

Stealing from the Poor:

Wage Theft in
the Haitian
Apparel
Industry

Worker Rights Consortium
October 15, 2013



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WORKER RIGHTS CONSORTIUM

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I. Executive Summary

Haiti is the poorest country in the Western Hemisphere. Its expanding garment industry pays wages to workers that are among the lowest in any of the world's leading apparel-exporting nations.¹ Yet despite benefiting from rock-bottom labor costs – as well as trade preferences under the HOPE II² program – garment factory owners in Haiti routinely, and illegally, cheat workers of substantial portions of their pay, depriving them of any chance to free their families from lives of grueling poverty and frequent hunger.

Tacitly complicit in this theft of wages are the major North American apparel brands and retailers, like Gap, Gildan, Hanes, Kohl's, Levi's, Russell, Target, VF, and Walmart, that are buyers of garments from Haiti. Although most,

if not all, of these firms are well-aware of this law-breaking, they continue with business as usual, profiting from the lower prices that they can obtain from factories that cheat their workers of legally owed wages.



Despite the presence in Haiti, since 2009, of a factory monitoring program operated by International Labor Organization (ILO) and the International Finance Corporation (IFC), and funded by both the U.S. and Canadian governments and major brands and retailers, themselves, the extent of wage theft³ in the country's garment industry has only increased over the past few years. Earlier this year, this ILO-IFC monitoring program, termed "Better Work

Haiti," reported that *every single one* of the country's 24 export garment factories was illegally cheating workers of pay by failing to comply with the country's legal minimum wage.⁴

But while the ILO-IFC program has previously acknowledged the *prevalence* of minimum wage violations in Haiti's apparel sector, little has been reported about the *actual impact* of this wage theft on Haitian garment workers' incomes, and, by extension, the day-to-day lives of their families. This report details, for the first time, the scale of the wage theft being committed against Haitian garment workers and the toll this law-breaking inflicts on them and their families in their daily struggles against hunger, illness and the other ravages of poverty.

Research conducted by the WRC for this report found that the majority of Haitian garment workers are being denied *nearly a third* of the wages they are legally due as a result of the factories' theft of their income. Through in-depth interviews with garment workers and review of pay records, the WRC has determined that garment workers in Port-au-Prince, where more than 90% of the country's garment factories are located, are paid, on average, 32% less than what they are owed under the country's minimum wage and overtime laws. Even taking into account only underpayment for regular working hours (exclusive of overtime), workers are still being cheated of more than 20% of their wages.

The WRC's research indicates that a similarly egregious level of wage theft is occurring at the country's Caracol Industrial Park, a new factory complex on Haiti's northern coast whose construction was heavily subsidized by the U.S. State Department and the Inter-American Development Bank (IDB).⁵ The Caracol complex is slated to eventually employ more than 20,000 workers.

Wage theft in the Haitian garment industry is the result of three practices, which are unlawful, yet pervasive throughout the sector: First, employers set the amounts they pay workers for each operation in the production process (the "piece rates") so low – or, conversely, set the number of pieces that workers must sew in a single day (the "production quotas") so high – that workers are unable to earn the legal daily minimum wage in a regular workday as the law requires.

Second, employers pay wages for overtime hours based on a rate that is below the applicable legal minimum wage for production workers, instead of at a premium rate above this wage, as the law instructs. Third, in Port-au-Prince, specifically, factory workers perform a significant amount of labor



Alaine (in doorway) with family members

Alaine is a 36 year old worker at the Caracol Industrial Park. She wakes at 4:00am every day in order to be at the factory sewing t-shirts by 7:00am, but usually cannot afford to eat before starting her shift.

Alaine supports five family members including her two sons, ages nine and three, and hunger is a daily occurrence in her household. "My family usually can eat twice a day but sometimes just once," she recounts.

“off-the-clock” before or after their recorded working hours, or during their meal periods, for which the factories fail to properly compensate workers.

These practices have devastating effects on workers and their families, miring them in debt and denying them necessities like adequate food, medical care, and shelter, and education for their children. Moreover, they violate not only Haitian law, but also the codes of conduct that the major North American apparel brands and retailers whose garments are produced in these factories, without exception, have either themselves adopted or with which they have committed to comply.

U.S. brands and retailers must make clear to their Haitian suppliers that they view compliance with minimum wage laws as a necessary and acceptable cost of doing business, and will pay prices for garments that make this feasible for factory owners.

These codes uniformly require brands and retailers’ supplier factories to pay workers in accordance with domestic minimum wage laws. If those standards are to be credible, these brands and retailers must ensure that their Haitian supplier factories not only comply with the law going forward, but also remedy the massive wage theft that the factories have committed by compensating their workers.

These brands and retailers must also make clear to their Haitian suppliers that they view both payment of such compensation and future compliance with minimum wage laws as a necessary and acceptable cost of doing business, and will pay prices for garments that make such compensation and compliance feasible. Without such a commitment, neither adequate compensation of these workers’ losses nor ongoing compliance with Haiti’s labor law is likely to be achieved.

This concern is particularly salient because the Haitian government currently is considering an increase in the country’s minimum wage. While as this report details, such an increase is desperately needed – the current minimum wage, even if actually paid, would fall far short of providing for the basic needs of workers and their families – it cannot truly benefit workers so long as their employers illegally deny them a substantial part of their legally due wages.

Wages in Haiti’s Garment Industry: A Troubled History

The scale and scope of wage theft committed against workers in Haiti’s garment industry are of particular concern because the country’s current minimum wage laws were adopted by the Haitian government in a conscious effort to relieve workers from what were widely recognized to be starvation wages. These legally-mandated increases in the minimum wage followed a half-decade during which the minimum wage remained frozen, despite both soaring inflation and the fact that the country’s labor code mandates increasing the minimum wage when inflation erodes its buying power.⁶

In 2009, in a response to widespread social unrest, including the so-called “Clorox” food riots of 2008 (an allusion to the popular description of the hunger of those unable to afford food as burning, as if they had swallowed

bleach⁷), the Haitian government mandated a series of significant increases in the legal minimum wage. Garment factory owners, however, fiercely opposed the increases and successfully lobbied for a lower minimum wage for the export manufacturing sector.⁸

The minimum wage law ultimately adopted for the export sector was a compromise that included a two-tier structure and spread the mandatory wage hikes out over a four year period, with increases to be implemented in 2009, 2010 and 2012. The law requires that, as of October 2012, for non-trainee workers who are paid according to piece rates (or production quotas), these rates must be set so that such workers regularly earn at least 300 Haitian gourdes (HTG) for an eight hour day⁹ (approximately \$0.87 per hour¹⁰). The law also establishes that all other workers in the export sector, including piece rate workers who are trainees or recent transferees, must be paid a minimum of 200 HTG per day¹¹ (approximately \$0.58 per hour).

Published reports by the ILO-IFC Better Work monitoring program have already established that factory owners systematically set piece rates at levels that are too low to permit workers to earn the legal minimum of 300 HTG per day.¹² What the research conducted for this report reveals is that the actual wages paid to Haitian garment workers are *substantially below* the legal minimum wage and leave workers with incomes that are *dramatically short* of what they and their families need to meet the daily costs of an already impoverished existence.

The Haitian Garment Industry Today: Massive Wage Theft Mires Workers in Poverty

The WRC studied the scale of wage theft today in the Haitian apparel sector by interviewing workers and reviewing pay documents from five of the country's 24 export garment factories, including four in Port-au-Prince, where all but two of the 24 factories are located, and the newly opened Caracol Industrial Park on the country's northern coast. Among the factories in Port-au-Prince that were included in the study are two plants that have been disclosed as suppliers of apparel licensed by U.S. universities and colleges.¹³

The WRC believes that the theft of wages found at the five factories included in this study is typical of pay practices across the entire Haitian apparel sector. As mentioned, the ILO-IFC Better Work Haiti program has reported that every garment factory in the country is breaking the law by failing to pay its workers the applicable legal minimum wage¹⁴, and has noted that these violations are occurring in all of the country's major centers of export apparel production: Port-au-Prince (both inside and outside the city's Sonapi



Industrial Park), Ouanaminthe (an export processing zone on the Haitian-Dominican border), and Caracol.¹⁵

The factories whose pay practices are examined in this study represent nearly a quarter of the garment manufacturing plants in the country. They include factories with both foreign and Haitian owners, among them Haiti's largest private sector employers.¹⁶ These companies also operate other garment factories in the country, in locations both inside and outside of the Sonapi export processing zone.

The factories included in this study manufacture garments for a broad range of brands and retailers that are representative of the major North American apparel firms sourcing from Haiti – top t-shirt manufacturers like Gildan and Hanes, leading retailers like Gap and Walmart, makers of employee work uniforms, and companies that are apparel licensees of major U.S. universities and colleges.¹⁷

Workers reported an average work week that was more than 58 hours long, but reported being paid for these hours less than the legal minimum wage for a 48 hour week.

Among the factories surveyed in Port-au-Prince, the WRC found what can only be described as *massive theft of workers' wages*:

- On average, workers were paid *32% less than the law requires*, as their average work week is 58.2 hours (21% longer than the standard 48-hour workweek), but were paid for these hours *9% less than the minimum wage* for the standard 48 hour week.
- With respect to pay for straight time hours alone (i.e., excluding overtime), workers' wages averaged *22% below the applicable legal minimum*.
- Workers perform significant amounts of unpaid overtime off-the-clock, during lunch breaks, and before and after their regular working hours, resulting in their being cheated of an average of *seven weeks' pay per year*. Employees report that they work off-the-clock in order to boost the number of pieces they produce and thereby augment their salaries, but also, on occasion, because they are pressured to do so by factory managers. In both cases, however, workers are not properly paid for this time, as they neither receive the legal minimum wage rate for their piece rate production, nor are they compensated at the legally required premium rate for this additional work done outside of their regular working hours.¹⁸

At the Caracol Industrial Park, which opened in 2012, the WRC found an *equally egregious level of law-breaking*:

- On average, workers were paid *34% less than the law requires*, as their average work week is 52.3 hours (9% longer than the standard 48 hour workweek), but they are paid for these hours *27% less than the minimum wage* for the standard 48 hour workweek.
- With respect to pay for straight time hours alone (i.e., excluding overtime), workers' wages averaged *33% below the applicable legal minimum*.

- Caracol also systematically underpays workers for overtime, denying them 33% of the wages they are owed for this additional work.

The theft of workers' wages at all these factories has a devastating impact on workers' ability to afford the necessities of life for themselves and their families. The WRC's research found that wage theft leaves workers and their families *ill-fed, indebted and without access to medical care*:

- More than three quarters of workers interviewed said they were unable to pay for three meals a day for themselves and their immediate family. Based on previous WRC cost-of-living research for Haiti, the wages workers reported taking home after deductions provide only 40% of the amount needed for basic living expenses for a family of four. The average amount workers reported spending on food for their families totaled only 28% of the estimated cost of a nutritionally adequate diet for a worker with two dependents.



Philipe outside of his home in Port-au-Prince

Philipe is a garment worker in Port-au-Prince. Describing the wages he earns, Philipe says, "With this money we [can only] pay for our transport and our food. This salary doesn't allow us to meet our [other] needs which are many The suffering inside the factories is great and the situation is extremely difficult."

- More living wage research conducted more recently in Port-au-Prince by the AFL-CIO Solidarity Center paints an even bleaker picture of the gap between workers' incomes and their daily needs. A comparison of its cost-of-living estimates to the average wages workers interviewed for this study reported indicates that the latter provides only 19% of a family's necessary basic living expenses, and that workers' current food spending amounts to only 15% of a nutritionally adequate family diet.¹⁹
- Seventy-one percent of workers interviewed reported borrowing money to buy food for themselves and their families, and more than a third of workers reported borrowing money to pay for shelter.
- Of workers who reported that they did not borrow money for food or shelter, the primary reason cited was that they were so poor that credit and loans were unavailable to them.

- Every one of the workers interviewed reported that, on at least one occasion during the prior year, they had been unable to seek medical attention for themselves or a member of their immediate family due to lack of money.

