

Did Dreams Come True?

Follow-up Investigation of Yiuwah Stationary

China Labor Watch

April 2010

China Labor Watch

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I. Executive Summary

China Labor Watch (CLW) conducted follow-up in-depth investigation of Yiuwah Stationary through offsite interviews and found incompliance with pertinent labor laws in China on issues including overtime hours, social insurances and work safety. CLW urges Yiuwah Stationary and companies which outsource to Yiuwah, such as Walt Disney Company and Tesco PLC to further implement effective remediation plans to address these issues.

This investigation report is a summary of follow-up of an initial investigation in April 2009. CLW conducted in-depth investigation of Yiuwah Stationary due to a deadly accident where an under-aged laborer was crushed to death while operating a cutting machine on April 5, 2009. In the investigation of 2009, CLW found that child labor is a widespread problem and ignorance of work safety creates huge risks to occupational health and safety. Additionally, workers face inhumane treatments concerning excessive work hours, low salaries and poor accommodation conditions. After the publication of the report, CLW wrote open letters to Disney and Tesco respectively. Tesco did not respond while Disney investigated working conditions in Yiuwah and reported progress of improvements through open letters. According to the findings of CLW's follow-up in-depth investigations, Disney's remediation plan has made noticeable progress yet failed in many ways.

Through offsite interviews with workers of Yiuwah Stationary, CLW found that:

- The employer retains workers' ID card for 3 days upon recruitment;
- No health examination or effective training is provided before direct assignment to a post or during employment given a need of operating machines and occupational hazards;
- Employees are at the factory for at least 87 hours per week while working for at least 72 hours during peak seasons with mandatory overtime on Saturdays and sometimes on Sundays;
- Employees get paid as low as \$0.66/hour;
- Some workers do not have social insurances;
- Maternity leave is sometimes denied;
- Machinery is not subject to regular maintenance;
- Dormitory conditions are poor and each room houses 10-14 workers on average; and
- The approval of resignation tends to be delayed for up to 2 months during peak seasons.

In comparison with working conditions found by CLW in April 2009, improvements were made regarding age limits, the signing process of labor contracts, overtime wages, working overtime on holidays, paid annual leave and refunds of monthly meal plans. However, Yiuwah Stationary did not effectively address the problem of workplace safety which was a direct cause of the deadly accident of April 2009. In addition to a lack of workplace safety,

conditions regarding excessive overtime hours, low salaries and poor dormitory conditions were not improved. Many of the practices do not conform to pertinent labor laws in China nor the ethical standards adopted by Disney or Tesco. CLW urges Disney and Tesco, in collaboration with Yiuwah, to further implement effective remediation of non-compliance and unsatisfactory working conditions.

II. Background

The initial investigation was triggered by a deadly accident on 5 April 2009 when a 17-year-old factory worker, Liu Pan, was crushed to death due to malfunction of a machine which he was operating. Liu Pan has had been illegally hired at the age of 15 and worked in the factory for two years prior to the deadly accident.

Liu Pan's death unveiled a widespread use of underage laborers, a severe lack of workplace safety and other inhuman working conditions in Yiuwah Stationary. In the report of April 2009, CLW pointed out problems on child labor, disregard for labor contract, extremely low salaries, excessive forced overtime, a lack of training, a lack of explanation on occupational health and safety, malfunctioning and outdated machines and poor dormitory conditions.

In response to CLW's report of April 2009 and a letter of 7 May 2009, Walt Disney Company, whose licensees and sourcing agents then worked with Yiuwah Stationary to produced Disney-braded products, confirmed violations of workers' rights especially on issues such as machines safety as well as child labor and promised to implement "an effective and sustainable remediation plan."¹ In July 2009, Disney addressed improvements made by the factory as well as ongoing remediation plans. According to Disney, Yiuwah Stationary has made improvements on age limits, machine safety, safety training for machines operators, paid vacation, wages and work-related injury insurance.²

Employees at Yiuwah demand for better working conditions and CLW encouraged Disney and Tesco to make a difference of worker's lives. While "every little helps" has been seen on receipts and bags mainly in the United Kingdom and around the world, does Tesco ever think about doing a little bit more to improve working conditions in its supplier factories as every little bit would in fact help workers' lives? While these workers produce for Disney whose famous slogan is "dreams come true," did Disney's remediation plans make the workers' modest dream come true? In order to verify improvements and re-evaluate working conditions at the factory, CLW conducted monthly follow-up in-depth investigations based on offsite interviews since April 2009 and synthesized investigation results in April 2010.

