



Students & Scholars Against Corporate Misbehavior

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Tolerating Violations in the ICTI CARE Process: Tianyu Toys Keeps Failing to Meet Standards

10 August 2010



Factory Profile: Dongguan Tianyu Toys Co., Ltd

Address:	Huaxing Industrial District, Tianxin Village, Qiaotou Town, Dongguan City, Guangdong Province, China
Tel:	86 - 769 - 8342 6309 or 86 - 769 - 8821 6503
Fax:	86 - 769 - 8345 9721
Workforce:	3,000 plus (only 1,300 according to information provided on ICTI's website)
Products:	plush toys, stuffed toys, plastic toys, and other accessories
Clients:	Disney, Wal-Mart, Mattel, Coca-Cola, etc. ¹

Findings

This is the third time SACOM has conducted an investigation at Tianyu. In October 2007, SACOM issued a report titled "Tianyu Toys Brings You Winnie the Pooh"², which highlighted the factory's

¹ A list of clients is found from the advertisement of Tianyu Toys Co. Ltd. from various labour agency websites.

² Students & Scholars Against Corporate Misbehaviour, "Tianyu Toys Brings you Winnie the Pooh", October 2007. <http://sacom.hk/wp-content/uploads/2008/07/tianyu-toys-disney-oct2007-sacom.pdf>



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rampant violations of labour laws, including excessive working hours, underpayment, and cheating in factory audits. During summer of 2009, SACOM revisited Tianyu to see if any improvement had taken place in the factory. The second report, “Exploitation of Toy Factory Workers at the Bottom of the Global Supply Chain”³, was issued in cooperation with Südwind Agentur and other allies of Stop Toying Around⁴. Disappointingly, serious labour law violations remained. Soon after our research, Tianyu was certified in the ICTI (International Council of Toy Industries) CARE (Caring, Awareness, Responsible, Ethical) Process in September 2009. However, this status has not lasted for long. Recently, Tianyu was on probation in the CARE Process for the second times within one year. Since then, some corrective actions have been taken place. However, the factory still fails to fulfill its minimum legal obligations. In July 2010, researchers interviewed over 20 Tianyu workers. The following are the key findings:

Overtime Work

A typical worker’s overtime at Tianyu adds up to 62-108 hours per month – almost double or up to triple the legal limit of 36 hours per month established in article 41 of the Labour Law. Some workers stated that the overtime work has dropped compared to last year. Last year, they could only rest for 2 nights in a month. Recently, workers have ‘less’ overtime work. Most of them have 2-3 hours overtime work on weekdays on top of the regular 8-hour shift. On Saturday, most of the workers have 8-10 hours of work, while some have a half-day’s work. Currently, workers can rest for one day in a week. In other words, the working month is 236-282 hours. Workers indicate that there is no division of peak season and low season at Tianyu, so these excessive hours represent the norm at the factory, not brief periods of extraordinary circumstances.

A plastic injection department worker said he worked 70 hours per week. He only rested for two days in the entire month of June. A few workers from the assembly department explained that when the order was very urgent, they had to work from 8:00am until midnight. An interviewee from the hand-assembly department said that her department also had to work until midnight in order to meet the quota.

	Monday-Friday	Saturday	Sunday
Regular working hours	8 hours		holiday
Overtime work	2-3 hours	4-10 hours	
Total: 236-282 hours			

When asked if the overtime work voluntary, many workers state that they cannot support themselves unless they earn the overtime premium. A worker who has been working at Tianyu for 3 years said, “even if we don’t want to work, we have to work. The frontline management will not let us go.” He witnessed a worker in the assembly department requested a day off due to exhaustion, only to be rejected. The worker concerned did not go to work and was then sacked. Another worker shared the

³ The report is downloadable at http://sacom.hk/wp-content/uploads/2009/12/toy-report_final-version.pdf.

⁴ The Stop Toying Around Campaign is comprised of Südwind Agentur, Peoples Solidaires, Society for Fair Trade, AUR, Polish Green Network, and SACOM.



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same experience, but he was luckier and was only fined for CYN 50. These experiences recall an example raised in our last report, that CNY 50 was deducted from a worker's salary after he refused to continue overtime work after 9:30pm.

Wage

Workers used to complain that they did not receive pay stubs. Not only did their pay appear to be reduced by arbitrary, often unexplained deductions, without pay stubs they also had no record of how many hours they had worked. Not having a clear record of their overtime work puts workers in a vulnerable situation because they cannot prove how much pay they are truly owed. The lack of pay stubs also defied a provision of the Regulations of Guangdong Province on the Payment of Wages that employers should give a wage stub to employees (article 17). Now, wage stubs are available and include a breakdown of basic salary, overtime premium on weekdays, weekends, and statutory holidays. Generally, most of the workers are satisfied with the rectified system. The basic wage at Tianyu is CNY 920, which is the same as the statutory minimum wage. After adding the overtime premium and production bonus, workers' earnings can range from CYN 1500-2000.

One interviewee explained that paychecks are distributed in a way that deprives workers of their one chance to eat lunch: "We have to collect our pay during lunch time. There is a long queue and we have to wait for half an hour."

