

WORKER RIGHTS CONSORTIUM FACTORY ASSESSMENT

Centexsa (Guatemala)

Findings, Recommendations, and Company Response



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CONSORTIUM

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I. Introduction and Executive Summary

This report details the Worker Rights Consortium's (WRC) findings of sexual harassment of workers by a member of management at Centexsa, a factory located in Guatemala and owned by the Korean multinational corporation, SAE-A Trading ("SAE-A"). At the time that the violations occurred, Centexsa was disclosed for the production of university logo apparel by the licensees, Gear for Sports, Inc. ("GFSI"), which is owned by Hanesbrands,¹ as well as by GFSI dba Under Armour Performance Apparel and by College Vault by Under Armour. The factory also supplies non-collegiate apparel to Carhartt.

In June 2022, the WRC received a complaint from the Centexsa Workers' Union ("Sitracentexsa"), which represents the plant's employees, and the AFL-CIO Solidarity Center, the US labor federation's international assistance body, alleging incidents of sexual harassment as well as failure to provide adequate pay information to workers at the Centexsa factory.

Sexual Harassment of Women Workers by Factory Manager

As described in Section III below, the WRC's investigation found that the Centexsa factory's Packing Department Manager violated university and buyer codes of conduct, as well as Guatemalan law and international labor standards, by sexual harassing women workers at the factory as well as retaliating against these workers for resisting this harassment.

The WRC's investigation found that the manager in question engaged in the following misconduct:

- Physical and verbal sexual harassment of a woman worker ("Worker A") on numerous occasions from November 2021 until April 2022. After Worker A rejected the manager's sexual advances, the manager retaliated by issuing disciplinary notices to the worker. The retaliation notices negatively impacted the worker's productivity, and, as a result, she was suspended without pay for multiple days by Centexsa; and
- Sexual harassment, both verbal (personally, and via a supervisor under his direction) and through text messages, of a worker ("Worker B") during her employment with the company from 2018 to 2021. This worker repeatedly rejected the sexual advances of the manager, and, as a result, the manager retaliated against her. Worker B complained to Centexsa's human resources department about the manager's retaliation, but, one month after filing her complaint with the company about the retaliation, she was fired by Centexsa. The manager who harassed her was not disciplined.

The WRC found that the factory manager's actions violated Guatemalan laws, which prohibit psychological, emotional, or physical violence against women.² The factory manager's actions also

¹ During the course of the WRC's investigation, Hanesbrands informed the WRC that it was no longer receiving production from Centexsa but that it did continue to place production orders with other SAE-A owned facilities and was, therefore, able to effectively engage with the parent company in order to ensure that the violations were remedied.

² Guatemalan Law Against Femicide and Other Forms of Violence Against Women, Decree Number 22-2008, April 9, 2008, https://www.oas.org/dil/esp/ley_contra_el_femicidio_y_otras_formas_de_violencia_contra_la_mujer_guatemala.pdf.

violated these workers' right to be free from sexual harassment and abuse, as guaranteed under ILO Conventions 111 and 190 and, by extension, under university³ and buyer⁴ codes of conduct.

Adequate Pay Information to Workers

Separately, the Centexsa workers' union filed a complaint with the WRC alleging that the factory did not provide workers with sufficiently detailed information concerning the bonuses that they earn as part of their pay. The WRC did not find that this omission by the company represented a violation of Guatemalan law or university codes of conduct but did find that the pay information that the company was providing to workers failed to meet current standards of industry good practice.

Factory Response to WRC's Recommended Corrective Action

Upon completion of our investigation, in October 2022, the WRC issued a series of recommendations for corrective action to Centexsa and to the buyers GFSI (Hanesbrands) and Carhartt. As noted in Sections IV and VI of this report, Centexsa, which had already taken preliminary steps to address the harassment our investigation documented, ultimately remedied all the violations that had occurred and implemented all of the WRC's recommended corrective actions. The company dismissed the harassing manager, worked with the union to develop a protocol and workplace committee to address instances of sexual harassment, and made reparations to the two workers who were victims of the abuse.

With regard to the pay information supplied to workers, factory management and the representative union developed a plan to address the issue and provide workers with additional information about the pay that they receive from the factory.

