



Human Rights Now

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Miki House and Wacoal should take effective action to improve working conditions in their supplier sewing factories in Myanmar.

1. Introduction

Human Rights Now, an international human rights NGO based in Tokyo, has been sending staff to Myanmar since August 2016 and has investigated working conditions in sewing factories there in cooperation with the NGO Action Labor Rights.¹

In the course of these investigations, Human Rights Now interviewed workers in supplier factories of Miki House Trade, Inc.² (“Miki House Trade”) and Lecien Corporation³ (“Lecien”) and found infringements of worker’s rights and substandard working conditions.

¹ <http://www.actionlaborrights.org>

²A group company of Miki Shoko Co., Ltd., whose brand is clothing for kids, “Miki house”. Please refer to the following URL to see details of the company’s information.

<http://www.mikihoustrade.co.jp/#business>

³A subsidiary of Wacoal Corporation (Wacoal), manufacturing and selling underwear etc. Please refer to the following URL to see details of the company’s information.

<http://www.lecien.co.jp/company/>

2. Supplier Factory of Miki House Trade

(1) Overview of the factory

- Buyer : Miki House Trade. According to an investigation report written by the third-party organization mentioned in (3) below, the factory is a supplier factory of Takihyo Co., Ltd. (Takihyo), which Miki House Trade sent an order to.

- The factory's name: Seinus Cliq Fashion (Capitalized by Korea. They have about 500 workers)

- Address: Shwepaukkan Industry Zone, Yangon

- Brand: Results from the investigation by our staff found that clothing items, whose brand is as follows, are manufactured in the factory (the following are pictures of logos provided by the workers):

Picnic



(2) Result from the investigation

On August 30, 2016 and November 24, 2016, in a suburb of Yangon, HRN's staff interviewed female workers currently working in the factory and found the following claims:

(i) Illegal long time hour work

Employees of Seinus Cliq Fashion ("SCF") informed HRN that the office hours of the factory are: on weekdays, from 7:30 am to 16:10 pm (with a forty-minute lunch break); on Saturday, from 7:30 am to 11:30 am. The workers stated that, in August 2016 alone, they had to work overtime shifts for two and a half hours every day on weekdays and for about four hours of overtime on Saturdays. Also, depending on the time of the year, workers in the factory were illegally forced to work for long hours.

There are more than 600 workers in SCF, which falls in the definition of "factory" under Article 2 of the Factories Act, 1951 of Myanmar ("The Factories Act"). The Act stipulates that working hours should be less than 44 hours per week and less than 8 hours per day (*see* Articles 59 and 62 of the Factories Act). Even if workers need to work for special reasons, working hours should not exceed 48 hours per week (*see*

Article 59 of the Factories Act).

The workers reported that they work for long hours, which constitutes an illegal breach of maximum working hours allowable under the Factories Act. The workers also claimed that they are forced to work overtime, which breaches SCF's internal regulations.

Furthermore, the workers informed HRN that SCF's management often requests for them to work overtime until the late night and to come in Sundays. When the workers refuse to comply with such requests, they were often verbally abused by the factory's management.

(ii) Low and delayed wages

SCF's basic salary is 450 Kyat per hour, which follows the minimum wage set out by the Minimum Wage Law of Myanmar. However, it is important to note that the minimum wage set out by Minimum Wage Law falls far below the wage level that enables workers to live in Yangon, where inflation is occurring.

As a result, the workers in SCF live in poverty, having to borrow money for their everyday living expenses. In order to survive, they have to endure severe and long working hours. So in addition to being directly forced to work long hours by management, the workers are also forced into working overtime due to the unlivable minimum wage set up by law.

Furthermore, according to the workers, although their salaries are normally paid out on the fifth day of every month, there have been instances in May, June and July of 2016 where their salaries were delayed for a few days at least.⁴

(iii) Safety of working environment

The workers in SCF reported that several workers fainted in the summer heat when temperatures exceeded 40 degrees Celsius, because there was only six big fans but no air conditioner in the factory. Also, the factory is ill-equipped on medical instruments and medicine for emergency treatment, forcing workers to jointly purchase medicine. The workers explained that medical instruments and medicine were temporarily prepared for labor audits and buyer inspection, but are then returned to and kept in offices, where they are not normally accessible to workers.