Wage theft hits Haitian garment workers and their families particularly hard due to pervasive unemployment in the country and scarcity of other jobs in the formal economy. Haiti currently has an overall unemployment rate of 40.6% and more than two-thirds of the labor force lacks formal sector work.²⁰ Apparel workers are often the only wage earners in households that have no additional sources of income.

A WRC-authored survey of wages for workers in the world's leading garment-producing countries, which was published in July 2013 by the Center for American Progress, found that in 2011 the purchasing power of apparel workers' wages was lower, and the gap between prevailing wages and the cost of living greater, in Haiti than in any other major apparel producing country in the Western Hemisphere.²¹ Moreover, prevailing wages for Haitian apparel workers were among the lowest *globally* in local purchasing power, trailed only by wages for garment workers in Cambodia and Bangladesh.²² Haitian garment workers can ill-afford the massive wage theft being perpetrated against them by factory owners – and upon which leading North American brands and retailers continue to profit.

Recommendations

In order to remedy the massive wage theft taking place in the Haitian garment sector, the WRC recommends that North American brands and retailers producing in Haiti take immediate action to ensure that:

- Supplier factories set piece rates so that non-trainee workers consistently receive the minimum wage of 300 HTG (\$6.97) for a regular eight-hour workday. Consistent with guidance provided to factories by the ILO-IFC Better Work program, training periods at the beginning of employment or after a reassignment of job duties, during which workers do not receive this wage, should be limited to a maximum duration of three months.²³
- Production workers begin receiving the 300 HTG daily minimum wage immediately. While compliance with the minimum wage on an ongoing basis will require revision of factories' piece rates, this process should not excuse a further delay in workers receiving the minimum wage rate to which they already are legally entitled.
- Supplier factories are informed by the companies that purchase their products that the latter will accept an increase in prices if this is required to ensure that factories can comply with the minimum wage while remaining profitable.
- Workers who have been paid wages below the legal minimum required for their working hours are provided full back pay, with interest, as compensation. Workers are paid for overtime work at

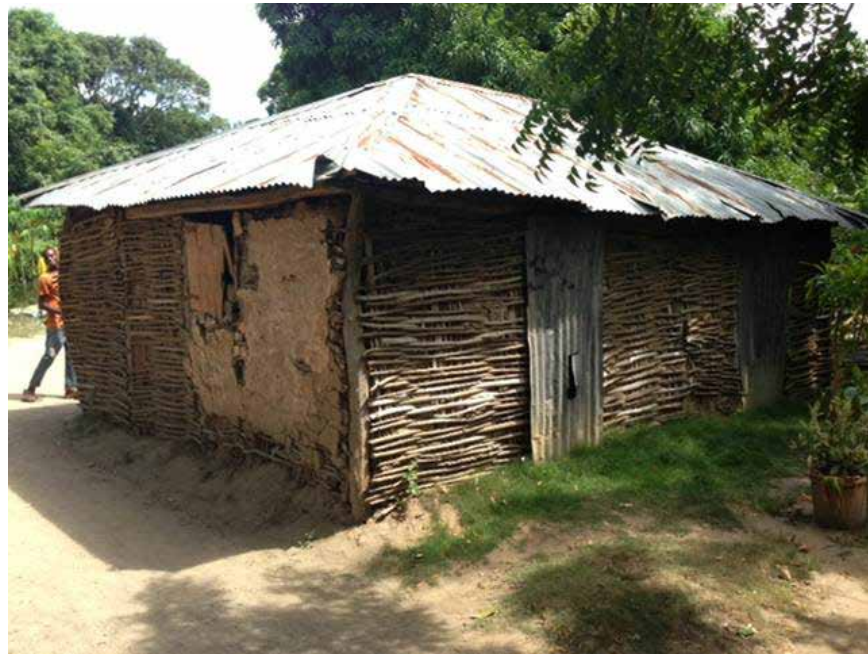
no less than the legally required minimum rate which, for piece rate workers, is calculated by applying the legally required wage premium (time-and-a-half) for overtime to an hourly rate derived from the 300 HTG daily minimum wage for non-trainee / non-transferee workers (approximately 56.25 HTG (\$1.31) per hour).

- All time worked before or after the end of the workday or during break or meal time is recorded and is paid at the appropriate overtime premium rate stated above.
- Supplier factories prohibit supervisors and managers from pressuring or disciplining workers for refusing to perform unpaid or “off-the-clock” overtime.
- Supplier factories are informed that buyers will give factories a reasonable opportunity to correct violations and accept additional increases in prices if necessary to ensure compliance with future minimum wage increases.

This set of recommendations is provided to encourage brands and retailers to engage constructively and responsibly with their Haitian supplier factories to end and remedy the violations detailed in this report. Any move by brands and retailers to reduce or discontinue business with supplier factories in Haiti in response to these findings – which concern violations of which these companies already are, or should be, well aware – rather than work with these factories to achieve compliance with Haitian law and respect for worker rights, would only add to the irresponsibility they have demonstrated by turning a blind eye to these violations thus far.

Conclusion

Minimum wage violations in the Haitian apparel industry are widespread and egregious. The WRC’s research found that factories in Port-au-Prince fail to pay workers a third of their legally mandated wages. Average wages are even lower at the new Caracol factory complex despite the fact that the project was heavily subsidized with earthquake recovery funds from the United States government as a means of providing Haitians with a path out of poverty.



Typical dwelling of a Caracol worker

The worker who lives in this home has no electricity or running water and shares the space with twelve other family members. The nearby well frequently runs dry and the worker must walk to a nearby river to obtain the water that the family needs for drinking, washing and cooking.

This wage theft has devastating effects on workers' families. Even when these families forgo adequate food and needed medical care, they remain trapped in a cycle of debt incurred to cover the costs of day-to-day survival.

North American brands and retailers have knowingly profited from the lower prices that their supplier factories are able to offer as a result of systematic theft of wages from garment workers who are already the lowest-paid in the Western Hemisphere. In order to remedy the harm this law-breaking and profiteering has inflicted on Haitian garment workers and their families, North American brands and retailers sourcing from Haiti have a responsibility to ensure that their supplier factories in the country comply with its minimum wage law and make workers whole for the wages that have been stolen from them. In addition, supplier factories and buyers should comply with any future minimum wage increases mandated by the Haitian government. To do less – or do nothing – would only inflict further injury on a Haitian people who already have suffered far too long and far too much.

In the context of mass unemployment, job growth in the apparel industry provides a vital benefit to Haitian workers; however, the price of such jobs should not be systematic violations of workers' legal rights and payment of sub-poverty wages. North American brands and retailers sourcing from Haiti have profited from not only the lowest wages in the Western Hemisphere, but also Haiti's proximity to consumer markets and preferential trade benefits under the HOPE II legislation. It is essential that as North American brands and retailers expand their sourcing from Haiti, they do so while ensuring that their supplier factories comply with Haitian labor laws and compensate workers for wages that these workers have been denied due to past violations.

II. Minimum Wage Standards in Haiti's Export Garment Industry

While nonpayment of minimum wages is a pervasive problem in the global apparel industry, its impact on garment workers in Haiti is particularly severe. Haiti already has the lowest wages for garment workers, in terms of local purchasing power, of any major apparel-exporting country in the Western Hemisphere.²⁴

Legislative efforts in the late 2000s to raise wages that were widely-recognized to be at starvation levels were aggressively resisted by Haitian factory owners. As a result, although inflation has caused prices for consumers to soar, wage increases for workers in the export sector have been delayed and suppressed. In this context, wage theft further exacerbates the already yawning gap between workers' wages and the cost of living.

A. Background on Haiti's Minimum Wage

From 2003 to 2009, Haiti's minimum wage remained frozen at 70 HTG (less than \$2) per day despite soaring inflation as well as stipulations in the Haitian labor code that the minimum wage be adjusted in such circumstances.²⁵ The Council on Hemispheric Affairs noted at the time that:

A [] minimum wage increase has been years overdue, as soaring inflation has made the cost of living for poor Haitians increasingly difficult to manage. The years-long delay in implementing the minimum wage is in direct violation of Haiti's Labor Code. . . . The minimum wage increase approved by the Aristide administration in 2003 was merely an adjustment, and not an actual increase. The [2009 minimum wage] legislation would not represent an actual wage improvement, as inflation already has soared well beyond the purchasing power of the minimum wage.²⁶



By 2008, the combination of steep price inflation and stagnant wages led to widespread riots protesting the rising costs of rice, beans and other staple

foods, whose prices had increased by of 50% in the prior year alone.²⁷ The social unrest evidenced by these so-called “Clorox” riots (a term referring to hunger so intense as to make the sufferer feel like he or she had consumed chlorine bleach²⁸) finally spurred the Haitian government to increase the minimum wage.

In 2009, the Haitian parliament passed legislation mandating an increase in the country’s legal minimum wage from its then-current level of 70 HTG (\$1.75) to 200 HTG (\$5.00) per day. The increase enjoyed widespread popular support, but was aggressively opposed by Haitian employers, led by the Association of Industries of Haiti (ADIH). According to an article in *The Nation*,

Contractors for Fruit of the Loom, Hanes and Levi’s . . . aggressively moved to block a minimum wage increase for Haitian assembly zone workers... the factory owners refused to pay 62 cents per hour, or \$5 per day, as a measure unanimously passed by the Haitian Parliament in June 2009 would have mandated.²⁹

The article went on to report that factory owners held multiple meetings with Haiti’s then-President, René Préval, and more than forty members of parliament and other politicians to lobby against the minimum wage hike.³⁰ In addition, the ADIH issued public threats that the minimum wage increase “would result in a 50 percent layoff of the workforce in the industrial sector...” and could reverse the growth that the Haitian apparel industry had seen since the passage of the HOPE II Act in 2008.³¹

Under heavy pressure from the ADIH, President Préval amended the minimum wage legislation that had been passed by the Haitian parliament. In spite of widespread popular support for retaining the original legislation, the amended minimum wage law (No. CL-09-2009-010) took effect on October 1, 2009.

The amended legislation reduced the immediate impact of the minimum wage hike by dividing the increase into three separate increments to take effect in 2009, 2010 and 2012. As importantly, the law also created a two-tiered wage structure, which, as discussed below, has become the key mechanism garment factory employers use to pay sub-minimum wages to their workers.

B. The Current Minimum Wage

Law No. CL-09-2009-010 establishes a two-tier minimum wage for Haiti’s export sector. The law states that, currently, in order for employers to comply with the minimum wage, they must set their production quotas or piece rates so that workers are able to earn a 300 HTG minimum wage in eight hours of work.³² In addition, there is a lower tier or wage rate, of 200 HTG per day, which applies to those piece rate workers who are in training or in transition to new positions and non-piece rate workers.

When the first increase in minimum wage under the new law took effect in 2009, employers took the position that they were only required to pay the

lower rate wage and did not set piece rates or production quotas at levels that permitted workers to earn the correct minimum wage for piece rate and production workers in an eight hour workday. However, in 2010 the ILO-IFC Better Work program reached a position based on interpretation of the law by Haiti's Presidential Tripartite Commission on the Implementation of the HOPE Legislation (CTMO-HOPE)³³ that the lower wage can only be paid for piece rate workers who are "newly recruited workers . . . those on new machines, and for less qualified workers,"³⁴ with the latter two categories defined as workers who have been working at the factory or at a new machine for fewer than three months.³⁵

Since October 1, 2012, when the final increase in the minimum wage that the law mandates took effect, the minimum wage for production and piece rate workers has been 300 HTG per day (\$6.97), and the lower minimum wage for trainees, job transferees and non-piece rate workers has been 200 HTG per day (\$4.64). The Better Work program and the CTMO-HOPE Commission have made clear that for workers who have been working in their current positions for three months or longer, piece rates or production bonuses should be set so that they can consistently earn the 300 minimum wage in an eight hour workday: "The production wage refers to a legal requirement to set piece rates in a manner such that a worker can earn 300 Gourdes during eight regular hours of work per day."³⁶

C. Legal Minimum Wages for Overtime Hours

Haitian law requires that any hours worked in excess of eight hours per day or 48 hours per week be compensated at a premium rate of 150% of the worker's wage rate for ordinary hours.³⁷ Applied to the minimum wage for production and piece rate workers this premium rate is 56.25 HTG per hour.³⁸



The exterior of a Caracol worker's dwelling in Terrier Rouge

A worker from the Caracol Industrial Park lives in this dwelling with 11 other family members. She dreams of better wages which would allow her to live in her own house and further her education. If the factory paid the minimum wage, she says, "I would save money, build a house and stop renting and go to school to study nursing, because this was one of my dreams. . . ."