¹ For the Walt Disney Company's letter of 21 May 2009 to China Labor Watch, please go to <http://www.chinalaborwatch.org/images/Disney%20Letter.pdf>

² For the Walt Disney Company's letter of 30 July 2009, please go to <http://corporate.disney.go.com/files/Yiu-Wah-Factory.pdf>

III. Factory Profile

Yiuwah Stationary is a medium-sized Hong Kong-invested factory founded in 1987. The factory recruits more than 2,000 employees. Yiuwah specializes in color printing and book binding. It supplies greeting cards, totes, notebooks, address books, gift boxes, stationary, calendars, posters, photo frames, photo albums, poly handicrafts and other paper goods to clients such as Walt Disney Company and Tesco PLC. Yiuwah Stationary exports its products to the United States, Canada, Germany, Belgium, Australia, Japan and Southeast Asian countries.

Factory contact information

Location: Nanchang Road, Wang Niu Dun Chi Jiao Village,
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IV. Findings

1. *Recruitment: illegally withholding workers' IDs*

Concerning the recruitment process, Yiuwah violates the Article 9 of the Labor Contract Law in China as it retains workers' ID card for 3 days upon recruitment. Yiuwah also violates Article 52 of the Labor Law in that the factory does not provide education on work safety and sanitation as required by the Labor Law.

Yiuwah sets the minimum age for employment as age 16 which is in compliance with the Labor Law in China. Valid ID cards are required for job application. During the recruitment process, an eligible applicant with a valid ID card is required to fill out a personal information form and then he/she will be invited for an interview with a manager. During the interview, the manager carefully explains the system and regulations of the factory. If the applicant accepts the system and regulations, he/she passes the interview. Then a representative from the human resource department retains his/her ID card for 3 days in order to verify the validity of the ID card. Retaining workers' ID cards is illegal under the Article 9 of the Labor Contract Law which provides that an employer may not retain an employee's ID card.

A worker signs a 2-year labor contract with a probationary period of 2 months on his/her first day at work. The contract is made in 2 identical copies, one held by the factory and the other held by the worker.

Health certificates are not required upon recruitment. No health inspection or training is provided to employees prior to working at workshops while the Labor Law requires employers to educate employees on work safety and sanitation.

2. *Work hours: illegal excessive overtime*

Work hours at Yiuwah well exceed the permissible maximum work hours provided in the Labor Law. The Article 36 of the Labor Law provides that laborers shall not work more than 8 hours per day, 44 hours per week. According to the Article 41 of the Labor Law, maximum permissible overtime is 1 hour per day. Under special conditions, employers can extend work hours for no more than 3 hours with a maximum permissible overtime of 36 hours per month.

In Yiuwah, regular work hours are within the legal limit while overtime hours and work hours per week well exceed permissible maximum provided by law. Employees are at the factory 14.5 hours per day, while working 8 hours with additional 4 hours overtime during peak seasons. That totals at least 87 hours per week at the factory, with 72 work hours. During off-seasons, they were at the factory for at least 81 hours per week, working for 66 hours. Employees are required to work overtime for more than 4 hours per day during peak seasons and for 3 hours during off-seasons with mandatory overtime on Saturdays. That totals more than 100 hours overtime per month, which well exceeds the maximum permissible overtime hours of 36 hours per month as provided by the Article 41 of the Labor Law. Both the overtime hours per day and per month well exceed permissible overtime hours.

