



WORKER RIGHTS CONSORTIUM

**WORKER RIGHTS CONSORTIUM ASSESSMENT
CENTRO TEXTIL (CENTEX)
NICARAGUA
FINDINGS, RECOMMENDATIONS AND STATUS**

June 5, 2014

I. Introduction

This report presents the WRC's findings regarding violations of freedom of association at Centro Textil (Centex), a garment factory employing approximately 700 workers located in Chinandega, Nicaragua. It also details the remedial action taken to date and the response of the licensees producing at the factory. Finally, the report provides new recommendations.

Centex is disclosed by adidas, Champion, Gear for Sports International (GFSI), and Under Armour (UA) as producing collegiate apparel. Both Champion and GFSI are owned by Hanesbrands. Centex is owned by Grupo Beta, a multinational apparel manufacturing company based in Honduras. Grupo Beta also produces collegiate apparel at Industrias de Exportacion, a factory located in Tegucigalpa, Honduras.

The WRC launched an investigation of Centex in response to a complaint filed by 15 workers on June 24, 2013. These workers wrote to both the WRC and several relevant buyers, alleging that Centex illegally dismissed them in May 2013 in retaliation for their participation in founding a new union, the Sindicato de Trabajadores "Primero de Mayo" de la Empresa Centro Textil (the May First Workers Union of the Centro Textil Company, henceforth, Sitraprim). The WRC found compelling evidence that Centex violated Nicaraguan law, international labor standards, and university codes of conduct by engaging in the following acts: (1) terminating 15 workers in retaliation for forming a union, (2) threatening the remaining workers to dissuade them from exercising their associational rights, and (3) attempting to induce workers, including via offers of financial inducements, to forgo their right to reinstatement.

On August 19, 2013, the WRC alerted the university licensees of the code violations and communicated the urgent need for remediation. The WRC recommended a number of remedial actions, including reinstating the workers with back pay, conducting freedom of association trainings, and disciplining the managers and supervisors who had violated workers' rights and Nicaraguan law. While the licensees reported that they had initiated engagement with Centex immediately after receiving the June 24, 2013, complaint, no significant remedial action occurred until October 21, 2013. On this date, the Sitraprim union and Centex reached an agreement including reinstatement for the fifteen workers dismissed in May, a company statement regarding respect for freedom of association, and a commitment to reach an agreement within the month of November regarding three additional workers who, the union alleged, had been dismissed in retaliation for union activity.

Centex has complied with many of the stipulations in the agreement, including offering reinstatement to the 15 dismissed workers with back pay. However, several actions by the company – most notably, additional terminations – raise real concerns as to Centex's commitment to respecting freedom of association. The union alleges that three workers were

terminated in retaliation for union activity. One worker was terminated shortly after asking questions about unionization in a workplace training. Given the company's pattern of anti-union terminations, the WRC recommends that these three workers be reinstated with back pay unless Centex can offer compelling evidence that they were terminated for non-retaliatory reasons.

More broadly, the WRC encourages the university licensees producing at Centex to continue to press the company to fulfill its obligations under university codes of conduct, with specific attention to preventing any further discrimination or retaliation against workers who join the Sitraprim union.

This case reflects a worrisome trend. Often, we see that licensees' own code of conduct compliance programs fail to prevent serious violations by supplier factories, including retaliatory termination. Then, after the supplier factory has violated the code, workers wait for months for remediation while licensees claim to be engaged in their own investigations or efforts towards remediation.

The WRC is currently assessing this trend, its implications for code compliance, and what action the WRC and universities can take to meaningfully address it.

In this case, adidas' refusal to share information contributed to the significant delays in remediation. Even as illegally dismissed workers remained off the job for more than four months and were facing significant pressure from Centex to dissuade them from seeking reinstatement, adidas provided continued assurances to the WRC that Centex was moving towards remediation, while refusing to provide specifics that would enable the WRC to assess this progress. Adidas' refusal to provide this information constitutes an unacceptable obstacle to our ability to assess progress on behalf of our university affiliates.