It is worth noting that the ILO BetterWork program, which evaluates factories' compliance with the minimum wage based on the statutory standard of whether workers' piece rates enable them to earn 300 HTG during a regular eight-hour day, reportedly considers their compliance with overtime laws based on whether employees are paid for overtime at an hourly rate based on 150% of the 200 HTG per day sub-minimum wage rate for trainees – or 300 HTG per day. Better Work's public reports do not explicitly state that this is the standard the program applies when measuring overtime compliance,

but its most recent report on its factory monitoring indicated that 92%, or all but two, of the factories it surveyed were compliant with regard to overtime payments.³⁹ As Better Work found that all of these same factories' wage rates were noncompliant with the 300 HTG per day minimum standard for regular working hours, it is clear that these factories *would have* been considered noncompliant with respect to overtime pay as well, if Better Work had required an overtime rate based on 150% of the non-trainee minimum rate.

Better Work's reports do not explain why the program has taken this position. Certainly, the overwhelming majority of employees in the factories that Better Work is finding compliant with respect to overtime are not trainees or transferees, but workers whom Better Work, itself, reports are required to be paid at a rate where they earn 300 HTG for their regular hours, not 200 HTG (which, as noted, is a rate reserved for trainees, transferees and non-piece rate workers). We know this because Better Work, itself, also reports that these same factories are noncompliant with the minimum wage, based on their failure to pay these workers for regular hours at piece rates sufficient for them to earn the 300 HTG per day minimum in eight hours.⁴⁰

Therefore Better Work's apparent position is that the legal minimum wage rate for non-trainees for *both* ordinary working hours *and* overtime hours is the *same rate*, a wage rate based on pay of 300 HTG for an eight-hour day. This position, however, is in clear contradiction to the requirements of Haitian law, which states that "[o]vertime in excess of normal working hours will be paid with an *increase* of 50 percent."⁴¹ (emphasis added) Overtime for which employees are paid at an



Miderline with daughter, son and nephew

Miderline is a worker at the Caracol Industrial Park. "I'm working so hard at the factory [but] they refuse to increase . . . the wage[s]." She adds, "I have my kids to send to school, and take care of . . . [I]f one of them is sick I . . . [don't have] money to go to the hospital." Recently, Miderline was the victim of an assault, but couldn't afford to go to the hospital to be treated without borrowing 3500 HTG (\$81).

hourly rate based on 300 HTG for eight hours' work (1.50 x 200 HTG) is not being paid "with an increase of 50 percent"⁴² since the same workers, by law, should already be paid at the same rate – 300 HTG for eight hours work – for their *regular* working hours.

The interpretation of the law apparently adopted by the ILO Better Work program – that the legal minimum rates for overtime hours and regular work hours are the same – also contradicts international labor standards concerning hours of work and payment of overtime, as embodied in the ILO's own very first international convention, Convention 1 (Hours of Work (Industry)) which Haiti, itself, has ratified.⁴³ Convention 1 explicitly requires that governments set the minimum rate of pay for hours outside regular working time at a rate that is higher than the minimum wage rate for regular hours, directing that "the rate of pay for overtime shall not be less than one and one-quarter times the regular rate."⁴⁴

This same point was reaffirmed by the ILO in its Recommendation 116 (Reduction of Hours of Work), which explicitly states that "[o]vertime work should be remunerated at a higher rate or rates than normal hours of work."⁴⁵ Moreover, the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR), the body responsible for the application of these standards to the practices of member countries, has observed, with respect to other states, that payment of the same wage rate for overtime and straight time hours is inconsistent with the requirements of Convention 1.⁴⁶

Finally, from a policy perspective, application of the same minimum wage rate to regular hours and overtime hours directly undermines the purposes that laws on overtime and hours of work are meant to achieve. Traditionally, the requirement to provide a premium wage rate for work outside the regular work day is intended to serve multiple socially beneficial ends: First, premium pay for overtime is appropriate and necessary because workers performing overtime are laboring during time society would otherwise leave them for home life, rest and recreation after the workday.⁴⁷ This concern is also reflected, in Haiti's own labor law, in its provisions stating that overtime may only be *required* of workers in cases of emergency⁴⁸ and limiting overtime to no more than two hours per day or 80 hours per quarter.⁴⁹

Secondly, the requirement to pay a premium wage rate for overtime traditionally is intended to expand employment, by imposing an additional cost on simply extending the hours of existing employees (who must be paid at a premium rate), rather than hiring more workers (who can be paid at ordinary rates).⁵⁰ Factories that can simply extend their existing workers' hours without increasing wage rates are less likely to hire additional workers – an undesirable outcome, particularly given Haiti's extremely high levels of unemployment. In 2010, overall unemployment in the country's economy, including the informal sector, was estimated at 40.6%.⁵¹

It is unclear why the ILO-IFC Better Work program has chosen to evaluate factories' compliance with respect to overtime compensation based on whether factories pay workers for this time at a rate that is no higher than the wage they should already be receiving for their regular work hours. The WRC

has requested an explanation from the ILO-IFC Better Work program for its position on this issue but, as yet, has not received a substantive response. Given that this position appears to directly contradict the requirements of Haitian labor law and the ILO's own standards and recommendations, the WRC has, instead, calculated the degree of wage theft affecting these workers that is related to overtime work based on whether factories compensate workers for this time at a rate equivalent to an increase of 50% over the legal minimum wage for regular working hours – a rate sufficient for workers to earn 300 HTG in eight hours. As noted, this calculation yields a minimum legal rate for overtime of 56.25 HTG per hour (\$1.31 per hour).⁵²

D. ILO-IFC Reports Reveal Pervasive Minimum Wage Violations

Since it began monitoring the country's garment factories in 2009, the ILO-IFC Better Work program has documented widespread and pervasive

minimum wage violations in the sector. The Better Work program was established by the International Labor Organization (ILO) and the International Finance Corporation (IFC) with funding from the U.S. Department of Labor to assess, report on and provide assistance with compliance with the labor standards required for duty free access to the U.S. under the HOPE II Legislation. Better Work is a voluntary program, but all 24 garment factories in Haiti currently are participating in the program.

According to Better Work's public reports, non-compliance with the minimum wage has not only been widespread but also has risen over time, despite the fact that both factories and buyers have received repeated notice of this law-breaking via Better Work's factory audits. Better Work first publicly reported on factories' violation of the minimum wage in April 2011 when it observed that 61% of factories were noncompliant in this area. Since then, Better Work has reported

non-compliance with the minimum wage at 91% (October 2011), 90% (April 2012), 95% (October 2012),⁵³ and 100% of factories surveyed (April 2013).⁵⁴

Because both factories and buyers have been informed of these findings, they have had repeated opportunities to halt and remedy these violations. Instead, they have allowed the situation to continually worsen.

In its April 2013 report, Better Work reported that piece rates were set so low that only 16% of the workers who worked in the 24 audited factories received the legal minimum wage. This epidemic of wage theft occurred



across the country's garment sector, in Port-au-Prince – among factories located inside, and outside, of the Sonapi Industrial Park – and in both of the country's industrial zones outside of the capital, including the Caracol and Codevi industrial parks.

In its April 2013 report, Better Work also identified other wage and hour violations that, while, much less pervasive than the nonpayment of the minimum wage, were found in significant numbers of factories. Some of these violations resulted in further underpayment to workers of wages they were legally due, exacerbating the loss of income workers already were suffering from factories' failure to pay the legal minimum wage.

With regard to working hours, Better Work reported that among the 24 factories participating in its monitoring program:

- "Six factories [we]re reported in non-compliance for exceeding the overtime legal limit, which is 80 hours per trimester...."
- "...Regarding Regular Hours, in five factories the employer did not keep working time records that reflect the hours actually worked, and in two factories the employer did not comply with the daily break period."
- "In four factories, workers reported that overtime is not voluntary."
- "Better Work Haiti also observed noncompliance for failure to obtain authorization from the Department of Labour to perform overtime (three factories) and to work on Sundays (one factory)."⁵⁵

Again, given that the Better Work program has repeatedly reported both nonpayment of the minimum wage and other wage and hour violations across the Haitian garment section, it is clear that both factory owners and international brands and retailers are well aware of this law-breaking. Nevertheless, the theft of wages from workers has only grown worse over time and spread to every garment factory in Haiti.

III. Methodology for this Report

The WRC carried out field research for this study in two phases from November 2012 to September of 2013. The first phase involved interviews with workers from factories in Port-au-Prince and the second phase involved interviews with workers from the Caracol Industrial Park.

Haiti has two free trade zones outside of Port-au-Prince, Codevi in Ouanaminthe on the country's border with the Dominican Republic and the Caracol Industrial Park on Haiti's northern coast. Workers from Caracol were not included in the initial phase of the study which began in November 2012 because, at that time, the industrial park's anchor factory had only recently begun operating.

The WRC conducted interviews with and collected paystubs⁵⁶ from 72 workers across five factories that focused on wages, piece rates, and working hours. The WRC interviewed only production workers who were not trainees or recent transferees, and, therefore, to whom the 300 HTG per day minimum wage clearly applied. Additionally, the WRC gathered information from 22 of these workers concerning the effects of minimum wage noncompliance on their ability to pay daily expenses for their families. In Port-au-Prince, the workers interviewed were employed by four factories: Premium Apparel ("Premium"), Genesis, Global Manufacturers & Contractors ("GMC") and One World Apparel ("One World").

The WRC believes that the conditions found at these factories are representative of those prevailing in the Haitian export garment manufacturing sector as a whole. As noted, the ILO-IFC Better Work program which monitors all 24 of the country's garment factories consistently has found widespread minimum wage violations in the sector, with its most recent report finding noncompliance at every single factory.⁵⁷ In addition, the owners of the factories whose workers were interviewed for this study also own or share ownership of a number of other garment factories in the country, including factories inside, and factories outside, of Port-au-Prince's primary free trade zone, Sonapi.

Finally, the brands and retailers that do business with these factories comprise a representative sample of the North American apparel companies doing business in Haiti – from top t-shirt manufacturers like Gildan and Hanes to leading retailers like Gap and Walmart. The Premium and Genesis factories are suppliers to Gildan, the Canadian apparel firm that is the world's largest manufacturer of t-shirts, and have been publicly disclosed as suppliers of apparel licensed by U.S. universities and colleges.⁵⁸ GMC is a factory that produces for the U.S. apparel company, HanesBrands Inc., another top t-shirt manufacturer. One World is a factory that makes apparel for major retailers like Walmart, as top U.S. suppliers of work uniforms, such as G&K, Strategic Partners (maker of Dickies and Cherokee medical uniforms) and Superior. The factory that is the anchor tenant in the Caracol Industrial Park, S&H Global, also produces apparel for Walmart, as well as for other major U.S. retailers, such as Target, Old Navy and Kohl's.

IV. Stealing from the Poor: Wage Theft in Haitian Garment Factories

Research conducted by the WRC for this report finds that the majority of Haitian garment workers are being denied *nearly a third* of the wages they are legally due as a result of the export factories' theft of their income. Wage theft in the Haitian garment industry results from three practices consistently followed by factory owners, which, although unlawful, are pervasive throughout the sector: First, employers illegally set the amounts they pay workers for each garment ("piece rates") so low – or the numbers of garments that workers must sew in a day ("production quotas") so high – that workers are unable to earn the legal minimum wage in an a regular workday.

Second, employers calculate the premium that must be paid for overtime based on a wage rate that is below the legal minimum wage for production workers. Third, the Port-au-Prince factories require workers to perform a significant amount of labor "off-the-clock" for which they unlawfully fail to compensate workers. Below, we show how these unlawful practices affect the wages of Haitian garment workers by detailing how they are used at the factories from which workers were interviewed for this study.

