

# WORKER RIGHTS CONSORTIUM FACTORY ASSESSMENT

*Everest Apparel (Ethiopia)*

*Findings, Recommendations, and Company Response*



Photo Credit: Everest Apparel

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## I. Introduction and Executive Summary

This report details the findings, recommendations, and full remediation of the Worker Rights Consortium's ("WRC") investigation of labor rights violations at Everest Apparel ("Everest"), a factory located in the Hawassa Industrial Park in Hawassa, Ethiopia and owned by the Taiwanese company, Everest Textile. Everest Apparel was disclosed as a supplier of collegiate licensed apparel for Cutter & Buck. Everest Apparel also produces apparel for Decathlon and Nautica. The factory currently employs 2,440 workers.

Our investigation identified violations of Ethiopian law in the following areas:

- **Wages and Hours of Work.** This includes unlawful wage deductions, failure to provide a weekly rest day, and mandatory overtime.
- **Benefits.** This includes restrictions on the use of paid statutory leave through monetary penalties.
- **Verbal Harassment.**
- **Freedom of Association.**
- **Occupational Health and Safety.** This includes unsafe factory temperatures.

The WRC reached out to the factory and the licensee with our findings, requesting the factory provide evidence to the contrary of the findings or implement the remedial steps identified in our memorandum. Cutter & Buck informed the WRC that it had taken the decision to discontinue its sourcing relationship with Everest prior to our engagement with the factory and the licensee. Cutter & Buck agreed to withhold its final payment to the factory until management took the necessary remedial action. After this engagement, workers reported to the WRC that Everest stopped requiring employees to work on Sundays and now provides workers with a weekly day of rest. Everest also ended its practice of mandatory overtime, announcing to workers and management that workers will not be penalized for refusing to work overtime. Everest also engaged a consultant to provide supervisors and managers with training on how to motivate workers without resorting to verbal abuse. Workers reported to the WRC that supervisors and managers are no longer verbally abusive. Despite taking these positive remedial steps, Everest took no action to address the other violations.

After the WRC shared our findings with Everest's other customer, Decathlon, Everest took additional remedial steps to resolve the remaining violations. The company committed to paying back wages to workers who had deductions made to their salaries for failing to make the production targets. Everest has made two payments of back wages to these workers, ETB 618,707.61 (US\$10,689.53) in unlawfully deducted wages. Everest will make additional payments to the workers this year. The WRC is monitoring to ensure workers are paid in full for these unlawful deductions. Everest also amended its attendance bonus and tardiness policies. Workers will no longer have partial or full deductions of their attendance bonuses for taking statutory paid leave, including maternity leave. Workers will also no longer have their wages or attendance bonus deducted for being late. Additionally, Everest allowed access to the trade union confederation and workers held an election for a factory-level union in June. Finally, based on a recommendation from the WRC, given the relatively low humidity in Ethiopia, Everest installed fans in the ironing section. Workers

reported to the WRC that these fans have helped lower temperatures in the ironing section. Given the remedial steps taken by Everest, the WRC considers that the violations of Ethiopian law and university codes of conduct to be remedied.

## II. Methodology

The findings reached by the WRC are based on substantial, credible, and consistent testimonies from Everest workers which were gathered in January and November of 2023, as well a review of Everest workers' paystubs which were issued between November 2022 and February 2023. The WRC also reviewed documents and evidence provided by Everest at the request of the WRC. Additionally, the WRC reviewed a transcript of an interview with a senior officer at the Confederation of Ethiopian Trade Unions ("CETU"), and a letter sent to Everest by the Industrial Parks Development Cooperation—the government entity responsible for managing industrial parks in the country, including the Hawassa Industrial Park—concerning a complaint lodged against the factory by the CETU labor federation on May 8, 2022. Finally, the WRC also reviewed relevant Ethiopian<sup>1</sup> and international laws as part of this assessment.

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<sup>1</sup> The Labour Proclamation No. 1156/2019 (as amended) ("Ethiopian Labour Proclamation"), Federal Negarit Gazette of the Federal Democratic Republic of Ethiopia, September 5, 2019, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/109825/136386/F-1056558301/ETH109825.pdf>.