(iv) Lack of Employment contracts

In the interviews, SCF employees reported that, at the start of hire, management only

⁴ The salaries were ultimately paid out in the end.

verbally explained their basic salaries and allowances for overtime but written employment contracts were not provided, thus making it difficult to understand holiday policies and how allowances for overtime were calculated. As a result, the workers HRN's staff interviewed told us that they cannot claim their rights under the contract because they do not understand the content of the contracts about holidays and how allowances for overtimes are calculated etc.

Under the Employment and Skill Development Law 2013 of Myanmar, corporations must enter into employment contracts with employees within thirty days after the employees are hired, except when they are fulltime workers of the government, trainees, and workers in probation period (*see* Article 5(a)); salaries, working hours, and holidays must be written in the contracts (Article 5(b)). Thus, SCF's actions appear to breach the Employment and Skill Development Law 2013.

(v) Lack of protection for female workers

Because most workers in SCF's sewing factory are women, protection their rights, such as the right to have maternity leave, is important.

In Myanmar, under the Settlement of Labor Dispute Law, 2012, employees should be able to take holidays for six weeks before giving birth and for eight weeks after giving birth (*see* Article 7A). SCF's workers informed HRN that their right to take maternity leave has been infringed because the company has threatened to reduce their salaries if they were to take legal holidays including maternity leave. At the time of hire, some workers were asked if they were married or if they were pregnant; SCF forced them to promise to resign or forego maternity leave if they did become pregnant. Under such circumstances, it would often be difficult for female workers to become pregnant or give birth because of the fear of losing their job.

The January 13th report by the third-party institution that conducted the investigation on Miki House Trade, stated that "a pregnant worker told us that she would take a holiday leave and receive salary for three months, before and after giving birth. The report also stated that "it is not sure if workers were asked if they were married or pregnant, but some of them were told to resign if they get pregnant."

(vi) Lack of complaint-dispute resolution mechanism

Despite these series of events, the workers have reported that SCF has not set up any complaint-resolution mechanism to assure the worker's labor rights are protected.

Article 3 of the Settlement of Labor Dispute Law 2012 stipulates that employers must set up a work place coordinate committee (a dispute settlement group consisting of two

employers and two employees) in a factory where more than thirty people work. SCF's workers reported that SCF did not set up any dispute settlement group required by law. Thus, SCF appears to breach the Settlement of Labor Dispute Law 2012.

The January 13th report by the third-party institution that conducted the investigation on Miki House Trade stated that "according to an interview with their management in November 2016, a work place coordinate committee was established and a labor union was organized. However, we could not check the minutes, which was necessary to verify if work place coordinate committee requirements are fully implemented.

(3) Miki House Trade's actions after HRN's investigation

HRN sent a summary of the report of the investigation they conducted in August 2016 to Miki House Trade and requested the company to verify facts as well as to address these matters in an appropriate manner.

In Miki House Trade's response, the company stated, pending verification, that SCF's factory is a supplier factory of Takihyo Co., Ltd.,⁵ which Miki Trade sent an order to. Miki House Trade further stated that they contracted with independent third-party institutions, including Energetic Green Co., Ltd ("Energetic Green"), to investigate into the issue on December 20, 2016.⁶ Energetic Green disclosed their tentative report on December 28, 2016,⁷ and their final report is available to the public from January 13, 2017.⁸

Miki House Trade's consideration of the issues that were pointed out by HRN's investigation, is a step forward. HRN further commends Miki House Trade's retention of independent institutions and the making of their investigative reports public. However, there are remaining issues. For instance, it is not clear, from the reports, that these independent institutions were entirely neutral and fair in their investigations. Their analysis on background of the company is too simple and the recommendations made in the reports are too abstract.