A. Wage Theft in Port-au-Prince Garment Factories

The WRC's investigation found that wage theft in Port-au-Prince garment factories robs workers of almost one third of their legally earned pay. In the section below we present: 1) an overview of violations found across all of the factories from which workers were interviewed, 2) for each factory from which workers were interviewed, the piece rates and other pay practices that produce these violations, and 3) the factories' work schedules and other wage and hour violations that were identified.

1. Minimum Wage Violations

i. Overview

The WRC found that, on average, workers were paid *32% less than the law required*, as their average work week was 58.2 hours (21% longer than the standard 48 hour workweek), but they



Osnaque is a garment worker in Port-au-Prince. Her wages barely cover the cost of food alone. "It is like we give our days [of work at the factory] as a gift, because the money they pay us doesn't allow us to meet our needs, but it is with this little money, that we have to do everything. We never can accomplish anything in our lives, because with a salary like that, we can only eat and nothing else."

were paid for these hours 9% less than the minimum wage for the standard 48 hour workweek. As noted, this denial of earned wages is the result of three unlawful practices: (1) nonpayment of the minimum wage for straight time hours, (2) work off-the-clock, and (3) underpayment of overtime hours.

ii. Nonpayment of Minimum Wage for Regular hours

The majority of the income losses of Haitian garment workers to wage theft by their employers appear to be caused by factories' nonpayment of the legal minimum wage for workers' straight time (i.e., non-overtime) hours. This is a result of factories setting piece rates so low or, conversely, production quotas so high that workers are unable to earn enough in eight hours to meet the legal minimum daily wage.

Among workers interviewed for this study, their daily straight time wages averaged 234 HTG (\$ 5.43), 22% lower than the 300 minimum the law requires. The average degree of underpayment reported by workers ranged per factory from 15% to 29% below the minimum wage (see below for detailed information by factory). This shows that not only – as the ILO-IFC Better Work program already has reported – are minimum wage violations *pervasive* in the Haitian garment sector, but also that they are *substantial*, denying workers almost a quarter of the wages they are legally due for their regular hours of work alone.

iii. Work Off-the-Clock

As detailed below, workers perform significant amounts of work off-the-clock – during lunch breaks, and before and after their regular working hours – resulting, in all, in their being cheated of an average of *seven weeks' pay per year*. Employees report that they often work off-the-clock in order to produce more pieces per day and, thereby, increase their wages, but also, on occasion, because they are pressured to do so by factory managers.

In either case, however, workers are not being legally compensated for this additional work time. Instead they are being underpaid in two respects: First, the piece rate they receive for this additional production is the same one they receive during their regular on-the-clock hours, which, as discussed above, is set at an unlawfully low level. Second, as the time factory employees spend working off-the-clock is in addition to their regular working hours, it should be compensated as overtime, at a premium rate.⁵⁹ Again, this work is, instead, paid at the same unlawfully low piece rates as the employees' regular working time.

	One World	Genesis	Premium	GMC	Average
Average Hours Worked Off-the-clock per Month	8	27	23	19	19
Average Hours Worked Off-the-clock per Year	97	324	273	226	231
Average Weeks' Wages Owed	2.03	6.75	5.70	4.71	4.82
Average Weeks' Wages Owed Including Overtime Premium	3.04	10.13	8.56	7.07	7.23

iv. Underpayment of Overtime Hours

Finally, even when factories do pay employees at a premium rate for working beyond their regular hours, the premium they pay for this overtime work is based on a regular wage rate of 200 HTG day, a wage rate that, as noted, is supposed to be reserved for trainees, job transferees and non-production workers, not the majority of the factories' regular workforce. Employers thus pay overtime hours at a rate of 37.5 HTG (\$0.87) per hour, whereas if they paid workers the required 50% premium on the 300 HTG per day minimum wage (as opposed to the 200 HTG per day training wage) workers would earn 56.25 HTG per hour (\$1.31) for overtime. As a result, factories underpay workers by 33% for every overtime hour employees perform.

This practice has a dramatic effect on workers' wages: Average daily wages for workers who were interviewed for this study, including wages for overtime, were 270 HTG (\$6.27). Yet if workers had been paid the legal minimum wage (300 HTG per day) for their regular working hours and, as the law mandates, a 50% premium on this rate for their overtime hours, they would have been paid 396 HTG (\$9.19), nearly a third (32%) more.

	One World	Genesis	Premium	GMC	Average
Average Hours Worked (per day)	8.9	10	10	10.2	9.7
Average Wages Received (including overtime pay)	236 HTG (\$5.48)	273 HTG (\$634.00)	293 HTG (\$6.80)	279 HTG (\$6.48)	270 HTG (\$6.27)
Wages Legally Owed (at minimum wage)	351 HTG (\$8.15)	413 HTG (\$9.60)	411 HTG (\$9.54)	423 HTG (\$9.82)	396 HTG (\$9.19)
Percentage Underpayment	33%	34%	29%	34%	32%
Average Straight Time Wages (excluding overtime)	213 HTG (\$4.95)	239 HTG (\$5.55)	254 HTG (\$5.90)	223 HTG (\$5.18)	234 HTG (\$5.43)
Percentage Underpayment	29%	20%	15%	26%	22%

2. Individual Factory Findings: Underpayment of Daily Minimum Wage

Even considering wages for regular (straight time) working hours alone, garment factories in Port-au-Prince cheat workers of a significant portion of their daily pay. The pay practices of each factory and the straight time wages recorded in its workers' pay stubs are discussed below.

	One World	Genesis	Premium	GMC	Average
Percentage of Workers Earning 300 HTG in an 8-hour Day	0%	0%	3%	0%	1%
Percentage of Workers Earning 300 HTG in a Day with Overtime	0%	10%	48%	44%	25%

i. Genesis

Genesis is a factory that produces t-shirts for Gildan which are supplied to U.S. university licensees,⁶⁰ and currently employs roughly 1,160 workers. Workers employed at Genesis report that they are paid 6 HTG (\$0.13) per box of six dozen t-shirts that their module produces. In order to reach the minimum wage of 300 HTG, workers must produce 3,600 t-shirts in a single eight hour shift, which workers report is impossible to do, and as a result workers' wages fall significantly short of the minimum wage due to this unrealistically high production quota.

Even taking in production bonuses and other non-guaranteed salary adjustments, none of the workers interviewed from Genesis were paid the legal minimum of 300 HTG for eight hours' work. Analysis of these workers' weekly paystubs revealed that their regular straight time pay averaged only 239 HTG per day (\$5.55 per day or about \$0.69 per hour), more than 20% underpayment of the minimum wage for straight time hours alone. In fact, only 10% of the weekly paystubs that were examined showed wages for workers from Genesis reaching the 300 HTG legal minimum even when one included the pay they had received for overtime hours as well.

ii. GMC

GMC employs nearly 2,000 workers, making it one of the largest factories in Port-au-Prince. Workers at GMC produce t-shirts for Hanes, of which they, like their counterparts at Genesis, must complete 3,600 in an eight-hour day to receive the 300 HTG legal minimum wage. And not surprisingly, as at the Genesis factory, due to this impossibly high quota, none of the workers interviewed actually received the 300 HTG minimum wage for their regular hours. Instead, GMC workers received on average only 223 HTG for their regular hours (\$5.18 a day or \$0.64 an hour), 26% less than the minimum wage. Even taking into account their overtime hours and pay, fewer than half (44%) of the workers who were interviewed received the 300 HTG daily minimum wage that is supposed to be paid for regular hours alone.

iii. One World

The One World factory employs 1,358 workers who produce a variety of garments, including pants, tops and overalls, for U.S. retailers like Walmart and suppliers of work uniforms, including G&K and Superior. Workers are paid according to different piece rates which vary according to the type of garment and operation. Depending on the complexity of the work required on each piece, workers receive a rate of 1 to 4.8 HTG (\$0.02-0.11) per dozen pieces completed.

A review of pay stubs of workers from One World who were interviewed indicated that One World had the lowest average pay of any of the four factories in Port-au-Prince where workers were interviewed. The paystubs that were examined revealed that workers' daily straight time wages (without overtime pay or hours), averaged 213 HTG (\$4.95 per day or \$0.62 per hour), a 29% underpayment. Even when overtime pay and non-guaranteed production bonuses were included, none of the paystubs from One World showed workers receiving the 300 HTG minimum that workers are required to be paid for regular hours.

iv. Premium

Premium employs 1,114 workers who also produce t-shirts for Gildan which are supplied to U.S. university licensees, and are paid the same piece rates that prevail at Genesis. They are required to produce 3,600 t-shirts per day in order to receive the legal minimum wage of 300 HTG for eight hours' work. Yet even taking into account production bonuses and other non-guaranteed salary adjustments (but excluding overtime hours and pay), only 3% of workers actually receive the minimum wage for their straight time hours. Even including their overtime pay, just fewer than half (48%) of workers received the 300 HTG minimum which the law requires workers to be able to earn in their regular working hours. Even though this factory had the highest straight time wages of any of the four from which workers were interviewed, wages at Premium fell significantly short of the legal minimum, with workers earning, on average, 254 HTG (\$5.90 per day or \$0.74 an hour) for their straight time hours, a 15% underpayment.

3. Underpayment of Overtime and Work Off-the-Clock

i. Overview

As a result of both the unlawfully low wages they are paid for their regular working hours, and direct threats and pressure by management, workers report that they are both compelled by necessity and coerced by authority to work beyond the standard eight-hour workday. At all four factories from which workers were interviewed employees reported being required to perform overtime as part of their regular work schedules.⁶¹

Employees also reported working a significant amount of overtime "off-the-clock," that goes unrecorded in their working hours, though it was



**Jude near his home in
Port-au-Prince**

Jude has worked in Port-au-Prince garment factories for ten years, but even as an experienced worker he is not able to reach the impossibly high production quota the factories require workers to meet in order earn the minimum wage. Says Jude, "This is exploitation, we are broken down, we can't continue like this. I am a young person and I have already worked in the factories for ten years. They never give us a chance."

reflected in the record of their overall production, i.e., the number of pieces they completed during a single workday. As discussed, even though this additional work helps employees earn more as a result of having completed more pieces (or having met their production quotas), workers do not receive the compensation for this time that they are legally due. This is because, as already noted, the piece rates they are paid are unlawfully low (or the production quotas they are required to meet are unlawfully high), and, because this time is not recorded, it is not paid at the premium rate that is legally mandated for overtime.

The table below presents the share of workers interviewed from each of the four factories who reported working off-the-clock before and/or after the regular workday and/or during their lunch period. Findings regarding working hours and overtime are discussed by factory.

	One World	Genesis	Premium	GMC	Average
Percentage of interviewed workers reporting working before the workday	67%	91%	94%	67%	81%
Percentage of interviewed workers reporting working during the lunch break	67%	91%	100%	89%	87%
Percentage of interviewed workers reporting working off-the-clock after workday	17%	82%	50%	78%	54%
Average amount of time reported worked off-the-clock (hours per week, all workers)	1.87	6.24	5.26	4.35	4.45

ii. Individual Factory Findings

a. Genesis

Workers interviewed from the Genesis factory on average reported working hours that totaled 60 hours per week including straight time hours, paid overtime and work performed off-the-clock. Genesis' official work schedule exceeds the standard 48-hour workweek by 5.5 hours, which are recorded and paid as overtime (though at a premium rate, 37.5 HTG per hour, that is based on the 200 HTG per day minimum wage for trainees and job transferees, not the 300 HTG per day mandated for regular piece-rate employees which would yield a minimum rate for overtime of 56.25 HTG). These overtime hours, therefore, are underpaid by 33%.

This overtime is mandatory. Workers reported that the factory's gates remain closed until the end of the workday and that workers are not permitted to leave the premises before this time without special permission from the factory's management. Workers believed they would be fired or suspended if they refused to work until the end of the daily schedule which includes an hour of overtime.