The WRC recognizes the significant steps taken by Centexsa, and by its parent company SAE-A, to address the sexual harassment that occurred at the factory and commends the factory's buyers for actively engaging with their supplier to ensure that all violations of university codes of conduct were fully remedied.

³ Collegiate Licensing Company (CLC), Special Agreement Regarding Labor Codes of Conduct Sched. I, §§ II (A) ("Licensees must comply with all applicable legal requirements of the country(ies) of manufacture in conducting business related to or involving the production or sale of Licensed Articles.") and (B)(8) ("Harassment or Abuse: Every employee shall be treated with dignity and respect. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse. Licensees will not use or tolerate any form of corporal punishment.")

⁴ See, for example, Hanesbrands, *Global Standards for Suppliers*, "We require Suppliers to comply with all applicable laws and regulations and to support fundamental human rights for all people;" and "Suppliers will not subject employees to physical, verbal, sexual, or psychological harassment, nor use corporal or physical punishment to discipline employees." <https://hbsustains.com/global-standards-for-suppliers-performance-data/>.

II. Methodology

The findings in this report are based on the following sources of evidence:

- Extensive and detailed interviews with representatives of the Sitracentexsa union and with factory employees;
- Communication with representatives of Centexsa management, the AFL-CIO Solidarity Center, and the buyers Hanesbrands and Carhartt;
- A review of relevant documents provided by workers, the union, and the factory. These documents included letters of termination and documents concerning liquidation (payment of severance); minutes of meetings held between management, union representatives, and affected workers; and Centexsa's policy on the prevention of gender-based violence and harassment in the workplace; and
- A review and analysis of applicable Guatemalan law, ILO Conventions 111 and 190, and university and buyer codes of conduct.

III. Findings

A. Sexual Harassment

1. Sexual Harassment of “Worker A” by the Centexsa Packing Department Manager

The Centexsa employee referenced in this report for reasons of confidentiality as “Worker A” testified that she began working in the factory’s packing department in 2019. During her tenure in the packing department, which ended in July 2022, the worker directly reported to the then-department manager (“Packing Department Manager”).

Worker A gave detailed testimony concerning the sexual harassment she suffered from the Packing Department Manager over a period of several months, from November 2021 to April 2022. The worker reported that, in November 2021, the manager began to harass her by making comments to her of a sexual nature and physically touching her. The worker reported that the manager frequently walked by her workstation to caress her hands or back or pinch her.

Worker A testified that she reacted to this harassment by informing the manager that she did not want him to touch her. She added that the manager responded to her request that he stop touching her by telling her, “Just let yourself go, be quiet, don’t say anything.”

The worker reported that this harassment by the Packing Department Manager occurred on many occasions. After approximately one month of the worker repeatedly informing the manager that she did not want him to touch her (and the manager failing to respect her requests), the Packing Department Manager reportedly told the worker that she should “allow herself to be loved”.

Worker A testified that, in December 2021, the manager invited her to go out with him after work, saying “I am going to walk you home. I want to talk to you.” However, the worker reported that she again refused this manager’s advances.

The worker reported to the WRC that, in February 2022, during working hours, the Packing Department Manager called her to the factory storeroom, telling her that he needed to speak to her. Once they were in the storeroom, the manager, who was seated, pointed to his legs indicating that he wanted Worker A to sit on his lap.

The worker testified that she refused to sit down on his lap and told the manager she preferred to remain standing. She reported that the manager then grabbed her by the arm and pulled her down onto his lap. The worker stated that she tried to stand up, but the manager pulled her down again and kissed her against her will. The worker responded to the manager’s physical advances by biting him, which caused the manager to release his grip on the worker.

Worker A reported that she then told the Packing Department Manager that, if he did not need to speak to her about work-related issues, he should not call her away from her workstation and then ran out of the storeroom. The worker reported that the day after this incident occurred, this manager sent her a text message stating, “There will be revenge.”

