

WORKER RIGHTS CONSORTIUM FACTORY ASSESSMENT

*Southern Apparel Contractors (Tegra Global) (Honduras)
Findings, Recommendations, and Company Response*



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WORKER RIGHTS
CONSORTIUM

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I. Introduction and Executive Summary

This report details the findings of the Worker Rights Consortium (WRC) of violations of workers' right to freedom of association by the management at Southern Apparel Contractors ("SAC"), a factory owned by the Atlanta, Georgia based company Tegra Global ("Tegra"). SAC is disclosed for the production of university logo apparel by adidas. Workers reported to the WRC that the factory also supplies non-collegiate apparel to Nike and Fanatics.

In May 2022, the WRC received a complaint from the SAC workers' union, Sitrasoacon, which represents the factory's employees, alleging that SAC had violated workers' right to freedom of association when it suspended six employees without pay following a work stoppage that occurred inside the factory in which a large percentage of the workforce participated.

The work stoppage, which occurred on April 8, 2022, was precipitated by SAC informing its employees that they would be required to "repay" the company, by working over a weekend, for hours of work that had been lost as a result of a transportation strike in the country. Workers responded to this announcement by stopping work, a collective action that, Tegra reported, included the participation of approximately 200 factory workers. Following this protest, SAC singled out and suspended without pay for five days a group of six workers who had been identified by management as having led the work stoppage.

The Honduran Constitution guarantees the right of workers to freedom of association and International Labour Organization (ILO) Conventions 87 and 98, both of which have been ratified by Honduras, require that employers refrain from retaliating against workers for exercising the right to protest collectively over workplace labor practices. University and brand codes of conduct likewise require supplier facilities to comply with both national laws and international labor standards requiring respect for freedom of association.

After reviewing the union's complaint and conducting an in-depth inquiry into the workers' allegations, including a review of information provided by Tegra, the WRC found that SAC had violated the rights of the six workers to freedom of association and, by extension, violated university and brand codes of conduct, when it suspended these workers for participating in the April 8, 2022, work stoppage. The WRC shared with Tegra a report of our findings along with recommended corrective actions necessary for the factory to comply with university and brand codes of conduct.

In response, Tegra agreed to implement all of the WRC's recommendations, including issuing a communication to all workers affirming the factory's commitment to respect freedom of association, reimbursing the six workers whom the company had suspended for their one-week loss of pay, and removing from these workers' personnel records any disciplinary notices related to their participation in the work stoppage on April 8, 2022. To its credit, Tegra undertook these corrective actions in direct response to the WRC's findings and recommendations, without requiring the WRC to engage with adidas or the factory's non-collegiate buyers.

II. Methodology

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

- Interviews with SAC workers;
- Interviews with representatives of the Sitrasoacon union;
- Written communications with Tegra Global management;
- A review of relevant evidence provided by workers, the union, and factory management. This included dismissal hearing notices issued to workers, the collective bargaining agreement signed between the company and the union, a copy of the announcement to workers by SAC that sparked the work stoppage on April 8, 2002, and videos recorded by the factory on this date; and
- A review and analysis of applicable Honduran law, ILO conventions, and university and buyer codes of conduct.

III. Findings

A. Factual Background on Suspension of Employees for Workplace Protest

1. April 7, 2022: Bus Drivers' Strike Caused Factory Workers to Miss Day of Work

On Thursday, April 7, 2022, bus drivers in Honduras organized a transportation strike that significantly impacted the ability of garment factory employees and other workers to travel to work.¹ As Tegra acknowledged to the WRC, while some of the SAC factory employees were able to come to work on April 7, many could not.

Workers who were traveling to the factory on a company-provided bus on April 7 reported to the WRC that the driver of the bus received a message from the factory management informing the driver that it would not be possible for the bus to reach the factory. Workers reported that management instructed the driver to, instead, reverse course and take the workers back to the communities where they lived.

2. April 8, 2022: Management Announced that Workers Must Work an Extra Day on Saturday, April 9, to "Repay" the Company for the Missed Day of Work on April 7

On the day after the bus drivers' strike, Friday, April 8, 2022, SAC management made an announcement to all factory employees advising them that they would be required to work on the following day, Saturday, April 9, from 7:00 a.m. to 3:30 p.m.—a day on which they otherwise would not have been required to work—in order to “offset yesterday’s impact”. In subsequent communications to the WRC, Tegra provided a copy of its announcement, which stated that the company would pay the workers for four hours of this additional workday at their regular wage rate and would pay workers for the remaining four hours at a premium overtime rate (with the remaining 30 minutes in the workday being the employees’ lunchbreak).