Due to both economic need and pressure from company managers, Genesis workers also perform a significant amount of additional work “off-the-clock.” More than 90% of the Genesis workers who were interviewed reported working off-the-clock before the beginning of their workday, on average, indicating that those that did so, worked an average of 20 minutes. Among the interviewed Genesis workers, 82% also stated that they worked past the end of their recorded overtime, with those that did so, working 19 minutes on average.

In addition, 91% of the Genesis worker interviewees reported that they worked during part of their hour-long lunch break, with 35 minutes the average period of off-the-clock-work indicated during this time. One Genesis worker told interviewers that when he attempted to take his full hour-long lunch break, his supervisor threatened to fire him if he did not return to work before the end of the meal period.

The result of this off-the-clock work is a significant loss of legally-earned wages for the affected workers. Genesis workers who were interviewed reported, on average, working 6.24 hours off-the-clock on a weekly basis, a figure that amounts to 342.22 hours per year of what is, under Haitian law, unpaid overtime the equivalent of the theft annually of 60.79 days’ wages. The workers from Genesis who were interviewed for this study reported, on average, that they worked, in all, 60 hours per week, for which they were paid 273 HTG per day (\$6.34).

While these weekly hours were 25% longer than the 48-hour regular workweek established by Haitian law, the wages workers received were still 9% below the legal minimum wage for straight time work alone, 300 HTG for an eight-hour workday. By comparison, if the wage rates at Genesis did enable workers to earn the legal minimum of 300 HTG per day for their straight time hours, and if these workers were paid for their additional work time at the legally mandated 50% premium on their straight time rates, then the interviewed workers would have received, on average 413 HTG per day (\$9.59), 34% more than the average amount they actually were paid.

b. Premium

Workers who were interviewed from the Premium factory on average reported working 60 hours per week, a total that included the straight time hours, recorded overtime, and work off-the-clock. The factory’s official work schedule exceeds the standard 48-hour workweek by 6 hours per week. Workers reported that these additional hours are mandatory, and are paid at a premium rate for overtime, 37.5 HTG (\$0.87) per hour, that is based on the 200 HTG per day sub-minimum wage for trainees and job transferees, rather than the 300 HTG per day minimum wage that is applicable to regular piece-rate employees.

Due to both economic necessity and coercion by supervisors, workers at Premium perform a significant amount of additional unrecorded overtime in addition to the hour of recorded overtime included in the factory’s official work schedule. Ninety-four percent of the workers from Premium

who were interviewed for this study reported working off-the-clock before the beginning of the workday, on average, for 26 minutes. Among these interviewees, in addition, 50% stated that they worked past the end of the workday, on average, for 12 minutes. Lastly, all (100%) of the Premium workers who were interviewed reported that they worked during their hour-long lunch break, on average for about 33 minutes.

While all of the workers from Premium who were interviewed identified economic need as the primary reason they worked off-the-clock, several also stated that factory supervisors verbally pressure workers to return to work off-the-clock during their lunch breaks. Pressure to work off-the-clock is most intense for those workers at the front of the production line who provide materials to their coworkers seated behind them. For example, one such worker who chose not to work during his lunch period reported that he was called into the factory office and berated for “handicapping” work in his production line.

The result of this off-the-clock work is a significant loss of wages for the affected workers. Employees from Premium who were interviewed for this study reported, on average, working 5.27 hours off-the-clock on a weekly basis, a figure that amounts to 273.78 hours per year of what is, under Haitian law, unpaid overtime the equivalent of the theft annually of 51.33 days’ wages.

Premium workers reported being paid daily wages that averaged 293 HTG (\$6.80), for working an average of ten hours per day. While this was the highest average daily wage reported at any of the five factories where workers were interviewed for this study, it was still 2% below the minimum wage, 300 HTG that, by law, workers should be paid for their daily straight time hours alone. Yet, if Premium paid these workers, as the law requires, at a rate that enabled them to earn 300 HTG per eight-hour day, and paid their overtime hours at a 50% premium on that rate, workers would have received 411 HTG (\$9.54) per day, a figure almost 30% higher than the pay they actually received.

As was the case at all four factories in which workers were interviewed, at Premium these additional hours were underpaid on multiple counts: because the piece rates by which workers were paid are set unlawfully low, because work off-the-clock was not compensated, as required by law, at a premium rate as overtime, and, lastly, because even recorded overtime is paid at a premium rate that is calculated based on the 200 HTG per day sub-minimum rate for trainees and job-transferees, rather than the 300 HTG minimum daily rate that applies to regular employees. As a result, Premium underpaid the workers interviewed for this study by, on average, an estimated 29%.

c. GMC

Workers from GMC who were interviewed for this study on average reported that they worked 61.2 hours per week, which included regular straight time hours, recorded overtime and work off-the-clock. GMC’s official work schedule exceeds the standard 48-hour workweek by six to nine hours per week (depending on the department).

These hours are recorded as overtime; however, the premium rate at which they are paid is based on the 200 HTG per day sub-minimum rate for trainees and job transferees rather than the 300 HTG per day rate which is supposed to apply to regular workers. These overtime hours are mandatory, and workers reported their belief that employees who attempted to leave the factory after having worked just eight hours could be suspended or fired for doing this.

In addition to the six to nine hours of recorded overtime that are required of them each week, GMC workers additionally perform a significant amount of work off-the-clock. Interviewees indicated that they did this additional work on account of both their own economic need and pressure from their supervisors.

Workers who were interviewed for this study reported that it was impossible for them to achieve their production quotas or earn the 300 HTG daily minimum wage without performing some work off-the-clock. Of the GMC workers who were interviewed, 67% reported working off-the-clock before the start of the workday, with those who did so, working for an average of 15 minutes. Workers reported that the company provided workers who arrived at work early with coffee and a snack at a discounted price as a way of encouraging them to begin work before the official start of their shifts.



In addition, 78% of the GMC workers who were interviewed stated that they continued working past the end of their recorded working hours, on average, three times per week, and each time, for 27 minutes. Lastly 89% of interviewed GMC workers reported that they worked for a portion of their hour-long lunch break, on average, for 31 minutes of this period.

All workers who were interviewed cited economic need as the primary reason they worked off-the-clock, despite the fact that this time was not recorded or paid as overtime by GMC. Nearly half the interviewees, however, also stated that they were directly pressured by supervisors to work during their lunch breaks.

Workers reported that GMC supervisors watch workers during meal times and pressure them to return to work as soon as they have finished eating, even if the majority of the hour-long break period has not passed. At least one interviewee stated the belief that workers who do not work during their meal periods are suspended from work as a form of disciplinary action.

The result of this off-the-clock work is a significant loss of wages for the affected workers. Employees from GMC who were interviewed for this study reported, on average, working 4.35 hours off-the-clock on a weekly basis, a figure that amounts to 226.2 hours per year of what is, under Haitian law, unpaid overtime, the equivalent of the theft annually of 42.41 days' wages.

Even though they indicated working more than two hours of overtime per day, workers at GMC reported daily earnings that averaged only 279 HTG (\$6.48), 7% below the legal requirement of 300 HTG for eight-hours. By comparison, if the factory paid workers for their regular straight time hours at the legal minimum rate of 300 HTG per eight-hour day, and, for all of their additional time worked, at an overtime rate that, as the law requires, represents a 50% increase on the straight time rate, workers would receive 423 HTG (\$9.82) instead.

d. One World

Workers who were interviewed from the One World factory reported, on average, working 53.4 hours per week, which included their regular straight time hours, recorded overtime and work off-the-clock. These working hours are shorter than those that were reported by workers at the other factories included in this study.

The reason for this, apparently, is that while One World's formal work schedule is similar to those of the other factories, workers' actual hours tend to vary significantly in response to fluctuations in the factory's orders and production scheduling. As a result, although the official work schedule includes an hour of overtime per day, workers reported, and a review of their paystubs confirmed, that they often worked for only a portion of this time, on average, 36 minutes per day. When the factory had enough orders to occupy workers for the full hour of overtime, however, workers reported that performing this additional work was mandatory.

In addition, when sufficient work was available, employees reported that they also worked off-the-clock, in order to increase the number of pieces they were able to complete in a single day and, thereby, increase their wages. Employees reported that off-the-clock work was neither required nor discouraged by company managers, and that they worked off-the-clock out of economic necessity, because their wages were so low. Of the One World workers interviewed for this report, 67% stated that they worked off-the-clock before the start of their workday, on average, for 15 minutes. A much smaller portion of interviewees from One World, 14%, indicated that they worked off-the-clock after the end of their recorded working hours, on average reporting that they did so for 25 minutes. Lastly 67% of One World workers who were interviewed reported that they worked during some portion of their hour-long lunch break, indicating, on average, that they worked for 26 minutes of this time.

Even though the workers who were interviewed from One World reported, on average, working beyond their normal 48-hour workweek for an additional 4.5 hours (including both recorded overtime and work off-the-

clock), the daily wages they reported receiving, on average, amounted to only 236 HTG (\$5.49), 21% below the legal minimum wage of 300 HTG for straight time hours alone. Workers' paystubs showed that, as at the other factories studied, their recorded overtime was paid at a premium rate based on the 200 HTG per day sub-minimum wage for trainees and job transferees, rather than the 300 HTG per day minimum wage that applies to regular employees.

Moreover, as noted with respect to the other factories as well, the piece work employees reported performing off-the-clock was compensated at rates that clearly failed to meet the legal minimum, and, worse yet, was not paid at a premium rate though, under the law, it clearly constituted overtime work.

If these workers had been paid for their eight regular straight-time hours at the legal minimum rate of 300 HTG per day, and had been paid for their work beyond this, both recorded and off-the-clock, at the legally-mandated premium of 50% more than the straight time rate, then they would have received wages averaging 351 HTG (\$8.15) per day. Their actual daily pay, which averaged 279 HTG (\$6.48), represented an underpayment of 33%, an effective theft of a third of these workers' legally due wages.

V. Wage Theft at the Caracol Industrial Park

The Caracol Industrial Park (Caracol) is a factory complex on Haiti's northern coast which opened in 2012 and currently employs about 1,500 workers. Its anchor tenant, the S&H Global factory, produces garments for major North American retailers such as Walmart, Target, Kohl's and Old Navy. Caracol's development has been heavily subsidized by the Inter-American Development Bank and the U.S. government, with more than a quarter of the latter's post-2010 earthquake relief assistance funding going to support its construction.⁶² However, as this report discussed, despite promises⁶³ that the industrial park's factory tenants would maintain exemplary labor standards, violations of the country's minimum wages laws are as egregious at Caracol as at the other factories examined for this study.

Information gathered from interviews with workers from Caracol and review of the pay stubs they are issued with their wages reveal that these workers suffer from theft of their legally-earned wages to just as great a degree as do their counterparts at these other factories, losing, on average, 34% of their pay. Workers at Caracol also experience a loss of wages due to underpayment of overtime work, since, as at the Port-au-Prince factories, these hours are paid at a rate based on the 200 HTG per day sub-minimum wage for trainees and transferees, rather than the 300 HTG per day legal minimum wage for regular employees. As a result, even with pay for overtime and non-guaranteed production bonuses included, workers at Caracol are still paid 27% less than the minimum they are legally-owed for their straight time hours alone.

Further exacerbating this underpayment, workers at Caracol reported a significant pattern of errors in the factory's calculation and, thereby, payment of their wages that delayed and, in some cases, ultimately denied workers an additional portion of their legally-earned wages. While these errors do not appear to be deliberate, their recurrence and the factory's laxity in correcting them is troubling, particularly in light of the other practices by the same employer in deliberately denying these employees legally-earned wages.

The section below provides relevant background information on the Caracol Industrial Park, and details the WRC's findings with regard to minimum wage and related wage and hour violations at the factory, as well as concerning systematic pay errors affecting its workers.