A young male interviewee expressed frustration at having to point out mistakes and request back pay repeatedly: "I don't know whether the factory does it intentionally, but my wage is wrongly calculated. It has happened twice to me within this year. However, when we point out the mistake, we can get the money back."

Another interviewee said, "I have not eaten or lived in the factory and dormitory, but the factory deducted my salary for these two items. Now many workers are cautious about the calculation of the wage. We will mark down the number of overtime work we have everyday and calculate the wage in each month."

Under the pressure of the ICTI, most of the workers can get compensation for improper deductions from their wages. Each worker could get around CNY 1000. Most of the workers welcome the new pay correction policy. However, pay is apparently not corrected so easily when one no longer actually works at the factory -- one female former worker reports that she has not been paid compensation that she was still owed when she left the job at Tianyu.

Article 50 of the Labour Law stipulates that wages shall be paid to the workers on a monthly basis and shall not be delayed. Our last report documented that Tianyu withheld wages from workers for 45 days. There has been no significant improvement in this situation. The factory should remedy this situation and pay workers promptly and according to the law.

Even though the salary at Tianyu is ultimately in line with legal minimum requirements, workers



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cannot afford a decent standard of living on their base salary. The problem of excessive overtime can only be eased with an increase of the basic wage to a decent level.

Social Insurance Benefits

The right to social insurance benefits is guaranteed in the Labour Law. The law specifies that workers are entitled to enjoy social insurance benefits (article 3), and that both employer and employee are obliged to contribute to the social insurance funds, including pension, medical insurance, and industrial injury insurance (articles 72, 73). In our previous reports, we highlighted the absence of social insurance protection at Tianyu. Regrettably, Tianyu has not rectified the problem. None of the interviewees had seen any acknowledgement that they are protected by industrial injury insurance or included in the pension scheme. They only know that CNY 5 is deducted from their salary for medical insurance. Some workers said that only the frontline management, senior management, and the white collar staff can benefit from the pension scheme.

Worker Committee

A worker committee was formed in 2010 through a one-person, one-vote election. Most of the workers commend the election as being free and fair. Nevertheless, the interviewees indicate that they will not lodge a complaint with the worker committee when they have a grievance. “The worker committee is only a window-dressing procedure,” said one. SACOM appreciates the establishment of the worker committee. However, given that workers distrust the committee system, it is recommended that the new worker representatives have an opportunity to explain their mandate to the workers.

Punitive Fines

Punitive fines have been eliminated. Ironically, however, tougher measures have been imposed instead. Sometimes, workers are sacked if they make a mistake. Recently, a worker who had worked in the factory for three years was dismissed due to a single mistake. Another former worker said the frontline management forces workers who make mistakes formerly punishable only by fines to resign.

Management

A few workers highlight that the some of the frontline management should be trained to be more civil. One workers said, “An ‘off-duty permit’ is required if a worker needs a toilet break. In some production lines, one “off-duty permit” is shared by 20 to 40 workers. Sometimes, frontline management will scold and insult a worker if he/she spends more time than expected in the restroom.”

Contract

In the past, workers were asked to sign two copies of their contracts, but they were never given a copy of their own to keep. Some workers managed to get a copy, but only by making requests. This was a violation of Article 16 of the Labour Contract Law. This problem is corrected now.

Others

Sick leave

In the past, workers who requested sick leave would be scolded by frontline management. Most of the



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workers can take leave when they are sick. Unfortunately, sick leave at Tianyu is unpaid. Article 23 of the Regulations of Guangdong Province on the Payment of Wages provides that employers must pay workers who are on medical leave. The amount should not be lower than 60% of the wage or 80% of the minimum wage.

Accommodation

Many workers prefer to rent a small flat outside the factory. Apart from a lack of privacy, some workers are disturbed by poor hygiene in the dormitory. In our second report, it was reported that cockroaches were often found in the rooms. A worker who is going to move out from the dormitory said, “there are always small insects in my room.”



Deceptions during Audits

Workers are aware of factory inspections that have been conducted by various clients and ICTI. As SACOM found in previous reports, workers are still asked to prepare before factory inspections take place. All the workers must wear uniforms and flip-flops were prohibited. Departments have to be tidied up. Workers who can give canned “correct answers” are awarded with CNY 200.