The worker reported that, despite her multiple requests to the manager that he stop harassing her, the Packing Department Manager continued with his unwelcome sexual advances. She testified that, on multiple subsequent occasions, the manager tried to kiss her or hug her. She reported that the manager would approach her during working hours to hug her from behind and try to touch her genitals. The worker stated that the Packing Department Manager said to her, “Things will go well for you if you are with me. You could have a permanent position at the factory. I have a car.”

Worker A reported that two company supervisors, who also directly reported to the Packing Department Manager, were aware of this manager’s harassment of her, and that one or the other of these supervisors were nearby on many occasions when the manager made his unwelcome sexual advances, including when he attempted to kiss Worker A.

Worker A informed the WRC that, in April 2022, she again firmly told the Packing Department Manager to stop harassing her. She reported to the WRC that the manager became very upset with her on this occasion and said, “You are always telling me lies.”

Worker A informed the WRC that, following this last incident in April 2022, the manager stopped harassing her. However, the manager then began to retaliate against her for rejecting his unwelcome advances (as he had already threatened to do with his text message promising “revenge”), by harassing her about her productivity.

The worker reported that, due to stress and anxiety resulting from the harassment that she had endured from the manager for many months (as well as the interruptions to her workday his misconduct also caused), her production levels had, in fact, fallen. The Packing Department Manager reportedly then made good on his threat of retaliation by issuing disciplinary notes to Worker A for poor job performance.

On May 23, 2022, as a result of the accumulation of disciplinary notes that the Packing Department Manager had issued to her, Worker A was called to the factory’s administrative offices for a disciplinary hearing, at which the Packing Department Manager who had harassed her was present. At the worker’s request, a union representative was present at the hearing and told the other managers conducting the hearing that the worker had been the target of sexual harassment by the Packing Department Manager, which had affected the worker’s performance.

Union representatives reported to the WRC that the factory managers, upon being told of the Packing Department Manager’s sexual harassment of the worker, did not take any immediate action against the manager but, instead, proceeded to suspend Worker A for two days without pay as a penalty for her low productivity. The management also took a deduction from Worker A’s pay for the time that she attended the disciplinary hearing.

According to Worker A, the factory’s then-human resources manager suggested that Worker A should avoid further problems with the manager who had sexually harassed her by resigning her employment. The human resources manager allegedly said to Worker A, “If you have your university degree, why do you need a job at a garment factory?”

Following the worker's suspension, the Packing Department Manager continued to follow Worker A in the factory and monitor her work on the production floor. The worker reported to the WRC that the stress and anxiety caused by the manager's behavior caused her further difficulties in meeting her production targets. In June 2022, Worker A was called to a second disciplinary hearing because of her poor job performance. At this hearing, the Packing Department Manager recommended that Worker A be suspended again, this time for a period of five days.

Once again, a union representative participated in the hearing and told the other managers who were present that the worker's low productivity was the result of the Packing Department Manager's harassment of Worker A over a period of many months. In response, the factory management again suspended Worker A it reduced the length of her suspension to two days, rather than the five days recommended by the Packing Department Manager.

Centexsa again took a deduction from Worker A's pay for the time that she had spent in the disciplinary hearing. This time, however, factory management also suspended for two days the Packing Department Manager, presumably as discipline for his harassment of Worker A.

The Packing Department Manager's physical and sexual harassment of and retaliation against Worker A violated Guatemalan law. Article 61 of the Guatemalan Labor Code states that the employer has the obligation to "treat its workers with due consideration, abstaining from mistreatment by word or by deed." The manager's conduct repeatedly failed to show consideration for the worker's personal autonomy and dignity and constituted blatant mistreatment by *both* word and deed.

Guatemala's Law Against Femicide and Other Forms of Violence Against Women also prohibits "psychological or emotional violence" and "sexual violence", including physical or psychological violence.⁵ The manager's repeated grabbing, kissing, touching, hugging, and restraining the worker against her clearly stated will, and his threatened and actual retaliation against her for her resistance to his misconduct, all constituted forms of emotional, psychological, and sexual violence.

Furthermore, these actions by the manager violated International Labour Organization Convention 111 on Discrimination (Employment and Occupation)⁶ and Convention 190 on Violence and Harassment. By extension, these actions also represented violations of university⁷ and buyer⁸ codes of conduct.