A. Caracol's Promise – "No Compromise on Labor Standards"

Despite the fact that the area where the Caracol Industrial park has been developed, Haiti's northern coast, was unaffected by the massive earthquake that ravaged Port-au-Prince in 2010, it was built primarily with earthquake reconstruction funds.⁶⁴ The park's developers justified the use of these funds for this purpose by promising that the project would expand formal sector employment while complying with international labor and environmental standards.⁶⁵ Specifically, the Inter-American Development Bank (IDB)

provided \$100 million to finance building the exterior shells of the factory building and installing basic infrastructure within the park; the U.S. government provided \$124 million to finance the construction of a port, a power plant, and housing.⁶⁶ In total, Caracol has or soon will have received \$224 million in such subsidies.⁶⁷ Caracol's anchor tenant, S&H Global (a subsidiary of the Korean multinational manufacturer, SAE-A), which is benefiting from these subsidies and duty free access to the U.S. market through the provisions of the HOPE II legislation, has made a much smaller investment in the industrial park, to date, just \$39.3 million. SAE-A claims that Caracol will help make Haiti's garment industry globally competitive "without compromising on labor and environmental standards."⁶⁸

Interviews with workers from Caracol and review of their pay statements reveal that despite SAE-A's promises of exemplary labor standards and the significant subsidies from the U.S. government and the IDB from which the company benefited, workers at the Caracol Industrial Park experience an ongoing theft of legally-earned wages that is just as egregious as that reported by garment workers in Port-au-Prince.

B. Caracol's Reality – Widespread Minimum Wage Violations

In its most recent report on labor rights compliance in the Haitian garment sector, the ILO-IFC Better Work factory monitoring program reported that Caracol, like the country's other garment factories, was failing to pay workers the legal minimum wage.⁶⁹ Indeed, the WRC found that workers from Caracol who were interviewed are paid significantly less than the garment workers who were interviewed from factories in Port-au-Prince, receiving on average 201 HTG (\$4.67) per day for their straight time, 33% percent less than that the law requires.

Even when payments for overtime and non-guaranteed production bonuses are included, wages for these workers were still dramatically short of the minimum required for straight time work alone. Workers interviewed from Caracol reported, on average, that while their working hours were 9% longer than the standard 48-hour workweek, their pay averaged 27% less than the minimum wage required for these straight time hours.



Mitilene with her younger sister at home in Caracol

Mitilene is 26 years old. She works at the Caracol Industrial Park from Monday through Saturday for which she is paid just 200 HTG (\$4.64) per day. Her production quota at the factory is set so high that the only additional wages she receives is an occasional 20 HTG (\$0.46) per day. With these low wages, Mitilene and her family cannot afford to eat more than twice a day. "We are supposed to eat three times a day," she says, "but with the salary they pay we only get to eat two meals a day."

Caracol violates Haiti's minimum wage law by setting production quotas for workers at levels that make it impossible for workers to earn the minimum wage of 300 HTG in an eight-hour workday as the law requires. Workers reported that the company awarded them production bonuses so infrequently, and that, in any case, these bonuses were so small, that it was rare for them to receive pay that was significantly above 200 HTG per day, which, under Haitian law, is a sub-minimum wage applicable only to trainees and job transferees.⁷⁰



Malika works at the Caracol Industrial Park. Last year, her 7 year old son fell very ill and required medical attention. "I needed to take him to the hospital," Malika explains, "[but], I didn't have money." She adds, "I was forced to go and borrow 4,000 HTG (\$93) without knowing where and when I would find the money to pay it back -- I still owe [the] money, but by the grace of God my son is safe."

production bonus they had received was only 40 HTG per day (\$0.93). As a result, the maximum daily straight time wages they had received while working at Caracol was 240 HTG, still 20% below the 300 HTG per day legal minimum wage.

Shockingly, the average amount workers reported receiving as a production bonus above their base pay, which the factory sets at only 200 HTG per day, a third lower than the legal minimum, was just 1 HTG per day (\$0.02). And even when overtime pay was also included, not one of the workers who were interviewed reported receiving the legal minimum wage for straight time hours of 300 HTG per day.

Caracol's failure to comply with the minimum wage is a result not only of the factory's low level of base pay for its workers, but also its practices of (a) setting the minimum quota to earn production bonuses at levels that many workers are unable to reach, and, (b) setting the amounts of such bonuses so low that they fail to significantly augment workers' wages. For example, sewing machine operators who were interviewed stated that workers in their team of roughly 35 employees received a base wage of 200 HTG per day and were required to complete 1,700 shirts in a single day in order to receive a production bonus of 20 HTG (\$0.46). For every additional 100 pieces these workers produced above the 1,700 piece quota, they were paid an additional 10 HTG (\$0.23).

Workers reported, however, they were unable to regularly meet the 1,700 piece daily quota, and when they did, in most instances, received only 20 HTG as a bonus. Some workers also indicated that the manner in which the production quotas were applied varied over time and among production modules, with some workers reportedly having been told that they had to meet their production quota for three days in a row to receive a production bonus.

Several workers also noted that, since the maximum number of pieces they had been able to complete in a single day had not exceeded 1,900, the maximum

C. Underpayment of Overtime

Workers at Caracol regularly reported working overtime, indicating, on average, that they worked roughly 52 hours per week. While a few of the workers who were interviewed stated that they were able to decline overtime work, the majority reported being required to work these additional hours. Several Caracol workers stated that they believed factory managers had asked security guards to prevent workers from leaving the factory on occasions when the management wished them to perform overtime, and had pressured workers who attempted to leave the factory to, instead, return to work.

Like the Port-au-Prince factories, Caracol pays workers for overtime at a premium rate (37.5 HTG / \$0.87 per hour) that is based on the sub-minimum wage rate of 200 HTG per day, which, under the law, only applies to trainees and job transferees, rather than at a rate based on the 300 HTG per day minimum wage that the law mandates for regular employees. As a result, Caracol workers receive only two-thirds (66%) of the wages they are legally due for this additional work. Yet, even excluding their loss of wages due to underpayment of overtime, Caracol workers still are denied nearly a third (31%) of their wages, due to the factory's egregious underpayment of their straight-time hours as well.

D. Errors in Wage Payments

Nearly half of the Caracol workers interviewed for this study reported finding significant errors in the company's accounting and calculation of their wages, which, in many cases, result in the delay or denial of payment to them for multiple days' wages.

Workers indicated that these errors became more prevalent around the last part of July 2013 when the factory installed a new timekeeping system that uses an electronic scanning device rather than a mechanical time-clock. Workers reported that if this device does not register their attendance correctly at the beginning or the end of their work-shift, workers are not paid for that day's work at all.

Several workers reported experiencing such errors but indicated that these errors were corrected by the management if the worker could show by other means that he or she actually had worked that day.

However, the fact that such errors are reportedly widespread, that their impact is to systematically underpay workers, that the factory management only corrects them when workers can supply other evidence that they actually worked, and that such errors were repeated over multiple pay periods suggests that they may have resulted in the loss of significant income for the affected workers. Lastly, several workers also reported that they were, on some occasions, paid for overtime hours either after the applicable pay date or, in some cases, not at all. One worker stated that, despite multiple promises from Caracol's management to correct multiple errors related to payment of overtime, she never received the pay due to her. Another worker stated that she had heard from her coworkers that errors in their pay related to overtime also often went uncorrected by the company.

VI. Effects of Minimum Wage Violations on Haitian Workers and Families

This section discusses the effects on Haitian garment workers and their families of the theft of wages being perpetrated against them, in particular, as it impacts their ability to obtain adequate food, shelter and medical care. In addition, it reviews research by the WRC and other organizations on the actual cost of a minimally decent existence for Haitian garment workers and their families, further illustrating the dire consequences of depriving these workers of the wages they have legally-earned. As this research shows, even when paid in compliance with the law, minimum wages in Haiti's garment sector fall far short of providing workers with a minimum living wage, thereby, the effects of denying workers a substantial part of even this inadequate income are quite severe indeed.

A. Overview

The WRC surveyed workers from the Port-au-Prince factories on their actual spending for their most basic needs, including rent and utilities, meals for themselves and their dependents, clothing, health care, education and transportation for the worker to and from work. The WRC's estimate of average monthly spending for these necessities by individual workers and their families was determined to be 8,638 HTG (\$201), a level of consumption workers reported to be insufficient to meet even their most basic needs. The chart below illustrates these reported monthly expenditures:

	Average Reported Monthly Expenditure (USD)	Average Reported Monthly Expenditure (HTG)
Housing and Energy	49.01	2,111
Nutrition	50.57	2,178
Clothing	17.57	757
Health Care	30.65	1,320
Education	37.13	1,599
Transportation to Work	15.63	673
TOTAL	200.56	8,638

Workers' wages fell well short of the costs of food, shelter, education and medical expenses for workers and their dependents, and workers' transportation to and from work, as borne out by the gap between their wage income and their actual expenditures. Workers' average net wages across all factories only covered 76% of their reported basic monthly expenditures.

Even for workers from the Premium factory, who reported on average receiving the higher wages than workers at any of the other factories studied – 293 HTG per day (\$6.80) before deductions and a net monthly pay of 6840 HTG (\$158.81) – their pay only covered 79% of their basic monthly expenditures. As a result, workers reported both regularly forgoing meals and necessary medical services, and having to borrow money and, thereby, becoming trapped in a cycle of debt in order to sustain their families. For those workers who reported that they had not incurred such debts, the majority said the reason for this was because they were so poor that no one would loan them money.

	One World	Genesis	Premium	GMC	Average
Average Monthly Gross Wages	7022 HTG (\$163.04)	7053 HTG (\$163.76)	7991 HTG (\$185.54)	7287 HTG (\$169.19)	7407 HTG (\$171.98)
Average Monthly Net Wages	6717 HTG (\$155.96)	6582 HTG (\$152.82)	6840 HTG (\$158.81)	5906 HTG (\$137.13)	6571 HTG (\$152.57)
Net Wage as % of Workers Reported Monthly Expenses (8638 HTG)	78%	76%	79%	68%	76%

Due to the extremely high levels of unemployment in Haiti, many garment workers are the only employed members of their families. In 2008, the unemployment rate in Haiti's formal economy was estimated to be between 70% and 80%;⁷¹ two years later, total unemployment, in both the formal and informal sectors, was estimated at 40.6%.⁷²

Because the average family of four only has one person employed in the formal sector, if that worker earns 248 HTG per day (\$5.76) – significantly more than the average pay reported by workers at One World or Caracol – these wages still provide each family member with less than \$1.25 per day, placing the worker and her family below the internationally recognized line for “extreme poverty.”⁷³ Viewed in this context, the impact of the wage theft occurring in the Haitian garment sector is especially severe, as it denies workers and their families income needed to cover the barest of human necessities.

The following section discusses the implications of violation of the minimum wage for Haitian garment workers and their families with respect to three areas of basic expenditure: food, shelter and medical care.

B. Food

Garment workers who were interviewed for this study overwhelmingly reported experiencing extreme food insecurity and going long periods without being able to afford more than a single meal per day for themselves and their families. Over three quarters of the workers who were interviewed reported that they were unable to pay for three meals per day for themselves and their immediate family and 71% of workers who were interviewed stated that they had to borrow in order to purchase sufficient food.

Haitian garment workers are paid once every two weeks. One worker explained that he must take out loans to be able to afford to buy lunch at the factory and can only eat part of his lunchtime meal or else he won't be able to eat again that day. The worker explained that during the first week after he gets his paycheck, he can afford three meals per day on three out of seven days of that week. During the second week, however, he said, he cannot afford to eat three meals per day on any day of that week.

Another worker stated that he is never able to afford three meals per day. He explained:

Here is how it works when we work in the factories: We know how much we will earn before the payroll. And we must pay [our] debts, so we are obliged to suffer in order to pay those obligations. We can spend a whole year having only one meal per day. That is the same suffering every day. I never have three meals in a day.



Miderline (far right) With her sisters, mother, nieces and nephews

Miderline is an 18 year old Caracol worker from Terrier Rouge, a small town outside of Caracol. Hunger is severe in Miderline's household. Despite spending the vast majority of her wages on food, her family often cannot afford even the most basic meal. "It's very difficult to say how often members of my family eat because we do not eat every day. Really sometimes we don't have anything to eat." In addition to buying food, Miderline also must pay for rent, medicine for her children, and school tuition for her children and her younger sister. Says Miderline, "To meet my expenses every month I [must take out]... loans." She adds, "The salary is not enough [to pay] for food and any other needs."