Workers informed the WRC that, after this announcement was made, the management informed them that they could visit the administrative offices if they had any questions about the requirement that they come to work the following day. Furthermore, workers also reported that factory management stated that the workers’ union had already agreed to the company plan for the workers to “repay” the hours of work they had missed on Thursday, April 7, by coming to work on Saturday, April 9.

The workers’ union, however, subsequently told the WRC that the management only notified the union president of its plan a few minutes before the management made this announcement to the workforce, and that management had not actually consulted with the union’s leaders in the factory regarding the repayment of missed hours of work. Given this, the union leaders stated, the management’s claim that it had already secured the union leaders’ agreement with the company’s plan was false and inaccurate.

¹ “Transportistas paralizan varias regiones de Honduras,” *La Tribuna*, April 7, 2022, <https://www.latribuna.hn/2022/04/07/transportistas-paralizan-las-calles-de-varias-regiones-de-honduras/>.

3. Workers' Union Charged That Company Requirement to Make Employees "Repay" Company for Missed Day of Work Violated Collective Bargaining Agreement

As the union's leaders subsequently explained to the WRC, their actual response to the plan that the company announced was that requiring workers to "repay" the company for the hours of work they had missed because of the transportation strike violated the collective bargaining agreement ("CBA") signed between SAC and the Sitrasoacon union. In fact, the CBA explicitly states that, when workers are late to work because of highways being blockaded or as the result of traffic accidents, the company will pay employees their full wage for the hours of work they have missed.²

In its subsequent communications with the WRC, Tegra disagreed with the union's assertion that the CBA required the company to pay the workers their regular wages for the day of work that the employees missed as a result of the transportation strike that occurred on April 7, without the employees having to work additional hours to "repay" the company. However, even if the management's interpretation of the CBA were correct (which would appear to fly in the face of a plain reading of the agreement's text), this still would not contradict the union leaders' testimony that they had not actually agreed to the company's plan at the time that the management reportedly announced to the rest of the workforce that they had.

4. April 8, 2022: Employees Held a One-Hour Protest against Management's Announcement Requiring Saturday Work to "Repay" Company for Missed Day

Shortly after the factory management made its announcement, a large group of factory employees gathered outside the union's office inside the factory to ask the union's leaders why they had agreed (as the management had falsely claimed) to the company's plan that the workers be required to "repay" the company for the day's work that they had missed due to the transportation strike. After the union leaders explained to these workers that they had not made any such agreement (and in fact had not been consulted by the company on this plan), the group of workers moved on to the factory's administrative offices, located in another part of the same building.

Tegra told the WRC that approximately 200 workers stood outside the factory's administrative offices, whistling and shouting in protest of the company's plan to make them work the next day to "repay" the company for the day of work they had missed due to the transportation strike. The company further claimed that workers in this group surrounded the plant manager, threatening him, chanting offensive words, and beating their hands on tables, windows, and the walls of the administrative offices.

² Article 52 of the CBA between SAC and the Sitrasoacon union states, "Late arrivals due to road blockades or accidents: 1.- In those where a worker shows up late for work due to road blockades or transportation accidents, the company will pay in full 44 regular working hours and 36 regular night working hours, as applicable, and on the seventh day wage as long as the following requirements are met: a) The worker travels by way of the company's established, contracted transportation; b) During the rest of the week the worker does not have any other type of absence; c) The company and the union will analyze those areas where traveling on a highway that has been blocked by protestors puts workers in danger, and seek an alternative that is acceptable to both parties; 2.- For late arrivals in which the worker alleges cause, the company will assess each case separately, applying a reasonableness criteria." (WRC translation)

5. April 8, 2022: Management Rescinded the Announcement Requiring Saturday Work to “Repay” Company for Missed Day

After a work stoppage related to this protest, which lasted for approximately one hour, the management made a new announcement to the workforce in which it agreed that SAC employees would not be required to work on Saturday to “repay” the company for the hours of work they had missed on the previous day due to the transportation strike, and the company would pay them their regular wages for the missed day.

6. May 3–13, 2022: Management Retaliatorily Suspended Six Workers for Five Days Each for Participating in the One-Hour Work Stoppage on April 8

On May 3 and 4, 2022, nearly one month after the April 8 work stoppage, SAC’s factory management carried out dismissal hearings for nine workers, six of whom allegedly had been leaders of the protest, and three of whom allegedly had used their cell phones to record the work stoppage, which the company stated violated its internal rules. The factory did not, on these dates, dismiss any of these workers, but rather it initiated an administrative procedure by which it expressed an intention to dismiss the workers.

After the management held the dismissal hearings, the workers’ union filed a complaint with Tegra and with the WRC regarding the company’s attempt to dismiss the nine employees. Following receipt of the complaint, SAC’s factory management met with the Sitrasoacon union and informed the union that it would not dismiss any of the nine workers who had been subjected to the hearing. However, two days after the dismissal hearings were concluded, the factory informed six of the nine workers that they were being suspended without pay for five days, from May 9 to 13, 2022.