### III. Findings, Recommendations, and Company Response<sup>2</sup>

#### A. Wages, Working Hours, and Benefits

##### 1. Unlawful Wage Deductions

###### a. Findings

Everest, in a written communication, told the WRC that workers who fail to meet their production targets will have an amount deducted from their production bonus. However, a review of payroll records provided by Everest to the WRC indicates that many workers had this amount deducted from their monthly wages on a regular basis rather than their production bonus. The WRC estimates that, on average, Everest deducted 90 birr (about US\$1.50) per month for failing to reach production targets. Given that many of the Everest employees' tenure at the factory is six years, the WRC estimates that workers were denied 6,480 birr (about US\$113) in wages as a result of these deductions.

According to Ethiopian law, employers are prohibited from making deductions from workers' wages except under certain conditions, including if provided for "by law or collective agreement or work rules or in accordance with a court order or a written agreement of the worker concerned."<sup>3</sup> Since neither the employee handbook nor the Human Resources Policy and Compliance Manual<sup>4</sup> make mention of deductions made to workers' wages for failing to make the production targets and the WRC has not seen any agreement signed by workers about this deduction, the WRC finds that Everest violated Ethiopian law, by unlawfully deducting from workers' wages.

###### b. Recommendations

To comply with Ethiopian law, the WRC recommends that Everest provides back pay to workers who had an amount deducted from their wages for failing to meet the production targets.

Given the difficulty of identifying every worker who had an unlawful deduction taken from their wages for every month of their tenure at Everest, the WRC recommends that Everest makes lump sum payments to each of its 2,440 current employees in the amount of 6,480 birr each, which is the average of the fees deducted from workers' wages multiplied by the number of months each of the workers were employed at the factory (on average 72 months for workers who started at the factory when it opened). In total, the WRC estimates that workers are owed 15,811,200 birr (US\$277,817) in back pay.

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<sup>2</sup> 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.

<sup>3</sup> Ethiopian Labour Proclamation No. 1156/2019 Article 59 (1).

<sup>4</sup> On file with the WRC.

### **c.      *Company Response and Current Status***

After several email exchanges with the factory, Everest committed to review company records to identify workers whose wages were deducted for not making the production targets and pay those workers their back wages. Everest communicated to the WRC that it would provide back pay to the affected workers currently employed at the factory in three installments. Everest has made two payments of back wages to workers whose wages were deducted for not making the production targets. In total, Everest paid these workers ETB 618,707.61 (US\$10,689.53) in unlawfully deducted wages. Everest committed to making further payments covering the total back wages owed to workers who have resigned from the factory's employment by the end of October 2024. The WRC is monitoring the payments to ensure workers receive the money owed to them. Once these payments have been made, the WRC considers this violation of Ethiopian law and university codes of conduct to be resolved.

## **2.      *Working Hours***

### **a.      *Failure to Provide a Rest Day***

#### **i.      *Findings***

More than half of the interviewed Everest workers reported that they are forced to work Monday through Sunday without a day of rest, while other employees stated that they receive a day of rest just once or twice a month. Only one worker interviewed by the WRC reported receiving a day off every week.

Workers told the WRC that not having a day off had a negative impact on their lives. One worker stated, "I hardly have time to clean, cook, etc., let alone to socialize." She went on to say that one of the most important changes she would like to see at the factory is ensuring that the factory provides workers with a weekly day of rest.

Based on worker testimony the WRC finds that Everest denied workers a weekly day of rest in violation of Ethiopian labor law, which stipulates that a worker is entitled to 24 uninterrupted hours of rest a week,<sup>5</sup> as well university codes of conduct which impose a similar requirement.<sup>6</sup>

#### **ii.      *Recommendations***

To comply with Ethiopian law and university codes of conduct, the WRC recommends that Everest immediately provide workers with the lawfully mandated 24 hours of uninterrupted rest in a course of a week.

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<sup>5</sup> Ethiopian Labour Proclamation No. 1156/2019 Article 69(1), "A worker shall be entitled to a weekly rest period covering not less than twenty-four non-interrupted hours in the course of each period of seven days."

