



## **Students & Scholars Against Corporate Misbehavior**

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### **Shielding Labour Rights Violations in the ICTI Certification System**

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Students & Scholars Against Corporate Misbehavior (SACOM) has been striving for decent working conditions for toy workers since 2005. Unfortunately, however, we have observed little improvement in the industry over the years. Although the International Council of Toy Industries (ICTI) established the CARE Process, which claims to ensure “safe and humane workplace environments for toy factory workers worldwide,”<sup>1</sup> the foundation rarely lives up to its pledge. Last October, SACOM’s investigative report, *Disney, Walmart and ICTI Together Make Worker Rights Violations Normal and Sustainable*,<sup>2</sup> shed light on the poor credibility of ICTI’s monitoring system. SACOM’s recent investigations at Dongguan Heng Li Tian Tou Chuang Ying Toys Factory Co. Ltd., Tang Xia Yat Hing Plastic and Metal Manufactory and Hui Zhou Win Merchant Tour Product Co., Ltd., further demonstrate that the CARE Process does not uphold minimum labour standards but rather shields labour violations in the certification system.

ICTI certified Chuang Ying and Win Merchant during SACOM’s investigation. Yat Hing was on probation but was recently certified by ICTI. In its investigations of practices at the three factories, however, SACOM found many labour rights violations to be prevalent, including the denial of employment contracts or falsified contracts, underpayment, excessive and forced overtime, absence of social insurance, and poor health and safety measures. Together with the findings in SACOM’s previous report, these findings reveal that ICTI turns a blind eye to rights violations in its certification system.

The ICTI CARE Foundation is an influential institution. Currently, there are 711 companies, including Mattel, Hasbro and Lego, registered in the Date Certain Process. The brands and retailers concerned will only buy toys at factories that are enrolled in the ICTI CARE Process. Disney, Walmart and Toys ‘R’ Us also recognize and support the ICTI CARE Process. As of 2010, over 2300 factories, in which the collective workforce amounts to 1.7 million,<sup>3</sup> participated in the CARE Process. Disappointingly, while the foundation has successfully expanded its membership and sphere of influence, it has systemically neglected to enforce compliance with its own business code and has ignored labour rights violations at factories it certifies. Is the tolerance of labour rights violations the secret of the foundation’s success?

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<sup>1</sup> A statement from ICTI CARE Foundation website, <http://www.icti-care.org/index.html>.

<sup>2</sup> Both Sunny Toys (Shenzhen) Co. Ltd. and Dongguan Crown-Ace Toys Company Ltd. are certified by the ICTI CARE Process. Surprisingly, SACOM discovered that labour rights violations were blatant. The report is available at <http://sacom.hk/archives/748>.

<sup>3</sup> Figure from ICTI CARE Foundation website.

SACOM insists that factories have primary responsibility in correcting labour rights violations. Nonetheless, these exploitations are further promoted by the unethical buying practices of the brands. Within the framework of its certification system, ICTI can put the factories on probation or even terminate their certification. It does not demonstrate a commitment, however, to work with the brands to raise unit prices and prolong delivery times to achieve meaningful structural reforms in the toy industry.

**Major labour rights violations at Chuang Ying, Yat Hing and Win Merchant**

	<b>Chuang Ying</b>	<b>Yat Hing</b>	<b>Win Merchant</b>	
<b>Status</b>	Certified during the investigation	On probation during investigation; is certified later	Certified	
<b>Labour rights violations</b>	<b>Contract</b>	- workers do not acquire a copy of contract	- workers do not hold a contract	- falsified contract
	<b>Wage</b>	- arbitrary wage; - no transparency in piece rate; - no overtime premium for piece rate workers - withholding wages; - delay in payment	- no wage stub; - temporary workers are denied overtime premium; - delay in payment	- underpayment; - no overtime premium for piece rate workers
	<b>Working hour</b>	- excessive overtime, triple the legal standard; - 12 hours a day, 6 days per week; - forced overtime	- overtime is 3 times the legal standard; - 11.5 working hours per day, 6 days per week; - workers sometimes work until 1-2am; - overtime work is compulsory	- excessive overtime, almost 3 times the legal standard; - work shift from 7:25 to 22:30, sometimes until midnight; - 7 days of work per week; - overtime is not voluntary; - counterfeit working hour record
	<b>Social insurance</b>	- no social insurance for frontline workers	- quota system in social insurance, not all workers can participate in the scheme	- absence of social insurance
	<b>Health &amp; safety</b>	- workers are exposed to chemicals; - no information about potential harm from exposure to chemicals is provided to the workers; - no pre-post training; - personal protective equipment is not provided to workers on a regular basis; - absence of regular health examinations	- workers are not informed of potential harm from exposure to chemicals; - poor ventilation; - inadequate personal protective equipment for workers	
	<b>Sick leave</b>	- no paid sick leave	- no paid sick leave	- no paid sick leave
	<b>Others</b>	- difficulty in resignation	- delay in resignation process	- no fire drill

**Demands for factories**

- Rectification of labour rights violations and provision of remedies for workers, including back payment of previously underpaid salaries;
- Back payment should be witnessed by SACOM and independent trade union representatives;
- A living wage for workers, so they do not have to earn a living from overtime premium;
- Labour rights training for workers by labour organizations; and
- Establishment of a genuine workers committee.

**Demands for ICTI CARE Foundation**

- To stop shielding the labour rights violations in the toy industry;
- To increase transparency in audit processes by publicizing results in its reports;
- To disclose the clients of the factories in its database;
- To work with brands to reform the existing buying practice, which inevitably exploits workers;
- To report the number and category of complaints received and ways to resolve the grievances;
- To reform its Business Code to incorporate the right to remedies for workers, including back payment for at least 24 months; and
- To facilitate training at factories and prepare workers to establish worker committees.

## Dongguan Heng Li Tian Tou Chuang Ying Toys Factory Co. Ltd.



Entrance of Chuang Ying Factory.

### Factory Profile

Address	Economic District, Shang Ling Chun, Heng Li Zhen, Dongguan City, Guangdong Province, China
Tel	(86) 769 8373 1928
Fax	(86) 769 8373 2711
Email	info@creativemaster.com
Website	<a href="http://www.creativemaster.com/">http://www.creativemaster.com/</a>
Products	die-cast replicas of automobiles
Clients	Walmart, Mattel, Action Performance, First Gear, Corgi, Hallmark, Tamiya, and Funline

Creative Master, a listed company on SGX-ST, is a manufacturer of die-cast replicas of automobiles founded in 1986. The corporation is headquartered in Hong Kong. Its production facility, based in Dongguan, is named Chuang Ying Toys Factory. Walmart, Mattel and Hallmark are clients of Chuang Ying.

Chuang Ying was certified by the ICTI CARE Process (seal no.: C0078) in 2010 during the course of SACOM's investigation. In late 2010, however, ICTI CARE revoked Chuang Ying's certification. ICTI reveals on its website that the total workforce at Chuang Ying is 1022 workers. Chuang Ying used to have 10 plants. In the aftermath of financial crisis in 2008, the business shrank significantly. Currently, there are only 4 plants in operation.

### Research Methodology

The research at Chuang Ying Toys Factory took place between 17 July and 11 August, 2010. A researcher applied for and obtained a job at Chuang Ying as an undercover worker, and offsite interviews were conducted by a research team. The research findings are based on the first-hand experience and observations of the undercover researcher and interviews from 30 workers outside the factory compound. The turnover rate at Chuang Ying is quite high. Many workers whom researchers met outside the factory expressed that they were new workers and declined to be interviewed. However, researchers were able to obtain interviews from some senior workers at

the factory who described the working conditions over the past few years. In January 2011, researchers revisited the factory to investigate whether any improvement took place after the peak season.