Work hours at the assembly department and paper cutting department

08:00-12:00	4 hr	Working
12:00-13:30	1.5 hr	Lunch break
13:30-17:30	4 hr	Working
17:30-18:30	1 hr	Dinner break
18:30-22:30	4 hr	Working overtime
or later		* 18:30-21:30 during off-seasons

Workers at the assembly department and paper cutting department work from 8 am to 12 pm in the morning, from 1:30 pm to 5:30 pm and from 6:30 pm to 10:30 pm or later overtime in the evening during peak seasons, with a total of more than 110 hours overtime per month and over 130 hours per month during peak seasons. During off-seasons, they work overtime until 9:30 pm. During the past one year, employees at the paper bags department stayed up all night for work three times and worked until midnight for a couple of times.

Work hours at the printing department and die cutting department

Day Shifts			Night Shifts		
08:00-12:00	4 hr	Working	20:30-23:30	3 hr	Working
12:00-13:30	1.5 hr	Lunch break	23:30-00:00	0.5 hr	Break
13:30-17:30	4 hr	Working	00:00-8:00	8 hr	Working
17:30-18:30	1 hr	Dinner break			
18:30-22:30	3 hr	Working overtime			

Departments such as the printing department and die cutting department adopt a shift work schedule. Daytime shifts run from 8am to noon, from 1:30 pm to 5:30 pm and from 6:30 pm to 9:30 pm. Night shifts run from 8:30 pm to 8:00 am with a break from 11:30 pm to midnight. Workers switch shifts every 2 weeks. Workers at the die cutting department receive a stipend of \$0.44 per night shift, while those at the printing department receive a stipend of \$1.17 per night shift.

The employees are required to work overtime on Saturdays and need to get approval for skipping overtime work. They rarely work overtime on Sundays. If they happen to be required to work on Sundays, they can have Tuesdays off for working overtime on Sundays. Basically the employees do not need to work overtime on holidays.

3. *Wages: low salaries*

Employees' hourly wage is \$0.66. Base pay and overtime hourly wages, albeit low, are in compliance with the Labor Law. Regular workers with full attendance earn \$190-205 per month. The average monthly earning includes base pay and overtime payment. Base pay for regular workers is \$113/month, which is approximately as much as the legal minimum wage in Dongguan City. Base pay differs in accordance to job levels and there is an annual promotion which is based on an examination.

Overtime hourly wages are in compliance with the Labor Law. The overtime hourly wage on weekday is 1.5 times the workers' regular hourly wage and that on weekends is 2 times the workers' hourly wage. Salaries are paid via wire transfer. Employees get pay slips which specify weekday hourly wages, weekday overtime hourly wages, weekend overtime hourly wages and insurance deduction. Although salaries are no less than legal minimum monthly wages, the earnings are still extremely low. It is impossible for workers to support their living expenses with base pay.

Living expense in the area costs around \$172 per month for a single person while the base pay is \$113/month. Even if an employee live in the dorms and dine in the canteen, it would cost around \$165 per month.

Expense	Cost per person (USD)
Food	57

Rent and utility	26
Housekeeping supplies	4
Apparel	11
Communication	7
Travel	27
Social insurance	15
Miscellaneous	25
Total	172

4. *Benefits: poor benefits packages*

The factory violates the Labor Law as it only buys social insurance for workers, who have been employed for more than 6 months. According to the Article 70 of the Labor Law, the social insurance system provides laborers with assistance and compensation in events of work injury, unemployment, illness, maternity and old age. The Article 72 requires employers and laborers to participate in the social insurance program. However, the factory only covers social insurance for employees belonging to the factory for a longer period and it is optional. Employees decide whether they want to buy pension insurance and medical insurance. If one decides to buy pension insurance, the factory deducts \$13.91 from his/her salaries. If one decides to buy medical insurance, the factory deducts \$13.91 from his/her salaries. More than 50% of employees do not have medical insurance. There were 2 workers who have been working for 4 months and have not gotten social insurance. Newly employed workers do not enjoy social insurance benefits to which they are entitled under the Labor Law and thus they have no ways to mitigate risks of threatening their livelihoods.