II. Findings

On June 24, 2013, Centex workers wrote to the WRC and to brands producing at Centex alleging that the company had terminated 15 of Sitraprim's founding members in retaliation for forming a union.¹ The WRC conducted an inquiry in response to these allegations and has monitored developments at the factory since this date. As part of this investigation, the WRC interviewed workers and reviewed relevant documentary evidence, including: pay stubs and dismissal letters issued by Centex; communications and official documents issued by Sitraprim and the Nicaraguan Ministry of Labor; the filings related to the two lawsuits regarding Centex; and communications between the WRC and the factory and brands producing at Centex.

¹ The names of individual workers are not included in this public document to protect them from further retaliation.

Based on this evidence, the WRC has concluded that the chronology of events at Centex is as follows:

A. Chronology

Based on credible worker testimony and a review of the above-mentioned documents, the WRC's inquiry established the following chronology:

- On May 1, 2013, workers held a founding assembly to establish Sitraprim. Twenty-one workers signed up as founding members, including seven workers who were elected as union officers.² Workers report that they chose to organize the union as an effort to respond to verbal abuse, low wages, and benefits inferior to other factories in the region. The WRC has not investigated these allegations.
- On May 2, 2013, three of the workers who participated in the Sitraprim assembly were dismissed. Two were elected union officials (the Secretary of Labor Issues and the Secretary of Finance), and the third was a founding member.
- On the morning of May 6, 2013, Sitraprim Secretary-General Marlyn Rios reports that she was called in to the factory office by Centex Human Resources and Social Compliance Manager Jeanette Delgado. In the office, Delgado and Rios were joined by another human resources manager known to workers as Carol. Carol asked Rios to give her certain papers Rios had been seen with earlier in the day. Rios refused, stating that they were personal documents. After about fifteen minutes, Centex General Manager Luis Munguia joined the meeting. He interrogated Rios regarding the papers and then took her to the locker area and looked through her personal belongings, including her bag and wallet, and confiscated the union's registration documents. Several workers witnessed this exchange, as the locker area is visible from the factory floor.

Rios reports that Munguia continued to interrogate her for over an hour in the office. Rios asked why Munguia was pressuring her. She stated that what they were doing was legal and they were not committing any crime, and asked Munguia not to fire any of the other workers on the list. Munguia started to read the names on the list one by one and stated that these people were "insignificant to him." Rios asked him to return the registration documents but he refused. Rather, he stated that she would be terminated, and handed her

² The WRC notes that Sitraprim has not yet received its registration from the Nicaraguan Ministry of Labor. The union's initial application was rejected by the Ministry on May 20, 2013. Sitraprim filed an appeal of this decision the same day. In addition, Sitraprim has submitted a suit through the constitutional court for protective measures which would suspend the Ministry of Labor's decisions on this case including the rejection of Sitraprim's registration. In their suit, the workers allege that the Ministry of Labor has violated their constitutional rights under Articles 49, 87 and 103 of the Nicaraguan constitution.

a check for the severance payment required under Nicaraguan law, saying, “You should think through things very carefully before making decisions. If you stand up against the union, I will send you home on vacation for two months and then you could come back to work. For now, you have to take your check and go.” When Rios refused, Munguia responded, “Tell me, what do you want? I will give it to you, but do not continue with this. It will be bad for you and your coworkers.” Munguia asked Rios who she lived with, and she responded that she lived with her grandmother. Munguia responded, “Don’t do this to your grandmother. How can you work here so long and then do such a thing to us? Forget about the union. In exchange, you will get your job back and the check you received will just be an advance, not severance.”

Rios refused to renounce the union and was sent home with her severance check.