**Compliance Search Results:**

Page 1 of 1 | 1

Factory	Seal Number	Employees	Location	Status
<a href="#">Dongguan Hengli Tiantou Chuang Ying Toys Factory</a>	C0078	1022	Dongguan, Guangdong CHN	Certified

Toy category: Contact factory for details.  
 Factory Processes: Contact factory for details.  
 Foreign Economic District, Shang Ling Chun, Heng Li Zhen, Dongguan, P.R.C., Dongguan, Guangdong, CHN  
 Phone: 86- 769-83731928

Expiry Date: Jan 26 2011 12:00A

**Registrants/Applicants Search Results:**

Page 1 of 1 |

Factory	Employees	Location	Status
Sorry, no registrants/applicants matched your search criteria.			

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Chuang Ying is a factory that was certified by the ICTI-CARE Foundation during the investigation by SACOM.

**Compliance Search Results:**

Page 1 of 1 | 1

Factory	Seal Number	Employees	Location	Status
<a href="#">Dongguan Hengli Tiantou Chuang Ying Toys Factory</a>	C0078	1022	Dongguan, Guangdong CHN	Terminated

**Registrants/Applicants Search Results:**

Page 1 of 1 |

As of January 2011, the certification of Chuang Ying is terminated.

Source: ICP Factory Database, ICTI-CARE Foundation (<http://www.icti-care.org/databases/seal-of-compliance.html>)

## Findings

Most of the senior workers pointed out that the working conditions at Chuang Ying have been deteriorating. As such, the turnover rate is very high in the factory. “In the past, Chuang Ying had a bigger workforce. In these few years, workers come and go. Five new workers were just recruited, 4 resigned quickly. The remaining one would leave within one month. Most of the workers who leave are young workers.” Another worker shared a similar comment, “The working conditions were worse than the old days. Nevertheless, as a middle-aged worker, it would be hard for me to find a new job.”

The following are some key findings of working conditions at Chuang Ying:

### Contract

The labour contract is a fundamental protection for the workers that lists the rights and obligations of the employer and the employee. Furthermore, it is a crucial piece of evidence regarding the employment relationship between the wronged worker and the employer if there is a labour dispute. Although workers signed 2 copies of the employment contract, they did not acquire a copy of it. Most of the workers were asked to sign their names before going through the details of the terms. This is definitely a violation of the Labour Contract Law. Article 16 of the

Labour Contract Law stipulates that both employer and employee should agree to the terms of the contract. And both parties should hold a copy of the contract.

## **Wage**

Workers are paid at time rate or piece rate, depending departments and positions. During SACOM's investigation, time rate and piece rate workers could receive CNY 2100 and CNY 2400 per month respectively. Usually, overtime premium constitutes more than half of the monthly salary.

### *Low basic wage*

The basic wage at Chuang Ying is CNY 920 per month, the same as the local minimum wage. The hourly wage for time rate workers is CNY 5.29. Workers can get the overtime premium in accordance with the legal provisions, i.e. 150% of the hourly wage for overtime on weekdays, 200% of the hourly wage for overtime on weekends, and 300% of the hourly wage on public holidays (article 44, Labour Law). The basic wage for frontline management is CNY 1130 per month, which is just slightly more than the wage for frontline workers.

### *Arbitrary piece rate*

While workers who are paid by piece rate can earn more than the hourly paid workers, they complained the wage was arbitrary. The piece rate is not agreed upon by the workers and the management in advance. Instead, after workers finish the work, the management will determine how much they can get. According to some workers, the piece rate is not standardised. "The more I produce, the lower the piece rate will be. This is unfair, but I can just accept this as reality," a worker exclaimed. In the past, there were strikes to protest against the arbitrary payment by the factory. This indicates that this problem has existed for years, but there has been no commitment from the management to respond to the discontent of workers. A skilled worker criticized, "No matter how many pieces that we produce, the maximum wage we can receive is about CNY 3000 per month." Article 21 of the Regulation of Guangdong Province on the Payment of Wages spells out that the employer should inform the employee of the piece rate in advance. As such, informing the piece rate workers about the money they earn after finishing the work is a violation of the Regulation.

Besides the lack of transparency, piece rate workers do not receive the overtime premium. Even though they work on the overtime shift, the piece rate remains the same. This is a breach of article 44 of the Labour Law.

### *Deteriorating wage*

In 2008, the minimum wage in Dongguan was CNY 770. At that time, most of the workers could earn more than CNY 2500. And many could get CNY 3000. Currently, the minimum wage in Dongguan is CNY 920. Nevertheless, the monthly wage of workers is now just about CNY 2100-2400.

A male worker who has been working in the factory for over 3 years recalled, "Prior to the financial crisis, the working conditions were much better. Our wage was 30% more compared to now. Working hours were less, but many workers could earn about CNY 3000 per month. Furthermore, at that time, the



Workers are leaving the factory due to low salary.

quality of the food was much better.”



Website of Creative Master.  
Source: Creative, [www.creativemaster.com](http://www.creativemaster.com)



Die-cast toy in Chuang Ying.

### *Delay of payment*

Chuang Ying withholds one-month’s salary of the workers. The scheduled payment date for each previous month is on the 28<sup>th</sup> day of the following month. Even worse, that payment is always delayed. Workers reported that they did not receive their wages for the month of June, 2010 until 5 August, 2010. Likewise, when researchers revisited the factory in January, 2011, the wages for last November had not yet been delivered to workers. Such withholding wages is a defiance of the Labour Law. Article 50 stipulates that wages should be paid on a monthly basis and that payment cannot be delayed without reason. Again, without a copy of their contract, workers can hardly refer to the term of the contract to hold the company accountable.

Due to the persistent delay of payment, dozens of workers went on strike in November. Some workers blocked a road. Those workers were dismissed after intervention from the labour department. And the problem of delayed payments continues.

### **Working hours**

Despite lower wages, workers have longer working hours compared to those in previous years. During SACOM’s investigation, workers put in 12-hours per day, 6 days per week. These hours, along with time for meal breaks, mean workers have to stay in the factory for nearly 14 hours a day. The following is the daily schedule for the workers:

Morning shift	7:30-11:45	4 hrs & 15 mins
Lunch	11:45-13:00	
Afternoon shift	13:00-17:45	4 hrs & 45 mins
Dinner	17:45-18:15	
Evening shift	18:15-21:15	3 hrs
<b>Total working hours</b>		<b>12 hours</b>

If there is an influx of orders, workers do not even have a rest day throughout the week. In the peak season, they work about 80 hours per week. And the monthly overtime is at least 110 hours per month. Article 36 of the Labour Law states that standard working hours should not be more than 40 hours per week. The law further stipulates that overtime should not exceed 3 hours per day and 36 hours per month (article 41). In other words, overtime at Chuang Ying is more than triple the legal standard.

Workers are given 1 hour and 15 minutes for a lunch break and 30 minutes for a dinner break. The time for these breaks is unpaid.

In a fast-growing economy, workers cannot subsist on the basic wage of CNY 920, not to mention supporting their families. Most of them want to earn more money from the overtime premium. Even though workers are exhausted from the long working hours, they rarely decline overtime work for a higher wage. But even if the workers do not want to stay for the overtime shift, they have to get approval to leave from the frontline management. And it is very likely that management will not allow the workers to leave. As such, voluntary work is not voluntary.