Notwithstanding these issues, HRN approves of the verification of the labor law breaches by the company, and the fact that the company plans to implement a guideline on CSR procurement, a moral conduct code, and measures to determine appropriate wages. Above all, HRN approves of the fact that the record of those who worked

⁵ <http://www.takihyo.co.jp>

⁶ <http://www.mikihoustrade.co.jp/news/detail.aspx?p1=844>

⁷ http://energeticgreen.com/blog/2016/12/29/mikihouse_brief/

⁸ <http://energeticgreen.com/wp-content/uploads/2017/01/20170113mikireport.pdf>

English version was released on Feb 2, 2017, and available on the following website:
<http://energeticgreen.com/en/2017/02/02/mikireport/>

overtime shifts has been found in a record book kept by security guards who managed the entrance and exit of workers; the fact that the company admitted that there were workers whose salaries were less than half of other permanent employees' despite having passed their training period as required by law; and that evidence of falsification were found in forms and attendance sheets in the production base (for example, the attendance record on a Sunday was "revised" by white-out). Falsification of forms and attendance sheets is a serious matter because there is a strong assumption that continuous illegal conduct was going on. After the investigation report went public, Miki House Trade stated that they would announce measures to improve and maintain working conditions within four weeks from January 16, 2017.⁹ HRN reiterates that the company must establish and implement appropriate measures to improve the working conditions.

3. Supplier Factory of Wacoal (Lecien)

(1) Overview of the supplier factory

- Buyer : Lecien (a subsidiary of Wacoal Corporation)
- The factory's name : Zuyuan Edenwesis Sanwa Industry Co, Ltd (Capitalized by China. They have about 1,200 workers)
- Address : No-82, U Chein St, Industrial Zone-2, Hlaingtharyar Township, Yangon
- Brand :

Results from HRN's investigation found that clothing items of the following brand is manufactured in the factory (the following is the picture of logos, provided by the workers):

Idana-Riche



(2) Claims found in the interviews in August 2016

HRN's staff interviewed the current workers of the factory in Yangon on August 30, 2016 and found the following claims:

⁹ <http://www.mikihoustrade.co.jp/news/detail.aspx?p1=850>

(i) Substandard safety conditions in the work environment

In HRN's interview with the workers in August 2016, the workers described the poor working conditions in the Zuyuan Edenwesis Sanwa Industry ("ZES").

The dining hall floods when it rains; when it doesn't rain, the pigeons would fly in, causing a deterioration in sanitation. Furthermore, workers are not allowed to bring water bottles into the factory but water in the factor's water tank is not sanitary, causing many to have stomachaches. As a result, workers had to pitch in their own money to purchase a better quality water tank.

Moreover, taking restroom breaks is made difficult because workers had to take and use one of only two cards every time they wanted to go to the toilet. Not only that but, surveillance cameras are set up everywhere in the factory, including restrooms. Furthermore, there is no medical facility in the factory for emergencies; instead, some staff claim to be nurses.

The ZES's factory, which employs than 500 workers, falls in the definition of "factory" under the Factories Act of Myanmar. The Factories Act sets out specific provisions about public sanitation for workers. Article 13(1) of the Factories Act requires s factories to maintain appropriate public sanitation and to remove awful smell; Article 15(1) of the Act requires factories to provide ventilation and to maintain a moderate temperature; Article 20(1) of the Act requires factories to supply appropriate drinking water; Article 21(1) of the Act requires factories to have enough toilets. Article 47(1) if the Act requires factories to install a first-aid kit on a shelf and to assure the availability of emergency supplies during working hours; Article 47(3) obliges corporations that have more than two hundred workers to install a clinic and employ a nurse; Aticle 49 of the Act obliges factories to install a rest room with adequate equipment and a room where workers can have meal breaks.

According to workers' claims made during the HRN interview, the working environment provided by ZES seems to breach the Factories Act.

(ii) Lack of protection for female workers

Female workers also claimed that the company makes it is difficult for them to take maternity leave because salaries would be reduced if they dare take such leave. This breaches the Burmese law that assures paid holidays for six weeks before giving birth and for eight weeks after giving a birth.¹⁰

(iii) Low wages

¹⁰ The article 7A of The Leave and Holidays Act, 1951

When HRN interviewed the workers in August 2016, the workers claimed that they are paid wages less than the statutory minimum wage.