- On the afternoon of the same day, a worker involved in Sitraprim reports she was approached by her supervisor. The supervisor asked her if she was involved in the union and whether or not she had signed the “papers,” which the worker understood to mean union documents. When the worker said “yes,” the supervisor said “why did you sign up for that? That doesn’t work. Are you stupid? People tried to form a union before and they also fired everyone who was involved and broke up the union. That doesn’t work.” In interviews, several workers stated that they had heard that several years ago, another group of workers who tried to form a union were also fired. The WRC has not been able to contact the relevant workers in order to confirm this.
- Later the same day after firing the Secretary-General of Sitraprim, Centex dismissed 11 additional workers who had participated in the assembly. Three were union officers (Secretary of Acts and Agreements, Secretary of Women’s Issues, and Secretary of Organization), and the remaining eight were founding members. Each of these workers was told that the reason for their dismissal was staff restructuring, and their dismissal letters stated that the layoffs were not related to any disciplinary actions or fault on behalf of the worker. However, Human Resources Manager Carol told one worker at the time of dismissal that, “we don’t accept people here who go against the company.” One of the workers terminated was the worker who, as reported above, had been questioned about her union involvement by a supervisor earlier that afternoon.
- Starting on May 7, 2013, and continuing through at least October 2013, factory management repeatedly made threatening statements to workers regarding the dismissals and insinuating that those workers who made complaints about the working conditions were not welcome in the factory. On May 7, a supervisor instructed all of the workers in her module that they should not discuss the dismissals. The supervisor also stated that certain visitors would be coming to the factory. According to the worker, the supervisor

clearly conveyed the message that workers should make no mention of the dismissals to these visitors. Workers interpreted this comment to be a reference to Ministry of Labor inspectors.

Also beginning the week of May 7, 2013, two of the supervisors in the cutting department made repeated comments in the morning meetings held for the workers in the cutting area about the futility of attempting to organize a union and the consequences for workers who did organize. The supervisors stated repeatedly that the company had taken measures to get rid of “rotten tomatoes, so that the whole basket would not rot” and that the workers should not complain about salaries or working conditions, stating that workers should “get used to it and accept what is here, because you will not find work elsewhere.” Workers interpreted this to mean that if they attempted to form a union or speak out about problems on the job, they were at risk of losing their jobs.

Munguia made a similar comment regarding the fired workers, making reference to having to remove “bad apples.”

- On May 9, 2013, Sitraprim filed a complaint with the Ministry of Labor alleging unlawful dismissals. The Ministry of Labor rejected the complaint on June 4, 2013.
- On June 24, 2013, Sitraprim wrote to the brands producing at Centex and to the WRC regarding the retaliatory dismissals.
- On July 1, 2013, the dismissed workers filed a request through the Constitutional Court for protective measures. This request, if granted, would suspend the Ministry of Labor’s decisions on this case, including the refusal to order reinstatement for the retaliatory dismissals. In their suit, the workers allege that the Ministry of Labor has violated their constitutional rights under Articles 49, 87 and 103 of the Nicaraguan constitution.
- On July 18, 2013, the dismissed workers filed another suit against Centex through the Labor Court of Chinandega, the municipality where the factory is located, for reinstatement of the fired workers.
- On August 19, 2013, the WRC communicated our findings to the licensees producing university licensed goods at Centex and recommended that Centex undertake remedial action, including the following key steps:
 - Offer reinstatement to the 15 workers who had been the victims of retaliatory termination, with back pay for the time that they were off the job;
 - Cease any discrimination against the reinstated leaders and any interference with their ability to carry out legitimate union functions;

- Issue a statement to all workers that Centex will respect the right of workers to join a union of their choosing without retaliation;
- Discipline all managers involved in retaliatory firings and anti-union threats;
- Instruct all managers that threats or intimidation against workers who join the union will not be tolerated; and
- Undertake a robust training program on freedom of association.

In response to the WRC's communication, GFSI, UA, and adidas all reported that they had already contacted Centex, in response to the workers' letter dated June 24, 2013, but had not yet been effective in achieving remediation. Hanesbrands stated that their only production in the factory was for GFSI, and that they were empowering GFSI to take the lead on engaging with Centex for the firm overall.

- On September 12, 2013, the Labor Court of Chinandega rejected the workers' claim for reinstatement. The workers appealed the decision.
- Beginning the week of September 16, 2013, the management of Centex began pressuring the 15 dismissed union leaders to accept a financial settlement in lieu of reinstatement. Managers Munguia and Delgado called the dismissed workers on their cell phones on multiple occasions to press them to accept compensation and to cease seeking reinstatement. Munguia and Delgado told the workers that it was in their interest to accept compensation and renounce their claim to reinstatement, given that the workers had lost their initial claim for reinstatement in the labor court.³ They also told the workers that other workers had already accepted this compensation, in order to persuade them to accept the management offer as well. One worker reported that when she resisted coming into the factory to accept her compensation, Munguia pressured her to come in that day, which was a Sunday. He told her that he would come in especially to meet her and would pick her up or pay for a taxi so that she could come in immediately.
- Also in September 2013, seven of the fired union leaders, who were out of work for more than five months and in extreme financial distress, accepted the payments offered by the factory.⁴ Eight union leaders refused to accept the payment and continued their claim for reinstatement.