Many workers expressed their anguish at being unable to provide sufficient food for their families on their low wages, stating:

- "It even happened [once] that we [the worker's family] didn't eat a single meal for four days."
- "It is for my home that I suffer, [because] we [the worker's family] can only eat one meal per day."
- "I sometimes even work for twelve days without having a meal [because my wages are spent so soon]"
- "If someone [working at the factory] tells you they eat three meals per day, know that they are delusional..... Let me tell you, there is no possibility [of that] at all."

C. Shelter

A significant proportion of workers who were interviewed stated that they were regularly unable to pay rent and other expenses needed to secure even substandard shelter. More than a third of workers interviewed reported that they had to borrow money in order to pay for shelter, often at extremely high interest rates.

Workers reported that the conditions of the housing they can afford is poor with no running water and varying degrees of access to erratic electricity, and often in neighborhoods that are unsafe. For example, Cite de Soleil, a district of Port-au-Prince where garment workers live has been described as “one of the hemisphere’s most miserable slums.”⁷⁴ Some workers stated that after the 2010 earthquake they were unable to afford to move or rent new shelter and that they continue to live in homes that were seriously damaged.



Earthquake damaged dwellings with tarp-covered roofs in the Cite Soleil slums of Port-au-Prince

Unable to pay, many workers have moved to squatter camps on the outskirts of Port-au-Prince that lack running water, sanitation services or electricity, altogether, where they live in makeshift housing of construction scraps, tarps and dirt floors. Of those workers able to secure more stable housing, many work revealed that they had fallen deeply into debt in order to keep up with their rent payments. One worker reported that, in order to borrow 1,000 HTG (\$23.22) for two weeks to pay his family’s rent, he had to pay interest of 20% of this amount.

As a result, workers become caught in a cycle of debt. As one worker noted, “I have to pay rent but I do not have money, so I must take a loan, and it will never end.”

D. Medical Care

Workers report that as a result of their low wages, they cannot obtain needed medical attention for themselves or their children. Every one of the workers interviewed for this study reported at least one occasion during the previous

year when he or she was unable to obtain medical attention for an immediate family member due to lack of money. Nearly half of the workers interviewed reported needing to borrow money to obtain urgent or essential medical attention or medicine.

One worker reported that, although he had developed skin rashes as a result of exposure to chemicals and fiber dust in the factory where he worked, he could not afford medication and therefore his condition remained untreated. This worker also has a dependent with a chronic condition that requires medical attention twice monthly, but the worker reports that he could only afford to take his dependent to the doctor three times over the past year.



The Public well in the community of Terrier Rouge where many Caracol workers live

Many workers at the Caracol Industrial Park have no running water or reliable access to electricity. One Caracol worker explained, “[W]e have to buy water to drink and . . . [haul] water from wells and rivers to bathe and cook and wash clothes. To charge a phone, you spend \$10 HTG, and sometimes, when there are no candles, we charge the cell phone and use the cell phone for light.”

E. Wage Theft and the Living Wage Gap

One reason why minimum wage violations have such severe effects on the lives of Haitian garment workers and their families is that even when properly paid, the legal minimum wage provides far less than an actual living wage. In 2008 the WRC conducted a local “market basket” study in Haiti to estimate what a minimum living wage for an average-sized family would be in Ouanaminthe, the district on Haiti’s border with the Dominican Republic where the Codevi Free Trade Zone is located. The WRC calculated that a living wage for a worker and her family in Ouanaminthe at that time was 13,161 HTG per month; adjusted for inflation using data from the International Monetary Fund (IMF),⁷⁵ the WRC’s living wage figure amounts to 17,533 HTG (\$407) per month at current consumer prices.

A 2011 living wage estimate conducted in Port-au-Prince by the American Center for International Labor Solidarity (AFL-CIO Solidarity Center), using the same “local market basket” methodology, found that a minimum living wage for an average sized family in Port-au-Prince was 29,971 HTG (\$749) per month. Adjusting this figure for inflation using the same IMF data yields a current minimum living wage for garment workers in Port-au-Prince of 34,520 HTG (\$801) per month.⁷⁶ The divergence between the Solidarity Center and the WRC’s living wage figures likely reflects the longstanding difference in the cost of living in Port-au-Prince versus outlying areas, which has only increased since 2010.

Even when utilizing the WRC’s lower cost of living figure, however, the 6,571 (\$152.57) per month average net wage for workers in Port-au-Prince represents just 37% of the WRC’s living wage figure. Using the Solidarity

Center's higher figure, workers' average net monthly wages provide only 19% of a minimum living wage.

Moreover, according to the WRC's living wage figures, average total monthly spending of workers interviewed for the current study amounts to only 49% of the consumption level needed to purchase the "market basket" of basic goods provided by a living wage. The WRC's 2008 study estimated that the monthly cost of nutritionally adequate food for a worker with two dependents is 5,862.06 HTG, or 7,809 HTG (\$181) at 2013 price levels. By this measure, the cost of adequate food alone for workers and their families exceeds workers' entire average take-home pay of 6,571 HTG (\$152.27) per month.

If one uses the Solidarity Center's higher post-earthquake living wage figure for Port-au-Prince, and adjusts it for inflation, workers' average spending amounts to only 25% of the cost of the living wage "market basket." Moreover, employing the Solidarity Center's data, the inflation-adjusted monthly cost of nutritionally adequate food for a worker with two dependents, 14,610 HTG (\$339) at current price levels – 222% of workers' average take-home pay.

	One World	Genesis	Premium	GMC	Average
Average Monthly Gross Wage	7022	7053	7991	7287	7407
Average Monthly Net Wage	6717	6582	6840	5906	6571
Net Wage as % of WRC Haiti Monthly Living Wage (17,533 HTG)	38%	38%	39%	34%	37%
Net Wage as % of Solidarity Center Port-au-Prince Monthly Living Wage (34,520 HTG)	19%	19%	20%	17%	19%

As a result, even full payment of the minimum wage leaves workers far from a living wage which would allow them to provide the necessities of a decent existence for themselves and their families. In this context, minimum wage violations which deny workers income they have already legally earned are a particularly egregious abuse.

VII. Recommendations

In order to remedy the massive wage theft taking place in the Haitian garment sector, the WRC recommends that North American brands and retailers producing in Haiti ensure that:

- Supplier factories set piece rates so that non-trainee workers consistently receive the legal minimum wage of 300 HTG (\$6.97) for a regular eight-hour workday. Training periods at the beginning of employment or after a transfer of job duties, during which workers do not receive this wage, should be limited to a maximum duration of three months.
- Production workers begin receiving the 300 HTG per day minimum wage immediately. While compliance with the minimum wage laws on an ongoing basis will require factories' revision of their piece rates, this process should not further delay in workers receiving the minimum wage rate to which they are already legally entitled.
- Supplier factories are informed that brands and retailers will accept an increase in prices if necessary to ensure that factory owners can comply with the minimum wage law while remaining profitable.
- Workers who have been paid wages below the legal minimum required for their working hours are provided with full back pay, with interest, as compensation.
- Time worked before and after the end of the workday and during breaks is recorded and is paid at the appropriate overtime premium.
- Ensure that workers are paid for overtime work at a rate which, for piece rate workers, is calculated by applying the legally required wage premium (time-and-a-half) to an hourly rate derived from the 300 HTG per day minimum wage for non-trainee / transferee workers (approximately 56.25 HTG (\$1.31) per hour).
- Supplier factories prohibit supervisors and managers from pressuring or disciplining workers for refusing to perform unpaid or "off-the-clock" overtime.
- Supplier factories are informed by the companies that purchase their products that the latter will accept increases in prices necessary to ensure compliance with any new minimum wage mandated by the Haitian government.

This set of recommendations is provided to encourage brands and retailers to engage constructively and responsibly with their Haitian supplier factories to end and remedy the violations detailed in this report. Any move by brands and retailers to reduce or discontinue business with supplier factories in Haiti in response to these findings – which concern violations of which these companies already are, or should be, well aware – rather than work with these factories to achieve compliance with Haitian law and respect for worker rights, would only add to the irresponsibility they have demonstrated by turning a blind eye to these violations thus far.

VIII. Conclusions

Minimum wage violations in the Haitian apparel industry are both widespread and severe. The WRC's research found that factories in Port-au-Prince deny workers a third of their legally earned wages. Average wages are even lower at the new Caracol Industrial Park despite the fact that the project was heavily subsidized by the United States government with earthquake recovery aid as a means of providing Haitians workers with a path out of poverty.

The significant wage theft represented by these minimum wage violations has devastating effects on workers' families. Even when these families forgo adequate nutrition and medical care, they remain trapped in a cycle of debt from borrowing money to cover the costs of basic survival. North American brands and retailers have benefited in the form of low prices from their suppliers from the systematic theft of wages from some of the poorest workers in the Western Hemisphere. In order to prevent further harm to these workers and their families, these brands and retailers have the responsibility to ensure that their Haitian supplier factories can and do comply with the legal minimum wage and make workers whole for all the earnings of which they have been unlawfully deprived.

In the context of mass unemployment, job growth in the apparel industry provides a vital benefit to Haitian workers; however, the price of such jobs should not be systematic violations of workers' legal rights and payment of sub-poverty wages. North American brands and retailers sourcing from Haiti have profited from not only the lowest wages in the Western Hemisphere, but also Haiti's proximity to consumer markets and preferential trade benefits under the HOPE II legislation. It is essential that as North American brands and retailers expand their sourcing from Haiti, they do so while ensuring that their supplier factories comply with Haitian labor laws and compensate workers for wages that these workers have been denied due to past violations.

Endnotes

- 1 See, Worker Rights Consortium, *Global Wage Trends for Apparel Workers 2001-2011* (Center for American Progress: Jul. 11, 2013), available at: <http://www.americanprogress.org/wp-content/uploads/2013/07/RealWage-Study-3.pdf>.
- 2 Haitian Hemispheric Opportunity through Partnership Encouragement Act (HOPE II), Food, Conservation, and Energy Act, Pub. L. No. 110-246, tit. 15 (2008).
- 3 The term “wage theft” is used by labor researchers to describe violations of minimum wage laws through which workers are denied, and their employers unlawfully retain, wages that employees are legally owed by their employers. See, e.g., Ruth Milkman, Ana Luz Gonzales and Victor Narro, *Wage Theft and Workplace Violations in Los Angeles - The Failure of Employment and Labor Law for Low-Wage Workers* (UCLA: 2010).
- 4 Better Work, *Better Work Haiti: Garment Industry, 6th Biannual Synthesis Report Under Hope II Legislation* (Apr. 16, 2013), available at: http://betterwork.org/global/wp-content/uploads/HOPE-II-Report_April-2013_Final.pdf.
- 5 The subsidies for the project, which reportedly totaled \$224 million, represented nearly a quarter of all relief funds spent in Haiti after the country’s devastating earthquake of January 2010. See, Deborah Sontag, “Earthquake Relief Where Haiti Wasn’t Broken,” *New York Times* (Jul. 5, 2012), available at: <http://www.nytimes.com/2012/07/06/world/americas/earthquake-relief-where-haiti-wasnt-broken.html?pagewanted=all&r=0>.
- 6 Haitian Labor Code, Art 137 (stating that the minimum wage “will be periodically adjusted for changes in the cost of living or whenever the official index of inflation set by the Haitian Institute of Statistics and Informatics shows an increase of at least 10 percent in a period of one fiscal year”).
- 7 *BBC News*, “Food Riots Turn Deadly” (Apr. 5, 2008), available at: <http://news.bbc.co.uk/2/hi/america/7331921.stm>.
- 8 Dan Coughlin and Kim Ives, “Let Them Live in \$3 a Day,” *The Nation* (Jun. 1, 2011).
- 9 Law No. CL-09-2009-010 (“[F]or export-oriented establishments employing staff mostly on piece rates, the salary paid for the production unit must be fixed so as to allow the worker to realize for 8 working hours per day at least [300] gourdes per day...the reference minimum wage in these establishments being fixed at [200] gourdes.”).
- 10 As of the date of this report’s publication the exchange rates was \$1 to 43.07 HTG.
- 11 *Ibid.*
- 12 Better Work, *supra*, n. 4.
- 13 See Worker Rights Consortium (WRC), *Factory Database* (indicating that apparel firms Ad Resources and Cotton Gallery disclosed Haitian garment factories Genesis and Premium Apparel as suppliers of apparel licensed by WRC-affiliated colleges and universities), available at: <http://www.workersrights.org/search/>. Other university licensees that disclose Haitian suppliers are Lake Shirts, New Agenda, Russell and T-Shirt International. *Ibid.*
- 14 Better Work, *supra*, n. 4. (finding all 24 export garment factories in Haiti noncompliant with the minimum wage: CODEVI, DKDR Haiti, S.A., Fairway Apparel, S.A., Fox River Caribe, Inc., Genesis, S.A., Gladiator Textiles, LLC, Global Manufacturers & Contractors, S.A., Horizon Manufacturing, S.A., Indigo Mountain Haiti, S.A., InterAmerican Wovens, S.A., Island Apparel, S.A., Johan Company, Lucotex Manufacturing Co., Magic Sewing Mfg., S.A., Modas Gloria Apparel, S.A., Multiwear, S.A., One World Apparel, S.A., Pacific Sports Haiti, S.A. Palm Apparel, S.A., Premium Apparel, S.A., Sewing International, S.A., S&H Global, S.A. (the anchor tenant at Caracol), and Wilbes Haitian II and III, S.A.).
- 15 *Ibid.*
- 16 Juan Forero, “After Quake, Haiti Seeks Better Business Climate” *National Public Radio* (Mar. 20, 2010), available at: <http://www.npr.org/templates/story/story.php?storyId=124077512>.
- 17 See, WRC, *supra*, n. 13. Work-wear companies G&K, Strategic Partners, and Superior have been identified as buyers from the One World factory. Other major sellers of uniforms sourcing from Haiti are Cintas and Proper.
- 18 Haitian Labor Code, arts. 96 (“... [N]ormal working hours are eight hours per day and forty-eight hours per week.”) and 97 (“Overtime in excess of normal working hours will be paid with an increase of 50 percent”) (unofficial translation by the WRC).