Employees enjoy paid annual leave. Maternity leave is provided in the factory's regulations while the approval of maternity leave varies on a case-by-case basis. If the management does not approve a worker's maternity leave, the worker will need to take days off as unpaid personal leave.

5. *Workplace safety: a hazardous work environment and a lack of education*

According to the Labor Law, the Article 69 provides that employers should offer occupational training for technical workers and the Article 52 provides that employers should educate laborers about workplace safety and health in order to prevent work injury and occupational diseases. In addition to training and education, the Article 54 requires employers to provide regular health examination for employees who work under occupational hazards and the Article 65 provides that such health examination are mandatory for workers between age of 16 to 18.

Yiuwah does not conform to regulations regarding workplace safety. In Yiuwah, there are

a large number of workers under age 18. Employees operate heavy-duty machines and are constantly exposed to mechanical as well as chemical hazards. However, no health examination or effective training is provided before direct assignment to a post or during employment. There are manuals for operating machines but there is no handbook or training for employees other than machine operators. Regarding training for machine operators, the so-called training is actually a paper test. The factory distributes answers in advance and let employees write the test. Workers do not memorize the content of the test at all. The factory does not distribute handbooks on workplace safety, occupational hazards or occupational diseases.

Employees at the paper cutting department do not receive gloves or masks. At the printing department, there is a very heavy smell of printing ink and masks distributed by the factory do not help much. Despite that salaries at the printing department are a little higher than those of other departments (given the night shifts stipend of \$1.17 per night shift,) young employees are unwilling to work at the printing department. Moreover, machines are not subject to regular maintenance.

6. Food and accommodation: poor dormitory conditions

The food provided by the factory is vegetarian and is described as very awful. A monthly meal plan costs workers \$17.58. If a worker chooses to eat elsewhere, he/she needs to inform the management and the management will not deduct \$17.58 from their salaries. If a worker does inform the management that he/she does not eat in the canteen, the factory will not deduct \$17.58 from his/her salary.

Dormitory conditions are poor. There are 8 double-deck bunk beds in each room and each room houses 10-14 people on average. Shared restrooms are located on the first floor of the dorms. Dormitories are usually unlocked and cases of theft happen sometimes.

7. Quitting procedures

The length of a pending period of resignation approval depends on whether it is during peak season and whether there is a shortage of workers. If it is during peak seasons and the factory faces a shortage of workers, managers would delay resignation approval. There is one case at the die cutting department where a worker's resignation application was delayed for 2 months.

V. Discussion: a pressing need for further remediation

Compared with the findings of April 2009, labor rights conditions in April 2010 have improved on aspects of the usage of child labor, labor contracts, overtime wages, working

overtime on holidays, paid annual leave and meal plan refunds. The factory has made moderate improvements regarding mandatory overtime and insurances. Yet the factory has made no improvements regarding wages, maternity leave, technical training, education on workplace safety, machine safety, health examination and dormitory conditions.

A comparison of labor conditions between April 2009 and April 2010

Issue	Status	April 2009	April 2010
Child labor	Improved	No age limits	Min. age of 16
Seizure of ID	NA	NA	Recruiter seizes workers' ID cards for 3 days.
Labor contracts	Improved	Disregard for contracts	Workers sign contracts on the first day.
Wage	No improvements	\$113/month	\$113/month
Overtime wages	Improved	Illegal overtime wages	Legal overtime wages
Excessive mandatory overtime	Moderate improvements	Mandatory overtime on Saturdays and holidays	Mandatory overtime on Saturdays and sometimes Sundays but no overtime on holidays
Paid vacation	Improved	Paid vacation routinely denied	Paid annual leave
Maternity leave	No improvements	Maternity leave may be denied	Maternity leave may be denied
Insurance	Moderate improvements	Many workers were unaware of eligibility of buying social insurance.	The factory only covers social insurance for workers employed more than 6 months .
Technical training	No improvements	No training provided	Ineffective training provided for machine operators
Education on workplace safety	No improvements	No training or handbooks explaining occupational hazards	No training or handbooks explaining occupational hazards
Machine safety	No improvements	Outdated and malfunctioning machines with no regular maintenance	Outdated and malfunctioning machines with no regular maintenance
Health examination	No improvements	No health examination	No health examination
Meal plan refunds	Improved	No refund for meal plans even if workers	If a worker decides not to eat in the canteen, a