³ The management made reference to the ruling on case number 000072-1007-2013 made on September 12, 2013, by the Labor Court of Chinandega, Nicaragua. The ruling rejected Sitraprim's claim for reinstatement. The Sitraprim union then filed an appeal of this decision. The court proceedings were still in process when the October 21, 2013, settlement was reached. The union agreed in this settlement to withdraw the suit.

⁴ The workers' acceptance of these payments did not affect Centex's obligation under Nicaraguan law or university codes of conduct to implement the appropriate remedy for retaliatory terminations: reinstatement with pay for all time spent off the job. Workers' rights delineated under Nicaraguan law are irrevocable as per Fundamental Principle IV of the Nicaraguan Labor Code; workers cannot legally renounce their legal rights. Similarly, such an incomplete "resolution" would not have returned Centex to compliance with university codes of conduct.

- Also in September 2013, management told them that, in the workers' words, "the company is being sued. Maybe you remember that there were some people we fired in May who promised you better salaries. This is not true because I pay you above the minimum wage. They were rotten apples who want to cause damage to others." This statement was made during a visit to the factory by a visiting Grupo Beta manager from Honduras.
- On September 26, 2013, eight of the workers who had been retaliatorily dismissed met with Centex management. Centex refused to allow Sitraprim's chosen advisor, Marcelina Garcia of the Federación Sindical de Trabajadores de la Maquila y la Industria Textil (the Union Federation of Textile Industry and Assembly Workers, henceforth, FESTMIT), to participate in the meeting. No agreement was reached in this meeting.
- After the intervention of the WRC and licensees, as described further below, the workers, represented by Sitraprim, and Centex management signed an agreement to address the terminations and other issues on October 21, 2013. In the agreement, Centex management committed to do the following:
 - To reinstate all 15 dismissed workers to their original positions with back pay for the time off the job;
 - To respect freedom of association;
 - To refrain from any retaliation against workers who engage in union activity;
 - To provide orientation to supervisors, managers and workers in order to ensure compliance with the agreement; and
 - To engage in discussions with the union regarding the three additional workers who, the Sitraprim union alleged, had also been terminated in retaliation for perceived union involvement and reach a resolution within the month of November 2013.
- On the following day, October 22, 2013, 14 of the 15 union leaders returned to work. The union reports that the one remaining worker was offered reinstatement but declined. All 15 workers were made whole financially for the time they had been off the job.

Additional elements of remediation are described further in Section III.

B. Analysis: Violations of University Codes of Conduct

Based on the evidence presented above, the WRC finds that Centex violated workers' associational rights by carrying out illegal terminations; offering workers financial inducements and continued employment if they renounced their legitimate claims to remediation; and

committing related additional freedom of association violations. Each violation is presented below, along with the relevant standards under Nicaraguan law, international norms and university codes of conduct. Finally, we review the status of remediation of each violation.

1. Illegal Retaliatory Terminations of Union Leaders

Nicaraguan law prohibits employers from terminating workers in retaliation for the exercise of their associational rights. Article 46 of the Nicaraguan Labor Code states that if a dismissal is found to “constitute an act which restricts the rights of a worker or has the characteristics of retaliation against him or her for having exercised or attempted to exercise his or her labor or union rights,” then the employer is obligated to reinstate the worker “in the same position previously employed and with identical working conditions” and “to pay back wages.”

Termination of workers in retaliation for union activity is a violation of the protections for freedom of association contained in university codes of conduct.⁵ It is also a violation of Conventions 87 and 98 of the International Labour Organization (ILO), both of which have been ratified by Nicaragua. In addition, any violation of Nicaraguan law is a violation of university codes of conduct, which require compliance with national law.⁶

The WRC finds that Centex terminated the 15 worker leaders in retaliation for these workers’ attempt to organize a union. The evidence includes the timing of the firings, the threatening statements made by management, and statistical evidence.