Currently, workers can rest on the weekends only because the orders at factory have dropped since autumn of 2010. With the reduction in overtime wages, and because of the meager basic wage, the salaries of the workers have decreased significantly.

### **Social insurance**

Social insurance benefits, including pension, work-related 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), of which work-related injury insurance is foremost in importance for compensating workers when there are cases of occupational diseases and industrial injuries. According to interviewees at Chuang Ying, the employer does not participate in the social insurance scheme, and only office workers are insured.

### **Health and safety**

Chuang Ying has four production facilities. At plants no. 3 and 6, health examinations are not required for job applicants. However, workers have to pay CNY 65 for a health examination if they work for plants no. 5 and 9. The body-check items include a blood test, blood pressure test and chest x-ray.

There are six departments at Chuang Ying, namely die-casting, injection, cutting, spraying, pad printing and assembly. Workers in the spraying department have to use chemicals. They are frequently exposed to thinner and other solvents. Workers do not have adequate knowledge about these chemicals. Some of them suspect chemicals are bad to their health. Nevertheless, they have not been informed by the management what those chemicals are and whether they pose potential dangers to the workers. At the same time, there is no training provided to workers before they take up posts in the department. No personal protective equipment or uniform is delivered to workers on a regular basis. Workers may get surgery masks or cotton masks on request. However, these cannot protect the workers effectively. Even worse, a majority of the workers do not wear masks. Furthermore, the factory does not organize regular or annual health examinations for workers. These are violations of the Law of the Prevention and Treatment of Occupational Diseases. For instance:

Protective measures (article 20)	Work units must adopt preventive facilities and protective equipments for workers against occupational diseases.
Indicating harm of the chemicals (article 26)	There must be clear indication about the chemical used in a work unit, such as the characteristics and ingredients of the chemical. In addition, workers should be well informed about the instructions for safe operation and measures for emergency treatment, etc.
Health training (article 31)	Employers shall conduct pre-post occupational health training and regular occupational health training for workers during the working period.
Health examination (article 32)	Work units shall organize health examinations for workers who are exposed to threat of occupational diseases before they take the posts, when they are at the posts, and when they leave the posts. Employers shall inform workers of the examination results.



In the die-casting department, workers complained the machines were too noisy. Workers feel that their hearing is deteriorating. Some interviewees stated that it is very hot on the shop floor during summer. Long working hours, as well as a noisy and hot environment, make some workers uncomfortable.



Shop floor at Chuang Ying.

### **Management**

Management always reproaches workers for low productivity. In order to boost productivity, management does not allow workers to chat with colleagues during work.

Most of the senior managers and production line leaders are fierce in their interactions with frontline workers. Only a handful of them have a friendly attitude towards workers. Most of the

workers know the names of the line leaders, but not the names of the managers. Management is not receptive to comments from workers. This non-receptiveness eventually adds to the workload for workers. For example, workers may make suggestions to the management regarding the production, but the management will simply ignore the workers. A worker recalled his production line leader said arrogantly, “Who is the supervisor here? Should I listen to you? If there is any problem, I will take full responsibility!” But in reality, the frontline management will blame the workers if there are problems. In the end, the workers have to produce the products again.

### **Fire drill**

Enterprises have obligations in fire prevention in the workplace in line with article 14 of the Fire Protection Law. Despite the existence of fire extinguishers and other facilities, there is no adequate training on fire safety provided for workers. Instead, Workers are asked to sign a document that states they have undergone fire safety training. It is evident that Chuang Ying realizes its obligations under the law, but simply ignores them and cheats the authorities. Likewise, no fire drills are conducted in the dormitory.

### **Sick, maternity and annual leaves**

Besides the absence of medical insurance for workers, there is no sick leave for sick workers, which is also a violation of the labour law. Article 24 of the Regulation of Guangdong Province on Payment of Wages spells out wages for sick leave should not be less than 80% of the local minimum wage level. Therefore, sick workers may not take leave in order to earn more money. Also, pregnant employees are entitled to 90-day maternity leave according to article 62 of the Labour Law. While office workers can take maternity leave, frontline workers usually resign and later return to work in the factory again after giving birth.

Likewise, frontline workers are discriminated against with regard to annual leave. A worker who has worked over one year should have at least 5 days paid leave. Workers told SACOM that only office staff could enjoy paid annual leave.

### **Leisure**

Staying 14 hours in the factory makes workers exhausted. Workers only have limited time for leisure. There is a basketball court and one table tennis table in the factory compound. It is definitely not enough to meet the needs of workers. Therefore, workers will play snooker or use the internet outside the factory when they are on holiday.

### **Food**

There are 2 canteens in the factory which are run by contractors. One serves the office staff, and the other is for the frontline workers. Workers expressed that the quality of food is very different between the 2 canteens. An overwhelming majority of the interviewees stated that the food in their canteen was terrible. It's tasteless food, with no seasoning. Many workers will eat outside. Workers have to pay CNY 60 for eating inside the factory. There is no deduction for those who eat outside.

### **Accommodation**

Similar to the canteen, there are 2 dormitory buildings in Chuang Ying, one for office staff and one for frontline workers. Each building has 5 stories. The 2nd and 3rd floors house male workers and the 4th and 5th floors house female workers. There are 8 double-deck beds in each 30 sq. meter room, which can accommodate 16 workers. Due to the drop in the number of workers, 7 to 9 workers share a room now. There are no mattresses or bedding provided to workers. Some workers just sleep on the wooden board of the bed. There are 3 electric fans inside each room. Some of them were out of order, and it was very hot during the summer. There is no locker

provided to workers. Workers usually put their personal belongings on the bed-space that is not occupied by others. However, workers complained that theft was common. “I lost a teapot and a mobile phone charger within one month,” a worker said angrily. In addition, workers have to take care of the hygiene in their rooms and the public area. “My room is full of rubbish. Only if someone cannot stand it, then the person will volunteer to clean the room,” a male worker said. In the bathroom, there is no hot water. Workers have to boil water to take a bath in winter.



Exterior of dormitory.

Some workers rent a small room outside the factory. They can only afford the fundamental furniture, such as a bed, wardrobe and table. A few workers can have a television in their room. Having a refrigerator in a living place is extremely unusual.



Interior of dormitory room. No mattress and no storage facilities. No privacy for workers at all.  
Source: *Chuang Ying workers*

### **Difficulties in resignation**

Some workers witnessed that it was difficult for workers to resign. If workers just leave without formal procedures, it means they will lose 2-months' salary. However, there is always a delay in the resignation process. According to the Labour Contract Law, workers on probation can resign by giving a 3-day notice to the employer. If workers have passed the probation period, a 30-day notification to the employer is needed (article 37). A young worker who was on probation

informed the frontline management that he would like to resign within a week. The management accepted his resignation but told him he could not leave until 3 weeks after. As the worker resigned owing to some urgent matters, the delay in resignation put a great deal of pressure on him.

### **Trade union**

There is no trade union in Chuang Ying, and workers do not have much idea about the role of a trade union and how it can help them to improve working conditions. At the same time, there is no grievance mechanism in the factory. If the workers feel they are wronged, there is no effective channel to bring their cases to the management.