⁵ Guatemalan Law Against Femicide and Other Forms of Violence Against Women.

⁶ In 2002, the ILO Committee of Experts issued a General Observation that expressed the Committee's opinion that sexual harassment in the workplace is a form of sex discrimination and should, therefore, be addressed within the requirements of the Convention. See: International Labour Organization, "General Observation (CEACR)", adopted 2002, published 91st ILC session (2003), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3066659,,2002.

⁷ Collegiate Licensing Company (CLC), Special Agreement Regarding Labor Codes of Conduct.

⁸ See Hanesbrands "Global Standards for Suppliers," which requires suppliers to comply with national law and explicitly prohibits gender-based harassment.

2. Sexual Harassment of “Worker B” by the Centexsa Packing Department Manager

The WRC also found that a second woman worker, referenced in this report as “Worker B”, also was sexually harassed by the same Centexsa Packing Department Manager who harassed Worker A. Worker B was not only harassed by this manager but also was fired by the factory shortly after she reported to management the retaliatory harassment by the Packing Department Manager.

Worker B testified that she began working at the factory in 2018 and that, several months after the start of her employment, her manager in the packing department began to repeatedly approach her on the job and ask her to go out with him after work. Worker B reported that she responded to the manager’s verbal advances by telling him that she did not wish to spend time with him outside of working hours.

The worker stated that, on one occasion, she was approached by a supervisor who also directly reported to the Packing Department Manager. This supervisor reportedly told Worker B, “If you go out with [the Packing Department Manager], you will have a better position at the factory, and no one will bother you.” Worker B reported that she replied to this supervisor that she was not interested in spending time with the Packing Department Manager.

Worker B reported that, following this incident, the Packing Department Manager began to send her multiple text messages and videos with sexual content. She stated that she did not respond to these sexually harassing messages and videos from the manager.

Worker B informed the WRC that, after she failed to respond to the manager’s sexual advances, the Packing Department Manager began to issue her disciplinary notes alleging poor work performance. In these notices, the manager reportedly stated that Worker B “did not follow directions” and “did not follow the rules of the supervisor.”⁹

Worker B reported to the WRC that, in April 2021, she filed a complaint with the factory’s then-human resources manager about the ongoing, retaliatory harassment by the Packing Department Manager. However, according to Worker B, the human resources manager did not take any action to address the retaliation that the worker had reported.

Instead, in May 2021, one month after Worker B filed her complaint about retaliatory behavior by the Packing Department Manager, this worker was dismissed from her employment at Centexsa. The dismissal letter issued to Worker B stated that she was being dismissed due to “staff restructuring”. However, the worker told the WRC that, at the time of her dismissal, she was informed that she was being terminated for having low productivity.

The WRC reviewed the dismissal letter issued to Worker B at the time of her termination which confirmed that she was dismissed by the factory’s then-human resources manager, the same manager to whom Worker B had reported retaliatory discrimination by the Packing Department Manager. The factory provided documentary evidence that it paid Worker B terminal benefits totaling GTQ 10,296.14 (USD 1,320).

⁹ The WRC asked Centexsa to provide copies of disciplinary notes issued to Worker B during the period in question. However, Centexsa was unwilling to provide by electronic mail the information requested.

The Packing Department Manager’s sexual harassment of Worker B—via sexual advances conveyed to the worker verbally (both by the manager, himself, and by his subordinate) and in writing (by sending text messages and videos with sexual content)—and his subsequent retaliation against Worker B for rejecting these advances, like his harassment and retaliation against Worker A, violated Guatemalan law¹⁰ and ILO Conventions, as well as university and buyer codes of conduct.

B. Information Provided to Centexsa Employees on Pay Statements

The Sitracentexsa union also filed a complaint with the WRC regarding the lack of detailed information provided to workers on their pay statements concerning the calculation of their wages. Both the company and the workers reported to the WRC that factory employees receive a printed paystub that identifies the worker, the worker’s base salary and overtime wage rate, and the number of hours worked during the pay period (regular and overtime). The wage information provided on the paystubs reflects the total amount earned for regular and overtime hours worked, minus legally required deductions.