First, the timing of the terminations indicates that workers’ terminations were motivated by their participation in the founding assembly of Sitraprim. The first three workers were fired just one day after the founding assembly, and the following 12 workers were fired the same day that the management obtained a list of the union’s founding members.

Second, statements made by factory managers and supervisors to the union’s founding members demonstrate that the company was aware of the workers’ attempt to form a union and intended to put an end to it. As described above, the WRC documented three such incidents on May 6. The first was an explicit statement by a supervisor that the company had previously fired workers in retaliation for their efforts to form a union, and intended to fire workers again for doing so. The second was a statement by one of the human resources managers stating that the union member was being fired for “going against the company.” The third was a directive by the General Manager to the union’s Secretary-General to cease union activities, and an attempt to induce her

⁵ See, e.g., Collegiate Licensing Corporation, Special Agreement on Labor Codes of Conduct (2008), which requires that employers “respect the right of employees to freedom of association and collective bargaining.”

⁶ See, e.g., Collegiate Licensing Corporation, Special Agreement on Labor Codes of Conduct (2008), which requires that with “all applicable legal requirements of the country(ies) of manufacture.”

to do so by offering to reinstate her in exchange for her resignation from the union. In addition, multiple supervisors made statements after the fact that the dismissals were retaliatory.

Lastly, the statistical evidence is compelling. Less than a week after the workers founded their union, Centex had terminated 15 of the 21 founding union members (70%), and six of the seven union officers (85%). Workers report that only a small fraction of the workforce was laid off during this period. Unless Centex terminated 70-85% of its employees, which the WRC does not believe to be the case, union members were extremely disproportionately represented in dismissals during this period. This strongly indicates that these workers were selected for termination due to their union activity.

While Centex management claimed at the time of the dismissals that the layoff was due to “restructuring” at the factory, it is simply implausible that the company could have selected 70% of union members, each of whom held different positions and were spread across several areas in the plant, in a layoff affecting a very small proportion of the workforce, by mere chance. Nor could the dismissals be justified on performance-related grounds, since workers were told that the dismissals were no-fault layoffs related to restructuring. The only thing the majority of these workers have in common – and the only plausible explanation for the firings – is that they were all founding members of the Sitraprim union.

The WRC requested documentation regarding these and other terminations by Centex as part of our investigation, but Centex did not respond to either email or phone calls from the WRC.

Together, this evidence makes an overwhelming case that Centex terminated 15 workers in May in retaliation for exercising their associational rights. Such retaliatory actions are in violation of Nicaraguan law, ILO conventions ratified by Nicaragua, and the applicable university codes of conduct.

2. Threats of Retaliation by Managers

Employers who wish to prevent workers from exercising their associational rights often use both actual terminations of workers who attempt to form a union and threats of termination. The two tactics work in concert with each other. The terminations not only remove the workers who are the primary drivers behind the unionization drive from the workplace, but also sends a clear message to other workers in the factory that if they attempt to exercise their associational rights, they also will be subject to termination. Anti-union employers often make these threats explicit, intensifying the chilling effect of the actual terminations.

This combination of terminations and threats was deployed in this case by Centex in its efforts to prevent workers from forming a union. As noted above, beginning the week of May 7, at least

two supervisors stated that organizing a union was futile, and that workers should not protest the situation at Centex, because they would not find work elsewhere. Workers interpreted this as an implicit threat that, if they complained about conditions or attempted to form a union, they were at risk of termination.

Threats that workers who exercise their associational rights will be subjected to termination constitute a violation of workers' associational rights under ILO Convention 87 and university codes of conduct protections for freedom of association.

3. Offers of Financial Inducement to Dissuade Workers from Exercising Protected Rights

Centex management committed an additional violation of workers' rights to freedom of association by attempting to use economic inducements to dissuade workers from exercising their protected rights in two instances.

First, as described above, the General Manager of Centex, in pressing the Secretary-General of the union to resign, told her that if she spoke out against the union, she could return to her job at the factory and also keep funds that she had been given as severance.

Second, the Centex management violated workers' rights by pressuring the dismissed workers to accept a financial settlement in exchange for renouncing their legal right to reinstatement with back pay and due process through the legal system.