### **ICTI-CARE**

The ICTI-CARE Foundation proclaimed that a worker information card, titled “What You Should Know,” will be sent to about 1100 factories by the end of 2010. Researchers showed a copy of the card to the workers, but none of them had seen it before. Furthermore, none of the interviewees had any idea about ICTI-CARE. Without the ICTI-CARE card, workers do not have much knowledge about their entitlements and cannot make a complaint to the Foundation. Apart from ICTI-CARE, workers do not know which brands they are producing and have never heard about the code of conduct. Some interviewees pointed out there were factory inspections from clients. However, they just came to examine the quality of the products, not the working conditions of workers.

### **Concluding Remarks**

Labour rights violations are found in almost every aspect, from contract, wages and working hours, to social insurance, health and safety. SACOM wonders how Chuang Ying got certification from the ICTI-CARE Foundation despite the wide range of violations observed. This inevitably ruins the credibility of the ICTI-CARE Process. Although ICTI-CARE terminated the certification of Chuang Ying in late 2010, their prior certification reveals the loopholes of the foundation’s audit system.

The problems of low wages and long working hours are always rooted in the purchasing practices of the brands. ICTI-CARE should demand that the brands raise the unit price and give a reasonable delivery time when they place an order at the factory. Factory inspection cannot be the sole means to examine whether a factory complies with the law and code of conduct. The workers should have a more meaningful avenue to voice out their concerns. To make this feasible, there should be labour rights training provided to workers, and a genuine trade union should be established in the workplace.



## Tang Xia Yat Hing Plastic and Metal Manufactory



Entrance of Yat Hing Plastic and Metal Manufactory.

### Factory Profile

Address	No. 1 & 3, 8 South Road, Tangxia Town, Dongguan City, Guangdong Province, China
Telephone	(86) 769-87722126
Email	info@prosperitytoys.com
Website	<a href="http://www.prosperity-ind.com.hk">http://www.prosperity-ind.com.hk</a>
Products	Bead sets, fishing games, crafts, etc.
Clients	Melissa & Doug, BR and Top-Toy, etc.

Prosperity Industrial (International) Co. Ltd. was established in Hong Kong in 1986. Yat Hing Plastic and Metal Manufactory is its production facility in Tanxia, Dongguan. The factory is a participant of the ICTI-CARE Process. During SACOM's investigation last summer, the factory was on probation. Currently, the factory is certified by the ICTI-CARE Foundation.

Yat Hing mainly produces bead sets, which are exported to Europe, America and other overseas markets. On its website, it states that it employs 600-1200 workers. In contrast, on the ICP Factory Database of the ICTI, the workforce is indicated to be about 290 workers. During SACOM's investigation, interviewees stated there were about 500 workers in the factory.

### Research Methodology

In early July 2010, a researcher applied for a job at Yat Hing and worked in the factory for two weeks. From mid-July to mid-August, SACOM researchers also conducted off-site interviews. Twenty nine workers responded to our researchers. In January, SACOM revisited Yat Hing to get updates on the working conditions. Disappointingly, no significant improvements were observed.

## Findings

There were 3 strikes between 2004 and 2007. After the actions of the workers, there were increases in the basic wage. To reduce the production cost, other areas of the factory were diminished. For example, there were fewer recreational activities in the factory, and the full attendance allowance was lifted.

Factory	Seal Number	Employees	Location	Status
<a href="#">Tang Xia Yat Hing Plastic And Metal Manufactory</a>	C1507	240	Dongguan, Tang Xia Town, CHN	On Probation
Toy category: Contact factory for details. Factory Processes: Contact factory for details. No. 1 & No.3, 8th South Road, Dongguan, Tang Xia Town, , CHN Phone: (86) 769-87722126				Expiry Date: Nov 08 2010 12:00A

### Registrants/Applicants Search Results:

Total Applicants/Registrants: 1  
Page 1 of 1 | 1

Factory	Employees	Location	Status
<a href="#">Tang Xia Yat Hing Plastic and Metal Manufactory</a>	290	Dongguan, Guangdong CHN	Applicant

Source: ICP Factory Database, ICTI-CARE Foundation (<http://www.icti-care.org/databases/seal-of-compliance.html>)

## Contract

Workers are asked to sign the contract before having time to go through the terms. Article 16 of the Labour Contract Law provides that both employer and employee should acquire a copy of the employment contract, but Yat Hing workers do not receive a copy of the contract. Without a copy of the employment contract, workers cannot know about the terms of their working conditions and will lack one of the essential pieces of evidence if there is a labour dispute. This implies that Yat Hing knows about the provisions of the Labour Contract Law but intentionally denies a contract for workers.

## Wages

The monthly minimum wage of Dongguan was raised from CNY 770 to CNY 920 in May 2010. The basic wage of Yat Hing used to be slightly more than the minimum wage, at CNY 820 per month. After the rise of minimum wage, Yat Hing adjusted the basic wage to CNY 920. However, on the official notice, dated 4 May, the management did not mention that the reason for the wage adjustment was due to the rise of minimum wage, but instead indicated it was out of the good-will of the management to improve working conditions of workers. Meanwhile, the factory cancelled a monthly allowance at CNY 50 for all new workers starting from May. Nevertheless, workers who are hired before May can still enjoy the benefits. The overtime premium is paid in accordance with article 44 of the Labour Law. The salary at Yat Hing is about CNY 1650-1850 per month, depending on how much overtime workers have.

### *No wage stub*

When workers get their salary, they have to sign on the wage stubs. Interviewees stated there were 2 sets of wage stubs, with different records. On one of the wage stubs, overtime work on weekends and punitive fines would not be shown. "We have to sign our names on the 2 different wage stubs. One is the real wage stub while the other is probably fake records to encounter factory inspections. Nonetheless, we do not have a copy of the wage stubs. The management will keep both copies," a female worker commented on the deception regarding wage stubs.

### Exploitations to temporary workers

Peak season starts in mid-June according to interviewees. The factory also hires a lot of temporary workers through a labour agency. The minimum hourly wage for workers should be CNY 5.29, but temporary workers are paid at a lower wage. Female temporary workers can usually get CNY 5 per hour, while male temporary workers can only get CNY 4.5 per hour. Some interviewees also said temporary workers could not get the overtime premium in line with law.

### Delay in payment

The wages for June were delivered to workers on 24 July. Yat Hing withholds the wages of workers for about 3 weeks. When researchers conducted interviews outside the factory, workers said the problem of delay in payment had deteriorated. Sometimes, the factory holds the wages of workers for a month.

### Working hours

In July, workers usually work from 8:00 to 22:00, with 2.5 hours for lunch and dinner breaks, on weekdays. That means they work 11.5 hours a day. Sometimes, workers have to work until 1:00 or 2:00, in the middle of the night. That means the longest shift can last for 15 hours a day. On Saturdays, workers usually work for 8 hours a day. As such, the overtime work at Yat Hing is about 100 hours per month, which is almost 3 times the limit stipulated in the Labour Law. In the plastic injection department, the meal break for workers is compressed to 20 minutes. As such, workers cannot take any rest after eating lunch.