<sup>6</sup> Collegiate Licensing Company, Standard Retail Product License Agreement, 2023, Code of Conduct ("CLC Code of Conduct") Article 14, B. Working hours, "Except in extraordinary business circumstances, hourly and/or quota-based wage employees shall...(ii) be entitled to at least one day off in every seven day period."



### **iii. Company Response and Current Status**

In its response to the WRC, Everest reported that it will review the current work schedule and make the necessary adjustments to ensure workers receive one rest day a week starting from September 2023. Workers interviewed by the WRC in November 2023 reported that they are receiving their weekly rest day, although some workers expressed concerns the factory would require them to work on their rest day if production targets increased. Given worker testimony indicating that the factory is currently in compliance with Ethiopian labor law by providing workers with a weekly rest day, the WRC considers this violation remedied. However, we will continue to monitor to ensure compliance with the law.

### **b. Mandatory Overtime**

#### **i. Findings**

Workers interviewed by the WRC consistently reported being forced to work overtime either when their shift ends and/or on Sundays. All but one worker stated that they are required to work overtime every day or three to four times a week. Additionally, as noted, the majority of the workers stated that they were required to work on Sundays either every week or at least once or twice a month.

Workers testified that they were told by supervisors that overtime work was necessary due to an urgent shipment or failure to reach the production quota. Workers also reported that they were threatened with losing their jobs if they refused to work overtime. One worker shared, “Overtime is obligatory...if we refuse, they will threaten to fire us.” Some workers testified that a fine of up to 200 birr would be deducted from their salaries if they refused to work overtime.

Requiring workers to perform overtime on a regular basis through the use of threats and imposition of fines violates the Ethiopian Labour Proclamation, which states that “a worker may not be compelled to work overtime.”<sup>7</sup> While the law allows mandatory overtime in occasional circumstances, such as in the case of urgent work,<sup>8</sup> workers at Everest testified that they were *consistently* required to work overtime every week and on Sundays, in clear violation of the legal requirement.

#### **ii. Recommendations**

To comply with national law, the WRC recommends that Everest immediately communicates to workers, through written and verbal communication, that working overtime is voluntary and that no worker will be penalized for refusing overtime.

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<sup>7</sup> Ethiopian Labour Proclamation No. 1156/2019 Article 67 (1) and (2).

<sup>8</sup> Ethiopian Labour Proclamation No. 1156/2019 Article 67 (1) and (2).



### *iii. Company Response and Current Status*

In response to our findings, Everest issued a revised policy on overtime, indicating that working overtime is voluntary and no workers will be penalized for refusing overtime. The WRC considers this violation remedied, but we will continue to monitor to ensure compliance with the law.

## **3. Benefits**

### *a. Unlawful Restrictions on Statutory Leave*

#### *i. Findings*

Workers are entitled to 16 days of annual leave after completion of one year of service and 16 days plus one additional day for every additional year of service, as well as three days of paid leave for family events, paid sick leave, and other specific types of leave (such as maternity leave, leave for union purposes, and leave for special purposes) under Ethiopian labor law.<sup>9</sup> While Everest has a formal policy of allowing workers to take such paid leaves, in practice, employees are penalized for doing so through the deduction of their daily wages for days when they use such leave. Workers are also discouraged from taking statutory leave through the deduction of their monthly attendance bonus.

A review of payroll and attendance records provided by Everest to the WRC indicates that some workers, whose absences were a combination of both unpaid leave and paid statutory leave, had deductions from their salaries for making use of this leave. By deducting workers' daily wages for days which they take as statutory leave, Everest is penalizing workers for taking such leave.

Everest also discourages workers from taking statutory leave by deducting workers' monthly attendance bonus. According to information provided by Everest to the WRC, workers are entitled to an attendance bonus of ETB 900 per month. If a worker is absent for any reason, including for taking paid statutory leave, ETB 300 is deducted from their bonus. If a worker is absent three days or more, even if they use paid statutory leave, they do not receive an attendance bonus for the month.