B. Factory’s Alleged Justifications for Suspending Workers for Protest

The six workers who were suspended from May 9 to 13 told the WRC that factory management informed them, at their disciplinary hearings, that the company was holding them responsible for an alleged loss of \$116,000 for lost production during the approximately one-hour period on April 8 during which the work stoppage related to the protest took place.

For its part, Tegra told the WRC that it held disciplinary hearings for these workers for having violated the factory’s internal rules and having “created an extremely unsafe environment for all employees” (emphasis in original). Tegra also stated that it suspended these workers for having incited a work stoppage that lasted one hour and seven minutes and for having shouted chants against the company.

The workers whom the company suspended acknowledged to the WRC that they had participated in the protest but stated that they had not engaged in any violence and, moreover, had not banged on the walls or the windows as the company had claimed they did. They reiterated that, while they had chanted loudly during the protest, their actions were only verbal, and they had not caused any damage to the plant or harmed any persons.

Tegra provided the WRC with four video clips containing footage from the factory's closed-circuit television camera system that was filmed at the time of the April 8 work stoppage protest. These videos showed the following:

- The first video (titled by the company "*Interesante Video*") showed one of the workers whom the company subsequently suspended walking toward the union's in-plant office. In the video, the worker was waving his arms for other workers to follow him to the union's office; some of the workers followed him and others did not. The union reported that this worker went to the union office to ask union leaders why, as management had just announced (falsely) over the public address system, the union supported the factory's requirement that workers "repay" the company for the day they missed due to the transportation strike.
- The second video (titled "*Paro*") showed a group of workers, including three workers whom the company subsequently suspended, gathered outside the in-plant union office. Another worker who was later suspended could be seen in the video waving for other workers to join this group.

One other worker whom the company suspended later was also in the frame in this video, holding up a piece of paper. According to the union, the paper was a copy of Article 52 of the CBA between the factory and union, the clause that requires the company to pay employees when they miss work due to a transportation strike or accident.

- The third video (titled "*Video Normal*") continued the footage of workers gathered outside the union's office. Some of the workers who were subsequently suspended were present in the frame but were not engaged in any conduct that was in any way threatening or otherwise unsafe. In fact, a member of the factory management, the factory's Production Coordinator, was seen standing nearby, observing the group, and did not appear to be alarmed or concerned for her safety.
- Finally, the fourth video provided by Tegra (titled "*Chaleco*") showed one other of the subsequently suspended workers waving his arms, encouraging other employees to go to the union office.

None of these videos showed the workers whom the company subsequently suspended engaged in any action that appeared in any way unsafe or threatening to others. They simply showed these employees gathering with their coworkers outside the union's in-plant office and waving their arms to encourage other workers to join them. In other words, they showed these workers exercising their right to assemble and to nonviolently express their views on a workplace issue, both of which are core elements of freedom of association.

C. Analysis and Conclusion: Factory Violated Freedom of Association by Suspending Workers for Nonviolent Assembly and Protest

Honduran law³ and university⁴ and brand⁵ codes of conduct all protect the right of workers to freedom of association. The right of freedom of association is defined under International Labour Organization (ILO) Conventions 87 and 98, both of which have been ratified by Honduras and are, therefore, incorporated into its national law.

The ILO's Freedom of Association ("FOA") Committee, the highest international body authorized to interpret this right, has made clear that the right of freedom of association protects workers' right to nonviolently strike, protest, and assemble to defend their economic interests.⁶ The ILO FOA Committee has further stated, explicitly, that discriminating against⁷ or otherwise penalizing⁸ workers for nonviolently leading or participating in strikes or protests violates the right to freedom of association.

As discussed above, Tegra informed the workers whom it suspended that the reasons it was disciplining them included that they had allegedly: (1) caused a loss of \$116,000 due to lost production during the April 8 work stoppage, (2) violated the factory's internal rules by protesting, (3) incited other workers to join the work stoppage, and (4) shouted chants against the company. None of these purported justifications for suspending these workers is consistent with respect for freedom of association.

First, it is in the inherent nature of strikes and other workplace protests to cause a reduction in production levels. To punish workers for holding a protest or work stoppage that reduces production is to prohibit the right to protest in the workplace in itself and, therefore, violates the exercise of freedom of association.

Second, if the company's internal rules prohibit employees from protesting or holding a work stoppage in the workplace then those rules violate freedom of association. Third, "inciting"—i.e., encouraging and organizing—other workers to protest is also a core exercise of freedom of association; to punish such activity is, again, to prohibit the right, itself. Fourth, workers speaking out collectively—i.e., "chanting"—is, once again, a basic exercise of associational rights, and punishing workers for doing so is a blatant denial of the right, itself.