The paystub also lists an amount for “Incentive Bonuses, including Decree 37-2001”, and a note at the bottom of the paystub states that details of the incentive bonuses “are provided”. However, the Centexsa workers’ union reported to the WRC that, contrary to this notation, the company was *not* providing written details concerning the incentive bonuses paid to workers, and, therefore, workers did not have a clear understanding of the amount that they were being paid for each category of bonuses.

While Guatemalan law and university codes of conduct do not regulate the specific information that should be included in the pay statements that are issued to workers, the WRC found that it was reasonable and a matter of accepted good practice to inform workers of the amounts that they earn in each category of bonuses in each pay period, as such information is already provided by employers at other factories in the region.

¹⁰ Labor Code of Guatemala, Articles 10 and 62(h).

IV. Factory Response Prior to Receiving the WRC's Findings

During the course of the WRC's investigation, the Sitracentexsa union and factory buyers, who had learned from the union about the violations outlined in this report, engaged with Centexsa management concerning these abuses. Therefore, prior to receiving the WRC's findings and recommendations for corrective actions, Centexsa reported to the WRC that it had taken actions to address the incidents of sexual harassment that occurred at the factory and that the factory management and the buyer, Hanesbrands (owner of the university licensee, GFSl), had developed a corrective action plan to address these incidents.

In order to address the violations that had occurred, Centexsa informed the WRC that, after she was disciplined for the second time, Worker A, who was sexually harassed by the Packing Department Manager, was reassigned by management to the factory's sampling department so that she would no longer report to the Packing Department Manager. While Worker A reported that she was glad to no longer work under this manager's supervision, she also informed the WRC that she was being paid a lower wage than other workers in her new department.

Centexsa also informed the WRC that the company had, subsequently, come to a mutual understanding with the Packing Department Manager to terminate his employment at Centexsa. The company provided documentary evidence that the manager was terminated on September 9, 2022, with full payment of his terminal benefits, and confirmed that this former Packing Department Manager was no longer employed by any factory owned by Centexsa's parent company, SAE-A.

Centexsa further informed the WRC that it contracted with the Guatemalan training institute known as INTECAP to provide training on the "issue of mistreatment". Centexsa reported that this training was delivered on August 17, 2022. Factory management also reported that it conducted a subsequent, internal training on the prevention of sexual harassment at the factory.

The union's leaders informed the WRC that neither workers who are union representatives nor other production workers participated in the training conducted by the organization, INTECAP, which was delivered only to factory supervisors. They did confirm that the factory's personnel manager held a similar training with the entire workforce.

The factory management and union representatives reported that, together, they developed a policy to address gender-based violence and harassment in the workplace. The policy includes monitoring by an internal workplace committee. Centexsa and the Sitracentexsa union informed the WRC that this committee would include a union representative.

V. Recommendations for Further Corrective Action

On October 31, 2022, the WRC issued its findings and recommendations for further corrective action. In its report to Centexsa, the WRC recognized that the factory had taken important, initial steps to remedy the violations of sexual harassment, including the dismissal of the Packing Department Manager and the development, with the union, of a policy for the prevention of gender-based violence and harassment at the factory.

However, the WRC communicated to Centexsa that, in order to fully remedy the violations that had occurred, Centexsa and its owner, SAE-A, should undertake additional corrective actions. The WRC communicated that, in order to fully comply with university and buyer codes of conduct, Centexsa should:

- Confirm that the Packing Department Manager who had been cited for sexual harassment of Worker A and Worker B will be permanently barred from any employment with the factory or SAE-A in the future.
- Provide compensation to Worker A that she was denied as a result of:
 - Reduced production levels between November 2021 and June 2022 that may have occurred as a result of the harassment she suffered from the Packing Department Manager);
 - The time she was required to spend attending disciplinary hearings (as a result of retaliation by the manager);
 - The four days that she was suspended without pay (also as a result of this retaliation); and
 - Any underpayment of wages to her during the period of her employment in the factory's sampling department, from June 2022 to the date of remediation.
- Continue to employ Worker A in the factory's sampling department and increase her base salary to be equivalent to that of other employees who are newly employed in this department.
- Make an immediate offer of reinstatement with back pay to the factory's former employee, Worker B. Centexsa should offer reinstatement to Worker B to her former position, or to an equivalent position in the factory, with full seniority as of her original date of hire. Back wages should be paid from the date of her dismissal to the effective date when she was provided the option of reinstatement.
- Remove all disciplinary notes from the files of Worker A and Worker B that they received during the periods when they were under the management of the Packing Department Manager.
- Provide to Worker A and Worker B the opportunity to meet with a psychological professional or other accredited counselor of their choosing, on a biweekly basis, for a