By penalizing workers who take statutory leave through the forfeiture of their daily wage and attendance bonus, Everest places restrictions on workers from making use of their legally entitled leaves, thereby violating Ethiopian labor law.

#### *ii. Recommendations*

The WRC recommends that Everest, to comply with Ethiopian labor law, immediately:

- Ceases the deduction of workers' daily wages and attendance bonuses if they take statutory paid leave to which they are entitled under the law;

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<sup>9</sup> Ethiopian Labour Proclamation No. 1156/2019 Articles 77, 81, 82, and 83.

- Provides back pay to workers whose daily wages were deducted for taking statutory leave; and
- Communicates to all employees that Everest will no longer deduct from their wages or attendance bonus if they make use of such leave.

### **iii. Company Response and Current Status**

In response to our findings, Everest explained how deductions are made for unpaid leave and provided the requested documentation demonstrating the calculation used to determine the amount deducted. Everest provided additional documentation and information concerning deductions made for unpaid leave. The WRC reviewed this information and conducted its own review of payroll for a select number of workers and confirmed that workers' wages were not deducted for days on which they took statutory paid leave.

Everest also provided the WRC with its revised attendance bonus policy indicating that workers' wages and attendance bonus will no longer be deducted for taking paid statutory leave. In addition, in response to our findings and recommendations, Everest committed to revising its disciplinary policies concerning late arrival. Workers will only face disciplinary action if they are late more than five times in one month and their attendance bonus and wages will not be deducted for being late. Workers who are late more than five times in a month will receive a warning letter. The WRC will monitor the implementation of this new policy.

## **B. Verbal Harassment**

### **1. Findings**

Workers consistently reported to the WRC that they experienced or witnessed colleagues being verbally abused by managers and supervisors for making mistakes or taking too long in the bathroom. One worker reported that "they [supervisors and managers] yell and also sometimes insult us saying 'stupid'...ordering us to hurry up or if we [make a mistake]."

Another worker reported that supervisors and managers yell at workers for making mistakes or coming back late from bathroom breaks. Ethiopian labor law requires employers to protect workers from psychological harm.<sup>10</sup> Furthermore, university codes of conduct state that "no employee shall be subject to any physical, sexual, psychological, or verbal harassment or abuse."<sup>11</sup> The factory management's failure to prevent supervisors and managers from verbally harassing workers, which often results in psychological harm, violates Ethiopian law and university codes of conduct.

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<sup>10</sup> Ethiopian Labour Proclamation No. 1156/2019 Articles 92 – 96(7).

<sup>11</sup> CLC Code of Conduct, Article 14 H.

## 2. Recommendations

To remedy the violation, the WRC recommends that Everest:

- Communicates to supervisors and managers that verbal abuse will not be tolerated and could result in disciplinary action, up to and including termination; and
- Provides leadership and management skills training to managers and supervisors in acceptable ways they can motivate and communicate their concerns with workers.

## 3. Company Response and Current Status

In response to our findings, the factory indicated that it planned to enhance training for management to improve their communication with workers and to inform employees of the prohibition against any employee verbally abusing another. Follow-up interviews conducted by the WRC indicate that verbal abuse has somewhat decreased. While it is encouraging that workers report experiencing less verbal abuse, the WRC recommends that Everest continue to train supervisors and managers on communication techniques that do not involve verbal abuse and to punish those who are verbally abusive.

## C. Freedom of Association

### 1. Findings

For the past two years, the CETU labor federation, which is authorized under Ethiopian law to establish trade unions at every facility or business in the country, has been trying to help workers establish factory-level trade unions at all of the 19 factories in the Hawassa Industrial Park. While some factory owners have cooperated with this exercise of associational rights, Everest, along with several other factories, has resisted the efforts of the workers and the union to organize.

On May 8, 2022, CETU submitted a formal complaint to the Ethiopian government agency Industrial Parks Development Corporation (IPDC), the body managing the Hawassa Industrial Park, stating that several factories, including Everest, have blocked efforts to unionize workers. In response, the IPDC wrote a letter to Everest and the other factories listed in CETU's letter, stating that failing to cooperate with CETU to establish trade unions at the factories denies workers the right to freedom of association.