³ Constitution of Honduras, Article 78, https://www.oas.org/dil/esp/constitucion_de_honduras.pdf.

⁴ 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)(9) ("Licensees shall recognize and respect the right of employees to freedom of association....").

⁵ See, for example, Adidas, *Workplace Standards*, "Freedom of Association and Collective Bargaining. Business partners must recognise and respect the right of employees to join and organise associations of their own choosing and to bargain.", January 2016, https://www.adidas-group.com/media/filer_public/23/b4/23b41dce-85ba-45a7-b399-28f5835d326f/adidas_workplace_standards_2017_en.pdf.

⁶ International Labour Committee, *Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO*, Fifth Edition, Paras. 521 and 522, 2006, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_090632.pdf.

⁷ International Labour Committee, *Digest of decisions*, Para. 524.

⁸ International Labour Committee, *Digest of decisions*, Para. 660.

Finally, Tegra also accused the workers it suspended of having “created an extremely unsafe environment for all employees” with their work stoppage. If there was credible evidence that this was actually the case—for example, if the company’s videos showed these workers engaging in or directing violence against other workers or managers—the company would have not only the right but also the *obligation* to discipline them. However, Tegra did not provide any such evidence and, in fact, produced videos whose footage established the opposite: that the work stoppage was completely nonviolent.

As a result, none of the justifications Tegra put forth for suspending these workers was consistent with its obligation, under Honduran law and university and brand codes of conduct, to respect its employees’ right to freedom of association. And, indeed, factory managers made clear to these workers when it suspended them that the company’s explicit purpose in doing so was to *prevent* workers’ further exercise of this right.

Other workers testified to the WRC that Tegra managers told them that the reason it suspended these six employees was to send a message to other workers at the factory about the consequences of their engaging in a work stoppage. The leaders of the workers’ union stated that, at a May 30, 2022, meeting between the union and the company to discuss the suspension of the six workers, a manager stated that the company suspended the six workers after the April 8 work stoppage because:

“The company has to set a precedent so that no other worker will think that, in the future, he or she can resolve a problem in this way. Beyond any decision that the company has made, no one can resolve a problem in this way [by carrying out a protest], taking justice into his/her own hands.”

In other words, according to these employees, it was the management’s position that the company’s explicit purpose in punishing the workers for exercising freedom of association by holding a work stoppage to protest its violation of their CBA was to have a *chilling effect on the associational rights of the entire workforce* so that no workers would exercise their freedom of association this way in the future.

The WRC found that Tegra had, by suspending workers for exercise of their associational rights, violated Honduran law and university and brand codes, all of which require respect for this fundamental right.

IV. Recommendations for Corrective Action

On November 30, 2022, the WRC issued its findings and recommendations for further corrective action to SAC and Tegra Global. The WRC communicated to Tegra that, in order to remedy the violations of freedom of association, the factory should take the following corrective actions:

- Issue a verbal and written statement to all factory employees affirming the legal right of all workers to the exercise of freedom of association with the union of their choosing or to affiliate to no union if they do not wish to do so. The WRC recommended that the statement affirm that the decision to participate in organizational activities would not result in any retaliation from factory management and that the text of the statement should be approved in advance by representatives of the Sitrasoacon union and by the WRC. Furthermore, the WRC recommended that the statement be delivered via public address system to the entire workforce (all shifts) during working hours, distributed individually in writing to each of the factory's employees, and posted permanently in a public location in the factory.
- Pay the six suspended workers their unpaid wages for the five days they were suspended and any other salary or benefits that were deducted from their pay during or on account of their suspension. The WRC recommended that back wages be calculated based on the employees' average income during the previous six months.
- Expunge from all nine workers (the six suspended workers and the three other workers who were called to a disciplinary hearing) all disciplinary notes in their personnel files related to the work stoppage protest on April 8, 2022.

V. Remediation of Violations by SAC and Tegra

On January 11, 2023, Tegra responded to the WRC's findings and recommendations affirming that, while it disagreed that its actions had violated Honduran law, it was interested in maintaining positive relations with the Sitrasoacon union and that it would agree to implement all of the corrective actions recommended by the WRC.

Specifically, the factory agreed to work with the union to draft a freedom of association statement to be shared with all employees. The resulting statement was approved by the WRC and shared by public address and in writing with all factory employees on Monday, February 6, 2023.

Additionally, the factory paid the six workers who were suspended in May 2022 the unpaid wages and any other benefits owed to them and expunged the disciplinary notices that had been placed in the nine workers' files as a result of these employees' participation in the April 8, 2022, work stoppage.

The WRC recognizes the important steps that SAC and Tegra took to ensure that the violations of freedom of association outlined in this report were fully remedied and that compliance with relevant provisions of university codes of conduct was restored.