- 19 See, AFL-CIO Solidarity Center, *A Post Earthquake Living Wage Estimate for Apparel Workers in Sonapi Export Processing Zone* (Mar. 3, 2011), (March 3, 2011), http://www.solidaritycenter.org/Files/haiti_livingwagesnap-shot030311.pdf.
- 20 Central Intelligence Agency, *World Factbook: Haiti* (May 7, 2013), available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html>.
- 21 See, Worker Rights Consortium, *Global Wage Trends for Apparel Workers 2001-2011*, *supra*, n. 1.
- 22 *Ibid.*
- 23 Better Work, *supra*, n. 4 (stating that the minimum wage of 200 HTG only applies to “newly recruited workers, for those on new machines, and for less qualified workers...”).
- 24 See, Worker Rights Consortium, *Global Wage Trends for Apparel Workers 2001-2011*, *supra*, n. 1.
- 25 Haitian Labor Code, Art 137 (stating that the minimum wage “will be periodically adjusted for changes in the cost of living or whenever the official index of inflation set by the Haitian Institute of Statistics and Informatics shows an increase of at least 10 percent in a period of one fiscal year”).
- 26 Council on Hemispheric Affairs, *Haiti’s Minimum Wage Battle* (Aug. 19, 2009), available at: <http://www.coha.org/haiti%E2%80%99s-minimum-wage-battle/>.
- 27 *BBC News*, “Food Riots Turn Deadly” (Apr. 5, 2008) Available at: <http://news.bbc.co.uk/2/hi/america/7331921.stm>.
- 28 *Guardian*, “Food Riots Grip Haiti” (Apr. 9, 2008), available at: <http://www.guardian.co.uk/world/2008/apr/09/11> and Coughlin and Ives, *supra*, n. 8.
- 29 Coughlin and Ives, *supra*, n. 8.
- 30 *Ibid.*
- 31 *Ibid.*
- 32 See, Law No. CL-09-2009-010 (“As of October 1st 2009 for export-oriented establishments employing staff mostly on piece rates, the salary paid for the production unit must be fixed so as to allow the worker to realize for 8 working hours per day at least 300 gourdes per day...the reference minimum wage in these establishments being fixed at 200 gourdes.”).
- 33 Like the ILO-IFC Better Work Program, the CTMO-HOPE commission is tasked with assisting factories in complying with the labor standards for preferential access to the U.S. market set by the HOPE II Legislation. See, HOPE II, *supra*, n. 2, § 15403. The CTMO-HOPE commission is a tripartite body comprised of representatives of Haitian industry, labor and government.
- 34 Better Work, *supra*, n. 4.
- 35 Better Work, *Better Work Haiti: Garment Industry, 2nd Biannual Synthesis Report Under Hope II Legislation* (Apr. 15, 2011), available at: http://betterwork.org/global/wp-content/uploads/HOPE-II-Report_April-2013_Final.pdf (“CTMO-HOPE further clarified that the production target is set for workers employed at least three months and those using the same equipment for at least three months.”).
- 36 Better Work, *supra*, n. 4.
- 37 Haitian Labor Code, Art. 96, (“... normal working hours are eight hours per day and forty-eight hours per week.” Art. 97, (“Overtime in excess of normal working hours will be paid with an increase of 50 percent”) (unofficial WRC translation).
- 38 $(300 \text{ HTG per 8-hour day} \div 8 \text{ hours per day}) \times 1.50 \text{ overtime premium} = 56.25 \text{ HTG per hour}$.
- 39 Better Work, *supra*, n. 4.
- 40 *Ibid.*
- 41 Haitian Labor Code Art. 97 (unofficial WRC translation).
- 42 *Ibid.*
- 43 ILO Convention 1 (Hours of Work (Industry)) (1919) (ratified by Haiti, March 31, 1952).
- 44 *Id.* Art. 6 (2).
- 45 ILO Recommendation 116 (Reduction of Hours of Work), Art. 19 (1) (1962).
- 46 See, e.g., ILO CEACR, Observation (Romania), adopted 2012, pub. 102nd ILC (2013) (“The Committee notes the observations made by the National Trade Union Confederation . . . state[] that the Government has not taken any measures to ensure that overtime is paid at a rate at least 25 per cent higher than the normal rate, even in cases where the worker concerned is granted compensatory rest. . . . It recalls that, in its direct request of 2008, it asked the Government to take measures to ensure the higher rate of pay for overtime in all cases, whether or not compensatory rest is granted. . . . The Committee hopes that the Government will take the necessary measures without delay to bring the national legislation into conformity with Article 6(2) of the Convention [1]....”).

- 47 ILO Recommendation 116, preamble (affirming the forty-hour work week as a social standard to be progressively attained by all countries).
- 48 Haitian Labor Code, Art. 87 ("The limit of hours of work prescribed in the preceding Article may be exceeded if an accident occurs or is imminent, or in case of urgent work to be done to machinery or the plant, or in an extreme case, but only to the extent necessary to avoid serious interference to the normal operation of the establishment to prevent the loss of perishable goods or avoid endangering the technical results of work to allow institutions to cope with pressure of work due to special circumstances, provided that one can not reasonably expect the employer to do so through by other means.").
- 49 Id., Art. 98 ("The number of overtime hours that can be performed will be fixed in each case, and not to exceed the limit of eighty hours per quarter for industrial establishments and two hours per day...These hours may be performed after authorization from the Department of Labor, after consultation with trade union organizations where they exist.").
- 50 See, Mark Linder, *The Autocratically Flexible Workplace: A History of Overtime Regulation in the United States* (2002).
- 51 CIA *The World Factbook: Haiti* (May 7, 2013) Available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html>.
- 52 $(300 \text{ HTG per 8-hour day} \div 8 \text{ hours per day}) \times 1.50 \text{ overtime premium} = 56.25 \text{ HTG per hour}$.
- 53 Better Work, *Better Work Haiti: Garment Industry, 5th Biannual Synthesis Report Under Hope II Legislation* (Oct. 15, 2012), *Better Work Haiti: Garment Industry, 4th Biannual Synthesis Report Under Hope II Legislation* (Apr. 16, 2012), *Better Work Haiti: Garment Industry, 3th Biannual Synthesis Report Under Hope II Legislation* (Oct. 16, 2011), *Better Work Haiti: Garment Industry, 2nd Biannual Synthesis Report Under Hope II Legislation* (Apr. 18, 2011), available at <http://betterwork.org/global/?cat=21>.
- 54 Better Work, *supra*, n. 4. Better Work found 100% noncompliance with the 300 HTG per day minimum wage using the following methodology: (1) Better Work did not consider the wages of those workers who were trainees or had been assigned to their current work assignment for fewer than three months and (2) Better Work found factories compliant if 90% or more of their remaining workers reached the production quota. *Ibid*.
- 55 Better Work, *supra*, n. 4.
- 56 The term "paystub" is used here in its usual sense to refer to any paper documents workers receive along with their wages that detail the amount of their pay, their wage rate(s) and working hours, including for overtime work, and any additions made to or deductions taken from these wages for any purpose.
- 57 Better Work, *supra*, n. 4. (finding all 24 export garment factories in Haiti noncompliant with the minimum wage: CODEVI, DKDR Haiti, S.A., Fairway Apparel, S.A., Fox River Caribe, Inc., Genesis, S.A., Gladiator Textiles, LLC, Global Manufacturers & Contractors, S.A., Horizon Manufacturing, S.A., Indigo Mountain Haiti, S.A., InterAmerican Wovens, S.A., Island Apparel, S.A., Johan Company, Lucotex Manufacturing Co., Magic Sewing Mfg., S.A., Modas Gloria Apparel, S.A., Multiwear, S.A., One World Apparel, S.A., Pacific Sports Haiti, S.A. Palm Apparel, S.A., Premium Apparel, S.A., Sewing International, S.A., S&H Global, S.A. (the anchor tenant at Caracol), and Wilbes Haitian II and III, S.A.).
- 58 See, *Worker Rights Consortium: Factory Database* (indicating that firms Ad Resources and Cotton Gallery disclosed factories Genesis and Premium Apparel as suppliers of apparel licensed by WRC affiliated colleges and universities), available at: <http://www.workersrights.org/search/>.
- 59 See, *supra*, n. 13.
- 60 Involuntary overtime is prohibited by the vendor codes of conducts of many leading brands and retailers. See, Gap, *Code of Vendor Conduct* ("Workers may refuse overtime without any threat of penalty, punishment or dismissal.").
- 61 New York Times, *supra*, n. 5.
- 62 New York Times, *supra*, n. 5. (citing promotional materials stating that Caracol Industrial Park would be competitive in the apparel market "without compromising on labor and environmental standards.").
- 63 *Ibid*.
- 64 *Ibid*.
- 65 *Ibid*.
- 66 *Ibid*.
- 67 *Ibid*.
- 68 Better Work, *supra*, n. 4.
- 69 *Ibid*.

- 70 USAID, *Haiti, Country Profile* (June 2009), http://americasrelief.org/WhereWeWork/Countries/Haiti_Country_Profile.pdf.
- 71 CIA, *World Factbook: Haiti* (May 7, 2013), <https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html>.
- 72 World Bank, *Poverty Overview*, <http://www.worldbank.org/en/topic/poverty/overview>.
- 73 New York Times, *supra*, n. 5.
- 74 International Monetary Fund, *World Economic Outlook Database* (April 2012) <http://www.imf.org/external/pubs/ft/weo/2012/01/weodata/weorept.aspx?sy=2008&ey=2013&scsm=1&ssd=1&sort=country&ds=.&br=1&pr1.x=47&pr1.y=8&c=263&s=PCPI%2CPCPIPCH%2CPCPIE%2CPCPIEPCH&grp=o&a=>
- 75 AFL-CIO Solidarity Center, *supra*, n. 20. See, AFL-CIO Solidarity Center, *A Post Earthquake Living Wage Estimate for Apparel Workers in Sonapi Export Processing Zone* (March 3, 2011), http://www.solidaritycenter.org/Files/haiti_livingwagesnapshots0311.pdf.

Photographs by Aland Luis, Etant Dupain and Ruairi Rhodes.