### Work shift in July:

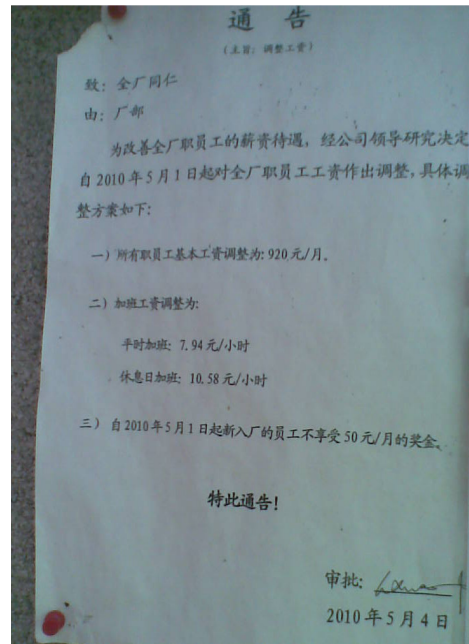
Morning shift	8:00-12:00	4 hours
Lunch	12:00-13:30	
Afternoon shift	13:30-17:30	4 hours
Dinner	17:30-18:30	
Evening shift	18:30-22:00	3.5 hours
<b>Total working hours</b>		<b>11.5 hours</b>

According to interviewees, overtime is still excessive in winter. Workers expressed that in November and December, they often worked until 23:00. Sometimes, they stayed in the shop floor until 23:30.

Overtime work is not voluntary. It is always subject to the production plan of the factory. "Are you sure you want to decline overtime work? The supervisor will not approve that! Just try it if you don't mind being scolded by the supervisor," one worker said to discourage a new worker from refusing overtime work. "I also want to take leave. What's the meaning of money if I lost my life [without good health]," another worker said.

### Social insurance

There is a quota system for social insurance. Yat Hing reports to the local authorities that there are 300 workers. As such, the factory only buys social insurance for 300 workers. In the peak



A notice announcing the adjustment of wage and the cancellation of the monthly allowance for all new workers.

season, there will be about 200 new workers joining the factory. They are usually not protected by the social insurance scheme. Only if senior workers who are insured leave the factory, new workers can join the social insurance scheme.

### Health and safety

Job applicants have to pay CNY 35 for a health examination. The only health examination is a blood test. Workers need to use thinner and other chemicals, such as cleaning solvents, but they are not well informed about what kinds of chemicals they are using and what the potential harms are. On the bottles, there is no clear indication about this information. This is in defiance of article 26 of the Law of the Prevention and Treatment of Occupational Diseases. Although workers complain about the strong and irritating smell of the chemicals, there is no personal protective equipment provided to workers. Ventilation on the shop floor is not good. Sometimes, workers can only get surgery masks and cotton gloves upon request. This is a breach of article 20 of the law on occupational diseases. Furthermore, for those workers who have to handle chemicals, there is no regular health examination provided to them, which is a violation of article 32 of the law on occupational diseases.

An interviewee shared that there had been an industrial injury case. The injured worker lost a finger. The worker concerned could only get compensation after negotiating with the factory. This reveals the importance of insurance for work-related injuries. Unfortunately, many workers at Yat Hing are not insured. Workers do not have a copy of their contract. Consequentially, it puts the injured workers in an unfavourable position in defending their rights through legal means.



Products of Yat Hing  
Source: Yat Hing

### Management

Workers do not feel that they are respected by the management. Some interviewees regard the management as arrogant. The Researcher also observed that a new female worker was reproached by the management and burst into tears.

#### *Arbitrary factory rules*

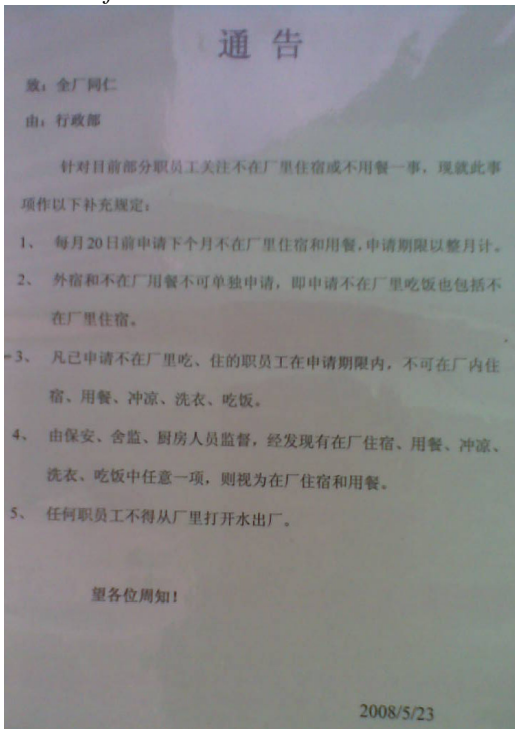
Workers pointed out that the factory rules in Yat Hing were arbitrary. For instance, the researcher observed the frontline management criticized a worker who placed her mobile phone on a table. The worker concerned felt innocent as she was not told this was breaking a factory rule. Moreover, most of the interviewees commented that the wife of the factory owner was troublesome. She always creates new rules whenever she likes, according to workers. Workers used to hang their clothes in a corridor of the dormitory for drying. The wife of factory owner



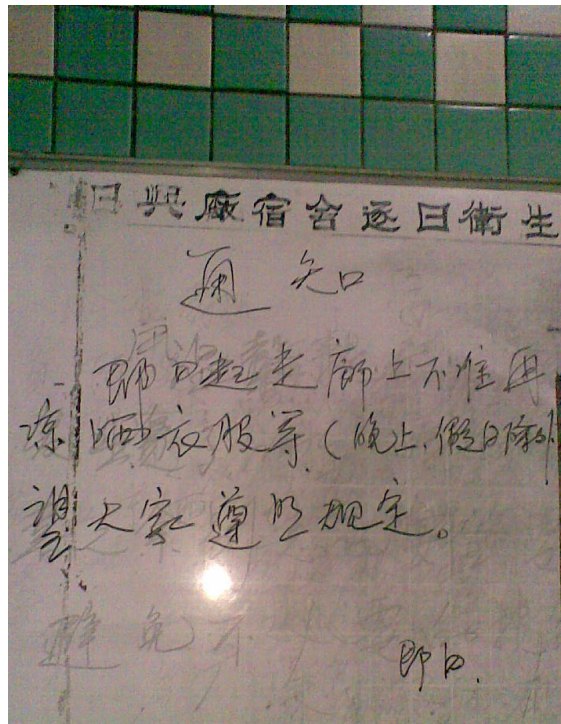


Shop floor of Yat Hing suddenly imposed a rule to ban drying clothes in the corridor during the daytime. And the rule was effective immediately. This causes some inconvenience for the workers living in the dormitory.

*Punitive fines*



A notice states that taking drinking water out of the factory is prohibited.



Drying cloths in the dormitory on weekdays in the daytime is not allowed. And the notice is effective immediately.

For any worker who is 15 minutes late, the management will deduct CNY 20 from the pay of the worker concerned. If a worker refuses to stay for an overtime shift without approval from the

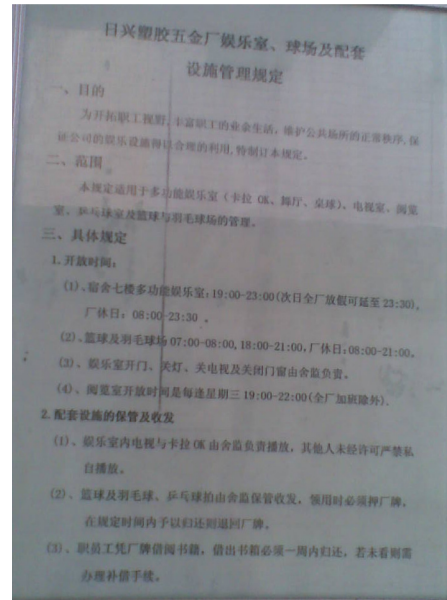
supervisor, it will be regarded as work stoppage. Three-days' salary will be deducted from that worker's pay. "There is no formal procedure in fine or punishment. The management can do whatever they want," a worker complained.