ICTI CARE Process Information Card

 <p>ICTI CARE Foundation 国际玩具工业理事会“关爱”基金</p> <p>ICTI CARE Worker Helpline: 800-6300 321 (Toll free for landline calls)</p> <p>Dial from Mobile: 020-8154 8562 (Please ask for calling back)</p> <p>QQ: 1425 884 619 (For Local Labor Standards enquiries only)</p> <p>Please also feel free to visit our website: http://www.icti-care.org/audience/chinese/factory-workers.htm and send email to us at asia@icti-care.org</p>	 <p>ICTI CARE Foundation 国际玩具工业理事会“关爱”基金</p> <p>What You Should Know</p> <p>ICTI CARE Process appreciates your participation in the toy industry and the information below will help you understand your rights. If you have queries please call our helpline at 800-6300 321, or call the local labor bureau.</p> <p>Your basic rights include (but are not limited to):</p> <ol style="list-style-type: none">1) Wages for both normal time and overtime must comply with local, legal standards.2) Your hours must not be excessive. At all times overtime work is to be voluntary. You have the right to refuse overtime work.3) Employers must not demand a deposit, hold back your wages or retain your ID papers.4) Your entitlements include: copy of your labor contract, social insurance plus other Government approved paid leave.5) The rights of all people male or female must be respected; these include workers from different regions also victims of industrial accidents or suffering from occupational diseases.6) You should not be subjected to any forms of harassment (e.g. body search by factory personnel, sexual harassment) or discrimination; no mental or physical disciplinary actions are permitted.7) You should have a safe and sanitary working environment in compliance with local laws.8) You should be provided with free and appropriate occupational health and safety training, also personal protective equipment as required.9) If you are under 18 years old, you cannot be required to work, a) on night shift, b) operating heavy machinery, c) with chemicals. (e.g. spray painting) <p>NOTE: People under 16 cannot be employed.</p> <p>10) You have the right, in compliance with China law, to elect your own representatives.</p> <p>ICTI CARE Worker Helpline: 800-6300 321 (Toll free for landline calls) Dial from Mobile: 020-8154 8562 (Please ask for calling back) QQ: 1425 884 619 (For Local Labor Standards enquiries only)</p> <p>Please also feel free to visit our website: http://www.icti-care.org/audience/chinese/factory-workers.htm and send email to us at asia@icti-care.org</p>
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Source: ICTI annual report

ICTI CARE Foundation’s annual report for 2008/2009, “Creating Continuous Improvement in the Workplace”, promised that a small card titled “What you should know” would be delivered to about



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1,100 factories by the end of this year. Tianyu acted in partnership with the ICTI and the China Labour Safety Network (CLSN) when it held the election of the workers committee. Related training was provided by the CLSN. One would expect that the Tianyu workers would also receive the card. In reality, none of the interviewees recognized the ICTI small cards when our researchers showed them an example. In addition to never having seen the card before, only some of the workers have even heard about the ICTI or knew that the foundation comes for inspections.

Critiques of the ICTI CARE Process

“We have been under the ICTI CARE program for 5 years. Not until recently we realized that the program is not to penalize factories. In fact it is always the intention of ICTI CARE to help the factories to correct and meet the standard...”—Dongguan Tianyu Toys. Co. Ltd.

The above statement of Tianyu was highlighted in the ICTI CARE Foundation annual report. SACOM has been monitoring the working conditions at Tianyu for three years. Over the years, Tianyu has been on probation and then certified by the CARE Process. It is astonishing to know that a factory can pass the ICTI Business Code while rampant violations were documented by SACOM. This make us question the standards of the CARE Process.

There is no doubt that improvements have been observed at Tianyu. However, the pace of change is too slow. SACOM always emphasizes that not only manufacturers must bear responsibility. The clients of the toy factories also must alter their purchasing model by raising their order prices and extending their delivery time. We believe ICTI can have a role in helping brand-name clients to reform their buying practices and make corrective plans for factories sustainable. Equally important, we advocate that corrective plans should be launched with the support of the brands. Brands should not “cut and run” from factories that have problems.

Compliance Search Results:

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Factory	Seal Number	Employees	Location	Status
Dongguan TianYu Toys Co., Ltd.	C0190	1300	Dong Guan City, Guan Dong CHN	On Probation
Toy category: Contact factory for details. Factory Processes: Contact factory for details. Expiry Date: Qiao Tou Town, Dong Guan City, Guan Dong, CHN Dec 08 2010 12:00A Phone: (86) 769-8356 9931				

Registrants/Applicants Search Results:

Total Applicants/Registrants: 1

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Factory	Employees	Location	Status
Dongguan Tianyu Toys Co., Ltd.	800	Dongguan , Guangdong CHN	Registrant On Probation

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As of August 2010, Tianyu Toys was listed as having probationary status in the ICTI CARE Process.
Source: ICTI



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SACOM's Demands

The relentless labour rights violations prove that the ICTI CARE Process alone is inadequate to monitor working conditions at Tianyu and other factories. Even though manufacturers have the primary responsibility for violations, ICTI and brands must assist the factories in rectifying violations of laws and codes of conduct. As such, SACOM puts forward the following demands:

To ICTI CARE Foundation:

- publish all audit reports on its website to increase transparency;
- publicize the corrective action plan of each factory on its website;
- provide workers with remedies for rights violations, including absence of social insurance, delayed wage payments, involuntary overtime work, and inadequate health and safety measures, in order to create a deterrent effect;
- encourage workers to make use of the complaint hotline to report cases of worker's rights violations; and
- issue the ICTI Business Code in Chinese to workers

To brand name companies:

- never adopt the strategy of 'cut and run' to escape responsibility;
- reform the purchasing model by increasing unit prices and extending delivery time to enable manufacturers to comply with labour laws and codes of conduct;
- give all workers copies in Chinese of the brand's code of conduct;
- establish a complaint hotline for workers to report violations of codes of conduct; and
- facilitate the formation of a workers' representation system such as a trade union.

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