Despite this communication from the IPDC, according to a senior CETU officer, Everest has remained uncooperative. The officer stated in an interview that the factory management has used various tactics to sabotage CETU's efforts to organize workers, including denying CETU access to the factory to conduct meetings with the workers to facilitate the establishment of the association and refusing to allow workers to participate in union activities outside of the factory during work hours using excuses such as the need to complete urgent work. By denying CETU access to its workers, Everest violated Ethiopian labor law.<sup>12</sup>

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<sup>12</sup> Ethiopian Labour Proclamation No. 1156/2019 Article 113 (1), "workers and employers shall have the right to establish and organize Trade Unions or employers' associations, respectively..."

## 2. Recommendations

To comply with Ethiopian law, the WRC recommends that Everest immediately takes the follow steps:

- Provides the CETU labor federation with a written invitation granting access to the factory to meet with the workers;
- Allows workers to participate in meetings held by CETU to establish a factory-level union; and
- Allows workers to democratically elect representatives to the employee representative mechanism.

## 3. Company Response and Current Status

Everest provided the WRC with documentation of meetings between the CETU labor federation and company management. The WRC communicated to Everest that the violation would not be fully remedied unless the CETU labor federation is granted access to meet with the workers. In a follow-up communication to the WRC, Everest stated that it has invited CETU to meet with workers on June 24, 2024. The WRC has confirmed that Everest has allowed CETU access to workers. Workers held an election in June 2024 to establish a factory-level union affiliated with the CETU labor federation. Therefore, the WRC considers this violation remedied.

## D. Occupational Health and Safety—Temperature Levels

### 1. Findings

More than half of the workers interviewed by the WRC reported that temperatures in the factory are too hot. One worker told the WRC that it was very hot in the factory due to heat emanating from the machines and the sun bearing down on the factory. While the WRC did not conduct an onsite inspection and therefore was unable to take temperature readings at the factory, workers' testimony that the heat levels in the factory are excessive is plausible, given the WRC's general knowledge of conditions in the Hawassa Industrial Park and given the local climate. From January through April, average high temperatures in Hawassa range from 83 to 87 degrees Fahrenheit (28 to 31 Celsius) and days with peak temperatures over 90 degrees Fahrenheit (32 Celsius) are possible. Humidity is generally low during the hottest months of the year (January to April). These outdoor temperatures are sufficient to generate indoor temperatures, in warehouse-style structures like the Everest facility, above 95 degrees Fahrenheit (35 Celsius) in the course of a workday (absent cooling mechanisms).

Consistent reports of excessive heat from almost every Everest worker interviewed are compelling evidence that the heat in the factory is at an unhealthy level. Therefore, the WRC preliminarily finds that Everest is in violation of legal health and safety standards which requires the employer to “ensure that the workplace and premises of the undertaking do not pose threats to the health and safety of workers.”<sup>13</sup>

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<sup>13</sup> Ethiopian Labour Proclamation, Part Seven: Occupational Safety and Health and Working Environment, Chapter One: Preventative Measures, 92. Obligations of the Employer, number 6.

## 2. Recommendations

To comply with Ethiopian labor law and ensure workers' safety, the WRC recommends that Everest installs mechanical cooling systems, for example, fans and/or evaporative cooling pads, to control indoor temperatures. The WRC requests that Everest provides temperature readings after installation to assess whether these mechanisms are adequately cooling the factory.

## 3. Company Response and Current Status

Everest initially provided photographs showing open windows and doorways as a means to cool the factory. The WRC communicated to Everest that these measures were not adequate to address unsafe temperatures, especially absent any cooling mechanisms. In response, Everest contracted a third party to conduct temperature readings at the factory to determine areas in which the indoor temperature is unsafe. The heat report indicated that temperature and humidity readings within the factory were at a safe level, except in the ironing section where steam from the irons increased humidity to an unsafe level. Per the WRC's recommendation and given the fact that humidity levels in Hawassa are relatively low, Everest installed fans to ensure adequate cooling in the ironing section. The WRC is monitoring to ensure that these measures adequately address unsafe heat levels in the factory.