### Sick leave

The Regulation of Guangdong Province on Payment of Wages requires employers to pay workers during sick leave. The amount should not be less than 80% of the local minimum wage level. Nonetheless, there is no paid sick leave at Yat Hing. Even if workers do not feel well, it is difficult to take sick leave. Only if workers are seriously ill, sick leave will be approved.

### Leisure

There is an entertainment hall, a TV room, table tennis room, library, and a basketball court in the dormitory. CNY 8 per month is charged to workers for these facilities. The opening hours of the basketball court and badminton court are 7:00-8:00 and 18:00-21:00. And the entertainment hall is open from 19:00-23:00. During the peak season, the day shift workers can never make use of these facilities. When workers finish their work at 22:00 or 23:00, these facilities are already closed. Or workers are too exhausted from work. The only opportunity to utilize the facilities is during holidays.



Opening hour of the entertainment facilities.

### Food and accommodation

Eating and living in Yat Hing costs about CNY 180-190 per month, CNY 6 for food and CNY 1 for the dormitory per day. This is about 20% of the basic wage. If there is no work on Sunday, there will not be a deduction for food.



Living conditions in the dormitory. No mattresses or bedding.



Each worker is allocated a small locker for personal belongings.

The dormitory has 7 floors. The size of each room is about 35 sq. meters. A room has 5 double-deck beds and can accommodate 10 persons. Usually 9 workers share a room. The remaining bed-space will be used as a storage place for the workers. Although lockers are available, the



space is too small. The living conditions of the dormitory are poor. The walls are dirty and there are no mattresses provided to workers. Only 2 electric fans are installed for the whole room. It is extremely hot in the dormitory rooms during summer time.

There is a toilet and bathroom inside the dormitory room. Hot water is only available in the public area. Workers have to bring hot water to the bathroom.

Workers complained the quality of food in the canteen is unacceptable.

### Difficulties in resignation

Workers can resign on the 10th of each month. The resignations will then be effective on 20th of the following month and considered as formal resignation. That means that workers who resign on 10 July cannot leave the factory until 20 August. As the Labour Contract Law only requires an employee to give notification for resignation 30 days in advance, there is a delay in allowing resignation for at least 10 days beyond what the law allows.

Workers said the management would abuse their power by delaying the resignation of workers. “Don’t you want to leave the factory? I will not let you go easily. I can easily take back your resignation form!” a worker cited words of the management.

### Grievance mechanism

There is no trade union or other workers’ representative system at Yat Hing. There are 2 suggestion boxes near the stairs on ground floor. Not many interviewees are aware of that. Some workers said the wife of the factory owner hated workers making any negative comments towards the factory. “A technician reported some problems in the factory on behalf of other workers. The wife of the factory owner dismissed him afterwards,” a worker recalled. An interviewee also said that during a fire drill, a security guard raised the issue of the overtime premium not being in line with law. Likewise, he was sacked after lodging his complaint.



A certificate granted by ICTI CARE Process to Yat Hing.

Source: Yat Hing

### ICTI code

On Yat Hing’s website, an ICTI-CARE Process certificate is shown. It indicates the factory has been participating in the ICTI CARE Process since 2004. Although there must be regular inspections from ICTI-CARE taking place in the factory, interviewees do not know about the foundation. Researchers showed the information card of the ICTI-CARE Foundation to the workers outside the factory. None of the interviewees recognized the card. In addition, workers were not aware of the code of conduct of brands.

### Concluding Remarks

A host of labour rights violations, including denial of contract, the absence of overtime premium for temporary workers, no pay slip provided, delay in payment, excessive overtime, inadequate social insurance and no paid sick leave, were found at Yat Hing. This explains why the factory was on probation in the ICTI-CARE Process. In January, SACOM revisited the factory and observed that all these problems remained. Surprisingly, however, the factory was certified by the ICTI-CARE Foundation despite rampant labour rights violations. This case proves a failure of the audit system of the foundation.

Yat Hing must rectify the rights violations, and the brands should work with the factory to provide remedies to workers.

Apart from the breach of labour laws, a majority of the interviewees are discontent with the arbitrary management methodology. In particular, dismissal of workers who make suggestions or complain about the working conditions is unethical. As such, a genuine workers' representative system is important to protect individuals who lodge complaints against the factory.

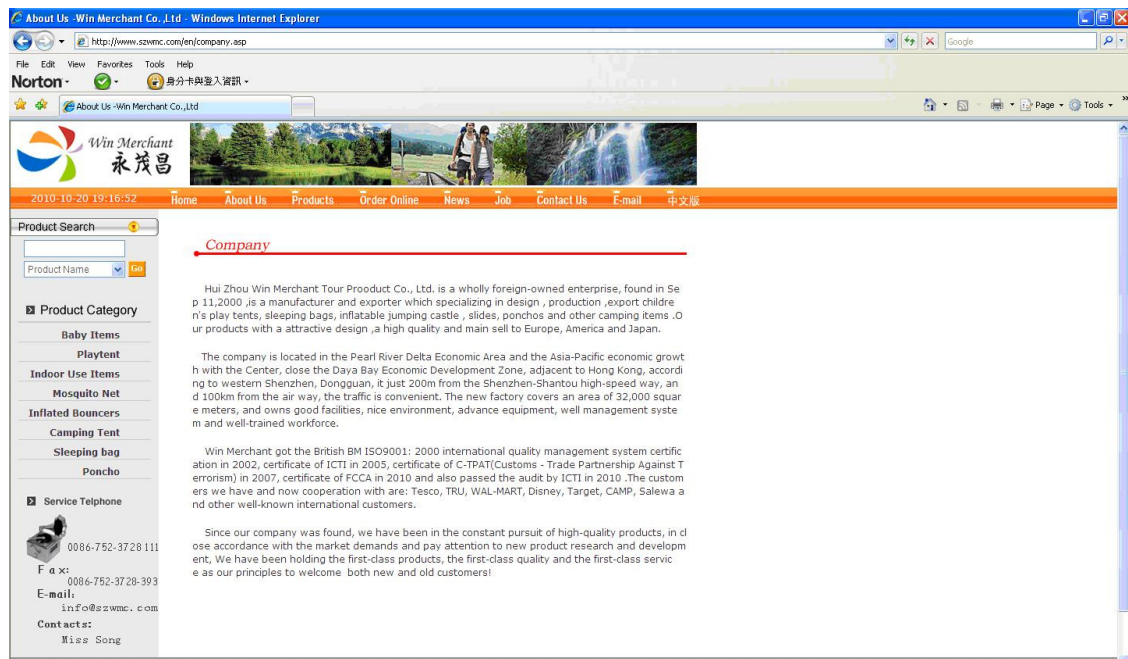
# Hui Zhou Win Merchant Tour Product Co., Ltd

## Factory Profile

Address	Dong Ming Village, Shatian Town, Huiyang District, Huizhou City, Guangdong Province, China
Tel	(86) 752 3728 111
Fax	(86) 752 3728 393
Email	info@szwmc.com
Website	http://www.szwmc.com/en/
Products	Play tent, mosquito net, toy barrel, inflated bouncers, camping tent, sleeping bag, poncho, etc.
Former and current clients <sup>4</sup>	Walmart, Disney, Tesco, TRU, Target, CAMP, Salewa, etc.