These acts violate workers' freedom of association as defined by the ILO and protected by university codes of conduct. Telling Rios that she could resume employment at the factory only if she renounced her union membership violates ILO Convention 98, which states that employers may not "make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership."⁷ Offering workers financial inducements to cease their attempts to win reinstatement, and thus the ability to continue their union activity, constitutes a violation of ILO Conventions 87 and 98, protecting freedom of association. In addition, it is a specific violation of the code of conduct of the Fair Labor Association, of which GFSI, Hanesbrands, and adidas are members. This code specifically prohibits employers from offering workers terminal benefits in order to dissuade workers from continuing their associational activities.⁸

⁷ Article 1(a).

⁸ See, e.g., Fair Labor Association, FLA Workplace Code of Conduct and Compliance Benchmarks (Oct. 5, 2011) ("Employers shall not offer or use severance pay in any form or under any other name as a means of contravening the right to freedom of association...").

In both of these instances, Centex's actions after the dismissal compounded the violations of workers' rights under international labor norms, Nicaraguan law, and collegiate codes of conduct.

4. Related Violations

The WRC has found that Centex committed two additional violations of workers' rights in the course of its attempts to avoid reinstating the terminated union leaders.

First, Centex prevented Sitraprim's chosen union advisor from participating in the initial negotiations regarding reinstatement on September 26, 2013. Workers are guaranteed the right to select and be represented by union federations of their choice under ILO Convention 87.⁹ Nicaraguan law requires that employers allow "union leaders and representatives" access to workplaces and provide them with information relevant to disputes involving their members.¹⁰

Second, Centex attempted to prevent workers from speaking with government inspectors. As noted above, on May 7, a supervisor instructed workers in the module she supervised not to discuss the retaliatory dismissals, and specifically made it clear that workers should not mention these dismissals to certain visitors who would be coming to the factory. Workers understood this instruction to be in reference to Ministry of Labor inspectors. Preventing workers from speaking to government officials regarding legal violations violates many collegiate codes of conduct. The Collegiate Licensing Company's code of conduct, for example, requires that employers "refrain from any actions that would diminish the protections of these labor standards." By attempting to prevent workers from reporting violations to the relevant authorities, Centex was attempting to prevent the terminated workers from experiencing the full protections of the law.

III. Initial Recommendations and Remediation

On August 19, 2013, the WRC provided licensees with recommendations for necessary action to remedy these violations, including the following key steps:

- Offer reinstatement to the 15 workers who had been the victims of retaliatory termination, with back pay for the time that they were off the job;

⁹ ILO Convention 87, Article 5 states that, "workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers."

¹⁰ Labor Code of Nicaragua. Article 17(n) states that employers must "permit union leaders and representatives which are legally accredited access to workplaces and provide them with the relevant information related to labor issues and conflicts which they attend to."

- Cease any discrimination against the reinstated leaders and any interference with their ability to carry out legitimate union functions;
- Issue a statement to all workers that Centex will respect the right of workers to join a union of their choosing without retaliation;
- Discipline all managers involved in retaliatory firings and anti-union threats;
- Instruct all managers that threats or intimidation against workers who join the union will not be tolerated; and
- Undertake a robust training program on freedom of association.

Two months later, as a result of intervention by the WRC and by licensees, and with the help of a mediator retained by the licensees, the workers and the company reached a written agreement addressing the key elements of remediation, as described above.

UA, GFSI, Hanesbrands, and adidas have reported that they are working together to monitor compliance with this agreement and with university codes of conduct. The WRC has spoken with GFSI and with workers at Centex regarding the implementation of this agreement, which addresses the WRC's recommendations.

Most important, as described above, the 15 workers who were terminated in May 2013 have been offered reinstatement, and all but one have returned to work. All fifteen workers were made whole financially for the time they had been off the job. For each worker, Centex calculated back pay for the six months that she was off the job, based on her average salary. The company then subtracted any payments the workers had received as severance or as an inducement to drop their claims. In the case of each of the eight workers who refused any additional compensation above their severance at the time of dismissal, this calculation showed that they were owed additional funds, which were paid. The seven remaining workers did not receive any additional payment because the funds they received to induce them to drop their suit for reinstatement totaled more than the amount of back pay they were owed.