		do not eat in the canteen	meal plan of \$17.58 will not be deducted from his/her salary
Dormitory conditions	No improvements	Up to 14 people living in one room with poor conditions	Up to 14 people living in one room with poor conditions
Quitting procedures	NA	NA	Delayed quitting procedures

Among all key issues of human rights violations disclosed in the reports, workplace safety requires most attention. In 2009, one of the primary issues revealed by the deadly accident was a lack of machine safety. In July 2009, Disney noted that the factory has implemented safety training for machine operators and will provide more training in the future. However, from interviews of workers, CLW found that safety training for machine operators is the only training the factory provides. Moreover, the so-called training is merely a paper-based test of which correct answers are distributed in advance and machine operators are required to just fill out the test. Workers do not learn from the test. In addition to the ineffective machine safety training, there is still no regular maintenance of machines which are in fact outdated and sometimes malfunctioning. Employees are still exposed to mechanical and chemical hazards with no education and no effective training on occupational health and safety. The factory does not provide regular health examinations. On top of a lack of preventive measures and a lack of ways to detect risks, some employees are unable to mitigate risks as they do not have social insurances. With no social insurances and extremely low salaries, workers might not be able to support their living expenses in events of work injury, illness, maternity or old age.

The practices of Yiuwah Stationary do not conform to not only the Labor Law of China as well as the Labor Contract Law of China but also the Code of Conduct of the Disney and Tesco. According to the Disney’s Code of Conduct for Manufacturers, employers should not require employees to work longer than the limits on regular and overtime hours allowed by local laws except in extraordinary business circumstances. In Yiuwah Stationary, employees work 100 hours overtime per month and more than 124 hours per month during peak seasons while the permissible overtime hours per month are 36 hours. Overtime hours during both peak seasons and off-seasons well exceed permissible overtime hours. Moreover, Disney’s Code also required manufacturers to “provide employees with a safe and healthy workplace in compliance with all applicable laws and regulations.”³ However, the findings of our interviews show that the factory has not made much improvement on workplace safety and relevant training.

Tesco adopts ethical standards provided by the Ethical Trading Initiative Base Code (ETI Base

³ “The Code of Conduct for Manufacturers.” The Walt Disney Company, January 2007. http://corporate.disney.go.com/media/corporate/compliance/languages/Code_of_Conduct_English.pdf

Code) and assesses suppliers to ensure they meet the ethical standards.⁴ According to the Article 1 Section 2 of the ETI Base Code, it is not allowed for employers to retain workers' identity papers while Yiuwah withholds workers' ID cards for 3 days upon employment. The Article 3 Section 1 requires employers to provide "a safe and hygienic working environment" and take measures to prevent occupational injury and health problems. The Article 3 Section 2 regulates that employers shall provide "regular and recorded health and safety training." Yet employees in Yiuwah constantly face mechanical as well as chemical hazards with little protection, no effective training and no health examination. The Article 6 Section 8 provides that overtime shall not exceed 12 hours per week while overtime hours in Yiuwah are at least 25 hours per week.

VI. Conclusion

Yiuwah Stationary does not conform to pertinent labor laws in China as employees face situations of seizure of ID cards, excessive mandatory overtime, low salaries, denial of maternity leave, a lack of insurance coverage, a lack of training and health examination, mechanical as well as chemical hazards, delayed quitting approval and poor dormitory conditions. Most of the labor rights violations and inhuman treatments violate the Labor Law and the Labor Contract Law in China and fail to meet the ethical standards adopted by Disney and Tesco.