Win Merchant Tour Product Co. Ltd. is a Hong Kong-owned enterprise founded in 2000. Products of the company range from play tents to inflated bouncers for children. The website of ICTI CARE Foundation indicates the factory has 105 workers. However, researchers observed that there were about 200 workers during the investigation.

In 2007, Win Merchant's plant was relocated from Shenzhen to Huizhou in order to cut down on production costs. At that time, many workers followed the company to settle in Huizhou. According to the senior workers who are still working at the factory, the working conditions have worsened.



The screenshot shows the official website of Win Merchant. The page is titled "Company" and contains the following text:

Hui Zhou Win Merchant Tour Product Co., Ltd. is a wholly foreign-owned enterprise, found in Sep 11, 2000, is a manufacturer and exporter which specializing in design, production, export children's play tents, sleeping bags, inflatable jumping castle, slides, ponchos and other camping items. Our products with a attractive design, a high quality and main sell to Europe, America and Japan.

The company is located in the Pearl River Delta Economic Area and the Asia-Pacific economic growth with the Center, close the Daya Bay Economic Development Zone, adjacent to Hong Kong, according to western Shenzhen, Dongguan, it just 200m from the Shenzhen-Shantou high-speed way, and 100km from the air way, the traffic is convenient. The new factory covers an area of 32,000 square meters, and owns good facilities, nice environment, advance equipment, well management system and well-trained workforce.

Win Merchant got the British BM ISO9001: 2000 international quality management system certification in 2002, certificate of ICTI in 2005, certificate of C-TPAT(Customs - Trade Partnership Against Terrorism) in 2007, certificate of FCCA in 2010 and also passed the audit by ICTI in 2010. The customers we have and now cooperation with are: Tesco, TRU, WAL-MART, Disney, Target, CAMP, Salewa and other well-known international customers.

Since our company was found, we have been in the constant pursuit of high-quality products, in close accordance with the market demands and pay attention to new product research and development. We have been holding the first-class products, the first-class quality and the first-class services as our principles to welcome both new and old customers!

Official website of Win Merchant.  
Source: Win Merchant, <http://www.szwmc.com/en/>

<sup>4</sup> On its website, Win Merchant lists a number of clients who placed orders at the factory in the past or still have a contractual relationship with them. <http://www.szwmc.com/en/company.asp>.

## Research Methodology

Win Merchant is situated next to a highway in Huizhou. There is no vivid community outside the factory. In addition to putting in long working hours, workers rarely go outside the factory compound. And there are not many strangers around the area. This presents great challenges in attempting to conduct offsite interviews. In August 2010, the research team was only able to interview 18 workers outside the factory. During that period of time, however, there were also 2 researchers who applied for and obtained jobs at Win Merchant. The following research findings are mainly based on observations of the 2 undercover workers and supplemented with off-site interviews. It is worth noting that SACOM's investigation took place just after Win Merchant was certified by the ICTI-CARE Foundation in early August.

## Findings

Win Merchant was certified by the ICTI CARE Foundation (seal no.: C2528) on 2 August. Despite the certification, a multitude of labour rights violations were observed. The following are some of the findings at Win Merchant.

## Contract

Workers sign 2 copies of an employment contract. However, there is not much time for the workers to review the content of the contract before signing. Researchers said the contract they signed was falsified. There was no specification about working hours or wages. Article 17 of the Labour Contract Law spells out that an employment contract must specify remunerations, working hours, social security and so forth. Therefore, a falsified contract is very likely to be manipulated by the employer if there is a labour dispute.

**Compliance Search Results:**  
Page 1 of 1 | 1

Factory	Seal Number	Employees	Location	Status
<a href="#">Hui Zhou Win Merchant Tour Products Co., Ltd</a>	C2528	105	Huizhou, Guangdong CHN	Certified

Toy category: Contact factory for details.  
Factory Processes: Contact factory for details.  
Huiyang District, null, Huizhou, Guangdong, CHN  
Phone: 86-752-3827399

Expiry Date:  
Oct 26 2010 12:00A

**Registrants/Applicants Search Results:**  
Total Applicants/Registrants: 1  
Page 1 of 1 | 1

Factory	Employees	Location	Status
<a href="#">Huizhou Win Merchant Tour Products Co., Ltd</a>	160	Huizhou, Guangdong CHN	Registrant

[print this page](#)

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[site map](#) | [disclaimer](#)

Win Merchant is a factory certified by the ICTI-CARE Foundation. The address shown on the database is incomplete.

Source: ICP Factory Database, ICTI-CARE Foundation (<http://www.icti-care.org/databases/seal-of-compliance.html>)

## Wages

Win Merchant moved to Huizhou in 2007. In the first half of 2007, the monthly minimum wage in Shenzhen's outer zone was CNY 700. When workers followed the factory to Huizhou, the basic wage remained the same. The minimum wage in Shenzhen has now been raised to CNY 1100 per month. However, the monthly minimum wage in Huizhou is only CNY 810. The relocation of the factory is apparently related to rising labour costs in Shenzhen.

The minimum wage should be a safety net for vulnerable workers. Disappointingly, the minimum wage always turns into the basic wage of workers in the toy industry, including those at Win Merchant. The basic wage is CNY 810 per month. The hourly wage should be CNY 4.66. In fact, workers can only get CNY 4 per hour. Most of the interviewees know the minimum wage and know how to calculate the overtime premium. They are disappointed that the payment is arbitrary. They usually get only CNY 1200, with full attendance.

Some workers are paid by time rate while the majority of workers are paid by piece rate. As mentioned, time rate workers' monthly wage is limited to CYN 1200. Meanwhile, piece rate workers who are skilled labour can earn CNY 2000-4000 per month. Piece rate workers do not receive any overtime premium payment, but production bonuses will be given. For instance, workers can receive CNY 50 if they finish 1000 items, and they can be rewarded with CNY 100 after finishing 2000 items. Even so, production bonuses cannot replace the overtime premium. This constitutes a violation of article 44 of the Labour Law.

To stabilize the workforce, there is a seniority bonus for workers. According to a worker who has been working at Win Merchant for 3 years, however, the seniority bonus was only CNY 30 per month. For an annual bonus, workers said they might get a few hundred.

With the significant difference in monthly wage, it makes sense that many time rate workers want to become piece rate workers. This is extremely difficult to do. Time rate workers usually take care of the tedious work in the factory, like piling up the products, cutting extra thread from the products, and providing assistance to the sewing workers. Most of the time rate workers are new and young workers. The piece rate workers are responsible for sewing and must have some skills. Most of them are 30-40 years old. In order to become a sewing worker, a time rate worker has to find a sewing worker willing to be his/her mentor. And the mentor has to pay a deposit. If the trainee resigns within a year, then the mentor concerned will be fined CNY 2000. As a result, sewing workers are reluctant to teach the ordinary workers the skills they have.



Products of Win Merchant.  
Source: Win Merchant

### **Working hours**

During SACOM's investigation, the work shift started at 7:25 and ended at 22:30. That means workers have to work for 11.5 hours a day. These hours, together with the meal breaks, mean

workers stay in the factory for 15 hours a day. Workers have to work for 7 days a week. The only rest time is on Saturday night and on the 25th of each month, which is the date workers get their wages. In the low season only, workers may be able to decline overtime work. In other words, overtime work is not on a voluntary basis.