GFSI reports that Centex has conducted freedom of association trainings in the plant. It is worth noting that the company began conducting trainings prior to the reinstatement of the terminated workers. In a context where workers have been terminated in retaliation for forming a union, and remain off the job, no training will convince workers that the company will respect their rights to freedom of association. In fact, a training conducted in such a context by management, or management's agents, can have the opposite impact, further intimidating workers. However,

GFSI has reported that the company has implemented a new series of trainings since the terminated workers were reinstated.

GFSI has also reported that management has disciplined supervisors involved in the threats and retaliation, and has issued a statement regarding freedom of association. In addition, the union reports that Centex now respects the right of their union advisors from FESTMIT to participate in meetings with management.

IV. Current Status and New Recommendations

The October worker-management agreement and its implementation have addressed the key aspects of remediation for the initial violations at Centex. When workers have been terminated in retaliation for exercising their associational rights, their reinstatement is the most fundamental element in remediation. However, reinstatement alone, or in combination with trainings and statements (particularly when issued unilaterally by the employer, as occurred at Centex, rather than in conjunction with the union) is not sufficient to address the impact that the terminations have had on the rest of the workforce, who have seen that workers who engage in union activity can be removed from the factory and left without income for a long period of time. The damage done by Centex's violations of workers' rights, and by licensees' failure to prevent or promptly respond to them, is difficult if not impossible to undo.

In addition, serious concerns remain regarding two elements of the agreement: (1) the cases of three additional terminated workers and (2) the treatment of the reinstated workers. Centex's approach to these issues calls its commitment to ongoing respect for workers' rights into question.

A. Three Terminated Workers

First, Centex has not reached a resolution with the union regarding the case of the three workers who were allegedly terminated in retaliation for perceived union activity. Instead, the company has provided what appears to be false information to GFSI regarding the steps it has taken with regard to these three workers. On April 22, 2014, GFSI informed the WRC that the company had reached out to each of the three workers with some type of job offer. According to the information provided by Centex to GFSI, one worker was back on the job (although GFSI did not know whether the worker had been reinstated to her previous position with back pay, as would be appropriate in a case of retaliatory termination); a second had been offered a position in a different department and declined it; and the third had informed Centex that he was no longer interested in returning to work.

These claims are contradicted both by workers who are leaders in Sitraprim and by the relevant workers themselves. Sitraprim leaders report that they had several follow-up meetings with the company, with the last meeting occurring with a mediator in early December 2013. At this meetings, they say, they were told that all three workers would be provided positions when they became available. However, only one of the workers had been offered a position to date, and this worker had been granted only a short-term contract. The other two workers reported that they had never been offered reinstatement or rehiring at Centex, and that they had never, as indicated by GFSI, declined such offers.

Centex does not appear to have made a good-faith effort to reach and implement an agreement with the union regarding these workers' status. Centex also appears to have provided false information to GFSI regarding the resolution of the situation. This raises serious concerns about Centex's commitment to respect workers' associational rights and improve the labor relations climate at the factory.

The WRC has not completed a full investigation of these three terminations. Our efforts to fully document each case have been hampered by the fact that the union's functioning has been disrupted by company's violations of workers' associational rights, impeding the union's ability to conduct its other functions including cooperating with the WRC investigation. However, in at least one case, there is suggestive evidence that the termination is retaliatory.

This worker was terminated on September 26, 2013. Earlier that month, according to multiple workers, he was reproached by management for raising questions regarding unionization during a training conducted by factory management regarding a credit cooperative established by the company. In this workshop, the worker asked if workers could form a union that would exist alongside the cooperative. The workshop facilitator responded that, while this was possible, "you should not." When the worker continued to ask questions about costs related to the credit cooperative and what would happen if the company closed, Delgado intervened, saying that, "you are being negative about what we are trying to do here."

On September 24, 2013, the same worker reports, he was called into the Human Resources office by a manager named Miriam, who interrogated him about what changes he had seen in the factory, his opinion of the cooperative, and whether or not he had contact with "the people who had been fired." Two days later, the company fired him.