period of six months in order to address the impact of harassment that they experienced at the hands of the former Centexsa Packing Department Manager. The WRC recommended that these sessions be paid for by Centexsa and the workers be granted paid time during working hours to attend them. The workers and their representatives should be allowed to select or approve the psychologist who will provide the required treatment.

- With regard to information provided to workers with their pay statements, as a matter of industry good practice, Centexsa should provide to its employees a breakdown of the amounts they earn as production incentives, bonus incentives, and legal bonuses, as established under Decree 37-2001.

VI. Full Remediation of Violations by Centexsa

Following additional engagement with factory management and with Centexsa's former buyer (and university licensee), Hanesbrands, and current buyer, Carhartt, the factory ultimately agreed to implement all of the WRC's recommended corrective actions.

Centexsa informed the WRC that the Packing Department Manager who was found to have sexually harassed factory employees had ended his employment with Centexsa on September 9, 2022. Factory management further confirmed that the Packing Department Manager was permanently barred from any employment at a SAE-A owned facility in the future.

With regard to remediation for Worker A, the company made a payment to the worker to reimburse her for time spent at disciplinary hearings and for the days of her suspension. Centexsa also agreed to make an adjustment to the worker's rate of pay to one that was consistent with other workers who had been newly hired in the sampling department and to make a payment of back wages for the months that she was working in this department and being paid at a lower rate. These payments were made to Worker A on November 25.

The factory also agreed to remove from Worker A's personnel file all disciplinary notes that she was issued during the period that she was being harassed by the Packing Department Manager, including disciplinary notes issued by this manager, himself. Finally, the company agreed to provide Worker A psychological treatment by an independent, professional psychologist on paid, company time and at no cost to the worker.

With regard to remediation provided to Worker B, the company provided a contribution to the worker for hardship she suffered as the result of her harassment that was approximately equal to the amount that she was owed in back wages from the date of her dismissal to the date that the payment was made. The worker expressed to the factory management and to the WRC that she did not wish to return to her former employment at Centexsa. The factory also provided Worker B with the opportunity to receive psychological treatment from an independent, professional psychologist of her choosing.

With regard to the information provided to workers explaining the calculation of their regular paychecks, and in order to address the WRC's best practices recommendation, the company and the Sitracentexsa union came to an agreement by which the factory will individually show workers a detailed report of their incentive pay, bonuses, and deductions. The workers will have the opportunity to review this information every pay period, in their respective work areas, and during paid working hours. Centexsa management also agreed to make itself available to all workers on each of the regular paydays to review with them any questions that they have regarding the breakdown of their wages.

The union agreed to test this new system for a period of two months, after which time they would evaluate with the company whether or not this approach fully addressed the workers' concerns and requests for additional pay information. At the time of the publication of this report, the workers were being surveyed by factory management as to whether the issue was being adequately addressed.

Following the implementation of all of the above commitments, the WRC considers that Centexsa and its parent company, SAE-A, will have fully implemented all of the required corrective actions and, with regard to the violations cited in this report, the company is in full compliance with university and buyer codes of conduct.¹¹

The WRC recognizes the important steps that SAE-A and its buyers, Hanesbrands and Carhartt, took to ensure that the violations were fully remedied. As noted earlier in this report, even though Hanesbrands was no longer sourcing university licensed production from the Centexsa facility at the time that the WRC concluded its investigation, this buyer, which continues to source from other factories owned by SAE-A, continued to engage to ensure that all of the violations were fully remedied.

¹¹ The fact that the WRC's investigation, as reported in this document, did not yield findings of violations in any particular areas of the factory's labor practices should not be construed as an affirmation of the factory's overall compliance with respect to its practices in those general areas.