Work shift at Win Merchant:

Morning shift	7:25-11:55	4.5 hours
Lunch	11:55-14:30	
Afternoon shift	14:30-17:30	3 hours
Dinner	17:30-18:30	
Evening shift	18:30-22:30	4 hours
<b>Total working hours</b>		<b>11.5 hours</b>

Sometimes, workers have to work until midnight. In the past 3 months, interviewees said the longest work shift was 13 hours, and they had to work for 74 hours in a week. The overtime is over 100 hours per month. The Labour Law stipulates that overtime cannot be more than 36 hours per month. As a result, the monthly overtime is almost triple the legal limit. In summer, the shop floor is very hot, even though there are some fans installed in the workplace. In addition to such long working hours, the high temperature creates further hardship for the workers.

Even worse, workers complained that there was the deception in overtime. Usually, the work shift ends at 22:30. Astonishingly, though, a security guard punches the timecards for workers at 21:00, while in reality, workers are still working. Workers cannot punch their cards again as the cards are locked after 21:00. On record, the working hour is only 10 hours per day. It is suspected that this is a tactic to deceive the auditors.

### **Social insurance**

Although social insurance is one of the fundamental rights of workers, workers at Win Merchant are not protected by the social insurance scheme. This suggests that workers will not have pensions after they retire and cannot receive full compensation if there experience industrial injuries, occupational diseases or illnesses. This constitutes infringement of articles 3, 72 and 73 of the Labour Law, which demand that employers contribute to the social insurance scheme in the areas of pension, medical insurance and industrial injury insurance.

### **Health and safety**

Health examinations are not required by Win Merchant in the recruitment process. Likewise, no health examinations are organized by the employer after an employee is hired. It is very noisy in the sewing department. However, no earplugs are provided to workers. Meanwhile, researchers did not find that there was personal protective equipment provided by the employer.

In order to retain a clean environment, workers are required to take off their shoes on the shop floor. This presents potential dangers to workers, such as injury by products dropped from above.

### **Management**

Win Merchant prefers to hire female workers rather than male as female workers are more obedient and have a higher level of acceptance of hardship. Ordinary workers who provide assistance to sewing workers have lower status in the factory. Besides pressure from frontline management, ordinary workers encounter pressure from sewing workers. They have to provide assistance to the sewing workers, including maintaining hygiene on the shop floor. "We are the most inferior in the factory. The sewing workers do not even want to talk to us. Sometimes,



sewing workers even order us for this and that as if they are the supervisors,” an ordinary worker grumbled.

Management always pushes workers to speed up in order to boost productivity. New workers usually do not know how to handle work pressure.

Workers can make suggestions or direct their grievances to the management. However, there is no guarantee that their problems will be resolved.

### **Fire drill**

Toys are usually flammable products. Fire prevention measures are essential in the toy manufacturing industry. In line with the Fire Protection Law, work units have obligations to carry out fire prevention measures. At Win Merchant, workers have never experienced a fire drill and have not been trained on what to do in the event of a fire.

### **Sick leave and annual leave**

Workers are entitled to paid sick leave, but this is denied at Win Merchant. Because they will not be paid if they take leave, workers usually continue to work if they are sick. Furthermore, during the peak season, if a worker requests to take even unpaid leave, it will be difficult to get approval from the management.

Workers who have been employed over 1 year at the factory are entitled to 5 days paid annual leave in line with article 45 of the Labour Law. At Win Merchant, workers with seniority do not enjoy paid annual leave. They are compensated by some allowances instead.

### **Leisure**

A handful of workers buy television sets for the dormitory. “I haven’t watched television for the last 3 months. I am exhausted after work. Usually, we come back to the dormitory at 23:00. I still have to take a bath and clean my clothes, etc. I can’t afford time for television,” a female worker exclaimed.

There is an absence of community outside the factory. The only entertainment facility in the factory is snooker table in the canteen.

### **Food**

Food is free at Win Merchant. However, most of the workers complain about the quality of food. In other factories, workers may buy food from vendors outside the factory. Owing to the remote location of Win Merchant, workers do not have that option.

### **Accommodation**

Win Merchant is located in an isolated area. It is next to a highway and a farm. Therefore, most of the workers live in the dormitory provided by the factory. Each room can accommodate 4 workers. The size of a room is about 15 sq. meters. There are 2 double deck beds. Hot water is available in the bathroom, but only after workers have finished their work. There are not many facilities in the dormitory. Workers do not even have lockers. There is no privacy in the dormitory at all.

### **Difficulties in resignation**

Upon signing of the labour contract, workers are warned by the management that they must work in the factory for at least one year. If they just want to seek a temporary job, they should leave the factory immediately. As stated above, if a worker becomes an apprentice of a sewing worker, it

will be difficult for the worker concerned to resign. If the worker does resign, the mentor will be punished heavily.

### **Worker representative system**

There are 5 worker representatives in the factory. They are appointed by the management instead of being elected. Some workers pointed out that there were meetings among the representatives. Nonetheless, there is a lack of transparency in the process. Workers do not know about when the meetings take place or what is discussed in the meetings. Workers generally do not care about the existence of a worker representative system, because they do not think the handpicked representatives can make changes on the shop floor.

### **Code of conduct**

Researchers find the code of conduct of Walmart in Chinese posted on a notice board inside the canteen. This confirms a buying relationship between Walmart and Win Merchant. Other than that, workers are not aware of other codes of conduct from other brands.

### **Deceptions in audit**

The management will make an announcement prior to factory inspection. A meeting will be organized to prepare for the audit. Workers are trained to give model answers related to the working conditions. For example, all the piece rate workers have to say they are paid at a time rate. Workers under 18 years old will be sent to the 3rd floor of the factory building, which belongs to another factory. A middle-aged female worker complained, “it makes me dizzy to memorize so many regulations.” It is apparent that the factory knows about the legal standards. However, there is no commitment to rectify the violations. Instead, the factory just cheats the auditors by forcing workers to give model answers.

On 30 July, a factory audit took place. Nonetheless, workers did not know which brand or institute it was.

### **ICTI code**

Workers are ordered by the management to recite the ICTI Business Code. Instead of educating the workers, however, it is a means to get them to pass the factory inspection. Hence, most of the workers recognize the information card of the ICTI CARE Foundation. Some workers can even recite the content of the code. Compared to workers at other toy factories, Win Merchant workers have a higher understanding of the ICTI code. Nevertheless, workers cannot comprehend how the code is relevant to their working conditions.

The factory should have regular training on labour laws and other labour rights standards, including ICTI Business Code, for workers on a regular basis.



Win Merchant announced on its website that the factory passed the ICTI inspection.

Source: Win Merchant

## **Concluding Remarks**

Underpayment for both time rate and piece rate workers, excessive overtime and cheating with regard to working hours, absence of social insurance, and so on, prove labour rights violations are rampant at Win Merchant. Furthermore, deception is prevalent during audits. These findings reveal that factory audits are insufficient for monitoring the working conditions in the factory. Echoing the situations at Chuang Ying and Yat Hing, Win Merchant is certified by the ICTI CARE Foundation even though rights violations are extensive. SACOM is deeply concerned about the extent to which the audit and certification system of the foundation can protect labour rights.

Some of the interviewees are aware of the legal standard of overtime premium. But they have not used the ICTI CARE hotline to lodge complaint. Despite the presence of a worker committee, its formation determines that it is not going to speak for the workers. A genuine and legitimate worker representative system is needed. To make this possible, there should be general labour rights training provided to workers as a first step towards reform. Afterwards, there must be a democratic election to form a worker committee or trade union to enable workers to monitor working conditions and defend workers' rights.

SACOM calls on the brands to work with Win Merchant to rectify the labour violations. Additionally, there should be compensation for the workers for these violations.