work in the morning shift.

Heavy fine is imposed for going to toilet without an off-duty permit

Workers' access to toilet is restricted. Workers need to apply for an “off-duty permit” for toilet break. And interviewees highlighted that “off-duty permits” are very limited. In some production lines, there is only one permit shared by 60 workers. There is also security guard at the toilet door. If workers are found going to toilet without an “off-duty permit”, workers will be fined for CNY 100.

Social insurance

Social insurance benefits, including pension, work-related injury insurance and medical insurance, are entitlements of workers in line with article 3 of the Labour Law. However, workers told SACOM that they were only protected by medical insurance. Only management staff and senior workers are insured with pension.

Health and safety

In the packing department, workers pointed out almost all workers suffered from allergy. There are red spots on their arms which make them itchy. They do not understand why but they all dislike their work in the packing unit.

No appropriate protective equipments

The noise level in the injection department is high but workers are not provided with earplugs according to interviewees. There is strong smell in the spraying unit. Workers are provided with disposable masks, however, many workers criticized that it was inadequate. Workers sometimes feel dizzy because of the irritating smell.

Dormitory and food

A standard dormitory room accommodates 16 workers at most. However workers said the facility in the dorm is too bad and they would rather live outside. CNY 80 is deducted from workers living in the dormitory every month. There is a washroom inside, but there is no hot water and no air-conditioning. Workers who choose to live outside pay CNY 150-200 every month for more freedom.

There is a canteen inside the factory and money is deducted from workers wages. Breakfast is about CNY1-2, dinner is about CNY 2-5, night snacks CNY 2-4, etc. But workers commented that the food quality is bad and many would rather eat outside. They may ask their family to bring them lunch boxes and eat outside the factory compound.



Workers told that in recent months, only female workers were recruited.

him to have his hair cut. The factory also only hires female workers in recent months. This constitutes sex discrimination.

SACOM researchers met a young-looking worker who confided that he used his brother's ID card to get into the factory, and actually he was not yet 16 years old. In other words, he is a child worker. He told that was overloaded and decided to quit next week.

Worker representation system

Many workers do not know there are worker representatives at Crown-Ace, and they do not know if there is a union.

Recruitment and resignation

The factory requires the ID card and a health card in the recruitment. The factory has put up a recruitment advertisement near the factory gate, and some workers are also introduced to work at the factory by labour agencies.

Tricks to push workers quit during low season

The factory recruits temporary workers during the peak season and the factory finds different ways to push workers to leave during the low season. For example, a worker recalled that the frontline management forced him to go by constantly making bad comments about the length of his hair and required

Conclusion and demands

The two factories, Sunny Toys and Dongguan Crown-Ace Toys, produce for the world's biggest retailer, Walmart, and the world's largest entertainment company, Disney, and are certified by the certification body ICTI-CRAE Foundation which is supported by over 700 companies. Supposedly, they should have been under intensive monitoring and should have received adequate support to make the necessary improvements. However, over years, SACOM continues to find fundamental and systematic violations of workers' rights in suppliers of Disney and Walmart, and also ICTI certified factories like Sunny Toys and Dongguan Crown-Ace Toys. SACOM believes that the two factories are only a tip of an iceberg.

SACOM demands the followings:

- ICTI should stop covering up the problems and become transparent about the real problems in the toy industry;
- Disney, Walmart and the ICTI must rectify the labour rights violations at Sunny Toys and Crown-Ace Toys and provide remedies to the workers whose rights are denied. Corrective action plan should be announced for public and worker's scrutiny;
- Disney, Walmart and ICTI should, with the participation of NGO, to improve the enterprises' ineffective monitoring system;
- Disney and Walmart should raise the order price so that their suppliers can provide a decent basic wage for workers; and
- Workers themselves are the most effective and legitimate to monitor the working conditions at their workplace. There must be formation of genuine worker representative system which can defend the rights of workers and improve working conditions.

Contact Persons

CHAN Sze Wan, Debby

Project Officer

Email: debby@sacom.hk

Tel: +852 2392 5464 or +852 6756 8964

CHENG Yi Yi

Project Officer

Email: yycheng@sacom.hk

Tel: +852 2392 5464 or + 852 6012 0312