Managers' statements to this worker strongly suggest that this worker was terminated because of his perceived support for the union. Given Centex's prior behavior, the company must bear the burden of proof to demonstrate that the terminations of this individual and the other two terminated workers were *not* retaliatory. Centex has stated to GFSI that it is willing to bring all three workers back on the job. The company should now do so with no further delays.

B. Treatment of Reinstated Workers

The reinstated workers have been concentrated in a single production module, and that the company has interrogated their coworkers about their performance. Centex's decision to concentrate the workers onto one module is a violation of the agreement with the union, which stated that workers would be returned to their original positions. Concentrating workers who are union members and leaders on a single module is also a concerning practice for several reasons. First, it provides supervisors the opportunity to discriminate against union workers by assigning this production module particularly unreasonable production quotas, or other differential treatment. Second, it limits their contact with other workers, impeding their ability to carry out their role as union leaders.

Multiple workers have also reported that during the week of October 22, 2013, management called all of the workers on that line, except the fourteen union members and leaders, into a meeting. The union members and leaders report that their coworkers told them that, in this meeting, management asked the workers about their opinion of the reinstated union leaders. This interrogation sends a clear message to the other workers that any worker who participates in union activity will be subjected to scrutiny and stigmatized by management. This perpetuates the chilling effect created by the terminations and management's prior statements.

C. Current Recommendations

Unless Centex can present compelling evidence that these three workers were terminated for legitimate reasons, the WRC recommends that all three workers be reinstated to their original positions, with back pay and with no loss of seniority. If workers were previously engaged on long-term or indefinite-term contracts, they should be reinstated to work these same contracts, and not under short-term contracts.

More broadly, the WRC encourages the university licensees producing at Centex to continue to press the company to fulfill its obligations under university codes of conduct, with specific attention to preventing any further discrimination or retaliation against workers who join the Sitraprim union.

V. Conclusion

This case reflects a worrisome trend. Often, we see that licensees' own code of conduct compliance programs fail to prevent serious violations by supplier factories, including retaliatory terminations. Even where the same violations occur time after time – as in Nicaragua, where the WRC has been contacted by workers regarding retaliatory dismissals at numerous collegiate and non-collegiate factories – licensees do not take meaningful action to prevent their suppliers from engaging in these actions. Then, after the supplier factory has violated the code, workers wait for

months for remediation while licensees claim to be engaged in their own investigations or efforts towards remediation.

The delays in remediation at Centex came at a cost to workers' associational rights. During the nearly four months after workers contacted the licensees and before Centex committed to reinstatement, Centex management subjected workers to additional harassment in order to press them to drop their claims for reinstatement. It is a credit to the workers' courage that 14 of the original 15 continued to seek reinstatement, but workers should not have to undergo termination, economic hardship, and pressure from management in order to exercise their fundamental right to form unions. In addition, supervisors used this time to drive home the message to workers that any "rotten tomatoes" who attempted to form unions would be terminated.

The WRC is currently assessing this trend, its implications for code compliance, and what action the WRC and universities can take to meaningfully address it.

One licensee, adidas, caused additional delays in remediation by refusing to share information with the WRC regarding the company's efforts at remediation. At the same time that Centex management was offering workers financial inducements to relinquish their efforts to win reinstatement, adidas was providing the WRC with vague, empty assurances. On September 12, 2013, for example, adidas wrote, "there are some benchmark dates coming up, the first is September 21, when we will be able to give additional updates." Not only did September 21 bring no progress on the workers' reinstatement, but adidas did not provide any further updates, despite repeated requests from the WRC. Even as Centex's failure to remediate stretched into its fourth month, adidas failed to even clarify what "benchmarks" had been set, and whether they included the key elements of remediation identified by the WRC. Given the WRC's responsibilities as a designated labor rights monitor for our university affiliates, we cannot be satisfied with general assurances that it is addressing factory issues. Rather, licensees must either provide persuasive evidence that the WRC's findings are incorrect or provide detailed information on the actions the factory is taking to address the violations the WRC has identified. The latter allows us to assess if those actions are sufficient to achieve compliance with university codes of conduct and communicate this assessment to our affiliates. Refusal to provide such information constitutes an unacceptable obstacle to our ability to assess progress and share this information with universities.