(3) Lecien's response dated January 10, 2017 and a follow-up investigation

HRN sent a summary of the report on the investigation in August 2016 and requested Lecien to verify facts as well as address every issue. In response, HRN received a letter from Lecien that was dated January 10, 2017. In order to verify the response, HRN staff interviewed additional current workers in the factory on January 15, 2017. Results of the HRN interview and the response from Lecien are as follows:

(i) Substandard safety conditions in the working environment

(a) Response from Lecien

Lecien informed HRN that Lecien's employees visited ZES and engaged in an on-site inspection on December 1, 2016. Lecien stated that they, after getting instructions from the Burmese government before and after HRN's investigation, ZES had already begin improving the safety conditions in the factory. Lecien responded that ZES had voluntarily implemented the BSCI audit and the SMETA audit. Lecien also stated that it intends to obtain as much information as possible and will utilize the information for investigation. Additionally, it has made requests to ZES to improve working conditions in the future. Furthermore, Lecien responded that HRN's concerns in its report were addressed as follows:

① Dining hall

Lecien conducted an on-site investigation and confirmed that ZES has refurbished the dining hall and has installed a 1.3 meter wall.

② Toilet

Lecien conducted an on-site investigated and confirmed that ZES has increased the number of toilets in the factory from 17 to 22.

③ Medical facility

Lecien confirmed that, as per the instruction from the Burmese government, ZES has installed a medical room, employed a qualified fulltime nurse, and provided appropriate medicine.

④ Drinking water

ZES has reported to Lecien that it has installed a water purifier.

(b) Results from the second HRN investigation in January 2017

After receiving Lecien's response, HRN staff conducted a second interview with the

current workers of the factory in a suburb of Yangon on January 13, 2017.

The workers confirmed that the conditions of the dining hall and toilets were indeed improved, but the quality of water purifier is still too low to make a water drinkable, despite having a water purifier installed. Therefore, the workers still have to bring their own water bottles to the factory. Also, although the fulltime nurse and medicine were deployed and installed in the medical facility at the time of the interview, workers claimed that these things were only implemented during the audit in order to make the medical facility look better than usual.

(ii) Lack of protection for female workers

The January 10th response letter from Lecien stated that “they are investigating [and] cooperating with experts” and that “as to the future investigation they are planning to use the result of audit by third institutions.” Lecien also stated that they would obtain legal advice from lawyers with a knowledge of Burmese law in order to address HRN’s additional concerns.

In the second interview by HRN on January 13, 2017, the interviewees testified that they were given proper paid maternity leave, but Lecien should continue to investigate whether there were breaches in the law.

(iii) Low wages

The January 10th letter from Lecien stated that the report by independent institutions pointed out that legal minimum wages were paid. However, Lecien also acknowledged that this legal standard was confirmed indirectly, so it would go ahead with a more thorough investigation of individual workers’ wages.

In the second interview conducted by HRN, workers informed the staff that they were being paid 450 Kyat per hour and 3,600 Kyat per day, which meets the minimum wage requirement. However, the minimum wage requirement set out by the Minimum Wage Law of Myanmar is a uniform provision of Myanmar and thus falls far below the wage level that enables workers to live in Yangon where inflation is occurring. ZES should make efforts to ensure workers have enough to live by.

4. Recommendations

(1) The supplier factory of Miki House Trade

Although the investigation was done in a short period, Human Rights Now found that in a supplier factory of the Miki House Trade, the workers suffered from serious

infringements of their labor rights, including being forced to work overtime, low wages, delayed wages, inferior safety, a lack of employment contracts, and a lack of protection for female workers.

Most of issues pointed out by HRN are confirmed in the investigation report by the third-party institution.

The Guiding Principles on Business and Human Rights established by the United Nations (“Guiding Principles”) requires that business enterprises: (1) avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur, and (2) seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts¹¹. Based on these principles, Miki House Trade is required to mitigate infringements of human rights occurring in their supply chain, and prevent further human rights violations in the future.