As a responsible corporate, Disney has investigated the working conditions in Yiuwah and the factory made improvements especially of issues on child labor and overtime wages. Yet major problems such as excessive mandatory overtime hours and a lack of workplace safety are not resolved. The companies and the factory need to design effective training and education programs addressing machine safety and occupational health as well as safety. To reduce risks of occupational injury, the factory should provide training for machine safety and regular maintenance of machines. To reduce risks of occupational disease, the factory should implement education programs on occupational health, require employees to use protective equipments, and provide health examination. The factory should also provide social insurance as a way for workers to mitigate risks. In addition to workplace safety, the factory should improve its management on granting maternity leave and resignation. The illegal requirement of excessive overtime hours should be improved. Working condition can also be improved by raising hourly wages and the quality of food and accommodation.

CLW calls for Disney and Tesco, in collaboration with Yiuwah Stationary, to design and implement effective remediation plans to address these issues. The companies need to not only ensure proposed plans are in place but monitor the quality of implementation and evaluate the effects.

⁴ Tesco explains on their website under corporate responsibility section that they assess suppliers to ensure they are able to meet standards provided by the ETI Base Code.
http://www.tescocorporate.com/plc/corporate_responsibility_09/your-questions-answered/
For the ETI Base Code, please go to <http://www.ethicaltrade.org/resources/key-eti-resources/eti-base-code>

Annex 1: CLW's letter to Tesco



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September 18, 2009

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To Whom It May Concern:

On June 22, the New York Times cited Tesco as a customer of Yiuwah Factory, where the tragic death of a child laborer in April shocked international onlookers. On July 30, another international customer at Yiuwah, Disney, pledged to address all of the major concerns that we found in our investigation of the factory following Liu Pan's death. Tesco is just as responsible as Disney, and we write to you today to inform you of CLW's recent follow-up investigation at Yiuwah which reveals that in spite of some changes, **Disney's plan has failed** in several serious ways.

Child labor and safety problems at Yiuwah led in concert to the tragic death of Liu Pan. The factory has, in fact, made changes in these areas. During the recruitment process, the factory now collects IDs for one week of inspection. Nevertheless, workers tell us that **underage workers are still employed**. Regarding safety, the factory now offers safety training to workers who operate machines, but not other workers. This training consists of a brief talk by the section leader and a few pages of materials with blurry handwriting. **Many workers do not take the training seriously and throw away the materials** or stash them under their beds after. Of course, training is a process, however, Yiuwah has still not achieved an adequate level of success given the high stakes of worker injury.

In addition to these more shocking violations are equally serious forms of abuse that continue at Yiuwah- issues like **illegal wages and a social insurance** policy which, unlike child labor and safety training, can be immediately revised. Worker salaries have not changed and **still fail to meet minimum wage standards** for overtime wages which are only 4.8 RMB/hour for regular, weekend and holiday overtime. These wages fall short of wage requirements of 6.56 RMB/hour for regular overtime, 8.75 RMB/hour for weekend overtime and 13.12 RMB/hour for holiday overtime. This policy can and should be changed immediately.

Workers are also **denied their legal right to purchase social security or medical insurance**. The factory limits the number of workers who can purchase this insurance,

and workers are told that they must wait until older workers retire before they will have this right. Some workers have waited 2 years and are still unable to purchase insurance.

Has Tesco been aware of this situation in its supplier factory? Has Tesco audited the factory since the incident to investigate whether conditions have improved? In reality, Disney purchases only 10-15% of product at Yiuwah, which represents limitations to what Disney can achieve there. Given Tesco's size, power, and clearly stated dedication to Corporate Responsibility, your company has a responsibility to assist Disney in promoting meaningful change at Yiuwah.

We look forward to a conversation with Tesco about how to improve factory conditions at Yiuwah, and Tesco's procedures for factory monitoring and remediation. You may contact CLW at clw@chinalaborwatch.org or reach us at 212-247-2212.

Sincerely,

Li Qiang
Executive Director