Takihyo is contracted to manufacture various products by Miki House Trade and other various brands so HRN requests that it mitigates and prevents infringement of human rights in their entire process of manufacturing products. Discontinuing an order to SCF, which turned out to have these issues covered in this announcement, does not result in solving various fundamental issues but result in reducing employment of local workers. Miki House Trade and Takihyo should actively engage in assuring human rights standards in the local factory are met, while maintaining employment of local workers.

Taking into consideration of the results from the investigation above Human Rights Now provides the following recommendations to the institutions:

■ **The management of SCF**

should improve the conditions pointed out by this HRN’s announcement and the investigation report by the independent institution. Remedial measures include, at least, but are not limited, to the content below:

- (1) should manage working hours properly and eliminate illegal long working hours and holiday work.
- (2) should maintain appropriate sanitation of working environment by maintaining moderate temperatures in the factory, providing medicine and medical treatment to workers who are injured during work.
- (3) should provide workers with employment contracts written in Burmese, including

¹¹ The Guiding Principles 13.

required conditions by Burmese law.

- (4) should assure proper maternity leave as per the Settlement of Labor Dispute Law, 2012 in Myanmar and prohibit discrimination against female workers due to their pregnancy.
- (5) should establish an institution-regulating office and assure that it can take action.
- (6) should make an effort to pay sufficient wages for workers to live.

■ **Takihyo**

- (1) should fix issues pointed out by this HRN's announcement and the investigation report by the independent institution through discussions with SCF and through a continued relationship with them.
- (2) should encourage their other subcontractors and suppliers of their products to comply international human rights standards and working conditions, as well as Burmese law, and they should play a main role in preventing infringement on worker's rights through.
- (3) should disclose a list of suppliers of major supplier factories (names and address of the factory, contact address, and overviews of ordered products should be written on it at least).
- (4) should properly audit each stage before, during, and after orders, and disclose the results of each audit.

■ **Miki House Trade**

- (1) should fix issues pointed out by this HRN's announcement and the investigation report by the independent institution through discussions with SCF and through a continued relationship with them.
- (2) should encourage their other subcontractors and suppliers of their products to comply with international human rights standards and working conditions, in addition to Burmese law and they should play a main role in preventing infringement on worker's rights.
- (3) in order to make the content of investigation reports public to business partners' and workers, they should translate the reports into Burmese and disclose the reports on their website.
- (4) should disclose a list of suppliers of major supplier factories (names and address of the factory, contact address, and overviews of ordered products should be written on it at least).
- (5) should properly audit at each stage before, during, and after orders and disclose

results of each audit.

(2) Supply factory of Wacoal (Lecien)

Although the HRN investigation in August 2016 was done in a short period, the safety conditions of the work environment was found to fall below the standard set by Burmese labor law.

Also, workers' claims about breaches in minimum wage laws and the lack of protection for female workers were found.

Based on the Guiding Principles, Lecien and Wacoal are requested to mitigate and prevent infringement on human rights occurring in their supply chain in the future.

We approve of the improvements made by Lecien after the investigation in August 2016. However, Lecien should continue investigating if the level of safety of working environment complies with international human rights standards and Burmese law. They should take an advantage their positions as customers of the factory and should improve their worker's human rights in local factories.

Considering the above, Human Rights Now provides the following recommendations to the institutions:

■ The management of ZES

should immediately investigate matters pointed out by this HRN's announcement, the BSCI audit, the SMETA audit, and other audits. They should release results of the investigations and improve Conditions.

■ Wacoal Corporation (Lecien)

- (1) should immediately have an independent institution with knowledge of the international human rights standards and Burmese law investigate the matters pointed out by this HRN's announcement, BSCI audit, SMETA audit and other audits. They should release results of the investigation.
- (2) should improve issues found in the investigation (i) above through discussions with ZES and through a continued relationship with them.
- (3) should encourage their other subcontractors and suppliers of their products to comply with international human rights standards and working conditions, in addition to Burmese law and they should play a main role in preventing infringement on workers' rights.
- (4) should disclose a list of major supplier factories (names and address of the factory,

contact address, and overviews of ordered products should be written on it at least).
(5) should properly audit each stage before, during, and after orders and disclose results of each audit.

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