

**Written Testimony Submitted by
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Introduction

Thank you for the opportunity to present our testimony on the plight of China's factory workers. We have all read the scandalous news in recent months of the dangers to US consumers of toys made in China's factories, with revelations of lead paint and other toxic and hazardous substances on Thomas the Tank Engines, baby bibs and even children's clothing. We should be very concerned with the health and safety of our children, who innocently trust in the safety of their pretty toys.

We are here today to give voice to others who are barely more than children and who are also tragic victims of the global toy industry. These are China's toy factory workers.

The International Labor Rights Forum (ILRF) has long fought to give voice to the abusive conditions faced by factory workers in China and around the world. Over the past decade we have worked closely in solidarity with China's factory workers. I have traveled to China's industrial centers in Guangdong province many times, have visited many factories and spoken directly with many dozens of workers. We have also made it possible for Chinese factory workers to speak on their own behalf in front of public audiences in the United States, to explain first hand the abuses they suffer in the completely unregulated export factories of southern China.

These are the workers who apply the lead paint to the toys and who breathe the paint fumes day in and day out. They operate the machinery that produces the plastics for the toys, and breathe and touch those toxics as well. Almost never are they given protective gear or masks- most would not know what protective gear looks like. They live and work in industrial slums that often resemble the images in Charles Dickens' novels, crowded,

almost unbearably polluted, and with limited access to clean, safe water.

Here are the hard facts and figures. There are approximately 8,000 toy factories in China today, employing more than three million workers. Most of these factories and workers are in the Pearl River Delta area of southern China. Virtually every American toy company produces its wares in this region. Mattel, Hasbro, Fisher-Price, Toys R Us, and Disney are all well documented end users of China's toy factories. The value of China's toy exports to the US market alone is estimated in excess of \$15 billion dollars per year. As I will explain, however, our concern is not simply with the brands, but even more principally with the retailers of these toys, who bear the most responsibility for the horrific conditions under which they are produced. Of these, the single biggest toy retailer by far is Wal-Mart. Wal-Mart alone has annual toy sales of approximately \$7.4 billion. Most of these toys, like most toys retailed in the US, are made in China. And Wal-Mart bears a lion's share of responsibility for pushing the toy industry into a region where product safety and worker safety inspection is virtually nonexistent. The Wal-Mart model of doing business, as I'll explain, is precisely to push suppliers to produce in corners of the world where they can escape the costs that are inherent in providing protections for consumers or protections for workers.

Eric Clark's excellent book "The Real Toy Story" documents the life story of one typical toy factory worker, and our own allies in China have documented many dozens of similar stories. I'd like to quote from Clark's moving and detailed description of the 18 year old worker he met: "Li Mei soon had small wounds on her hands and elbows, burn marks on her uniform, her shoes, and socks. When they moved her to trimming plastic toys with small sharp knives, she often cut herself, once so badly that her hand bled heavily but the medical box was locked. Rather than pay at the clinic, she bound up the wound in a bit of cloth. Much worse things happened: workers in the die-casting and moulding department lost fingers and even arms, while hole-making workers often had their hands punctured and crushed because they had no reinforcing gloves."

Our allies in south China have conducted systematic research on the area's toy factories throughout 2007. The results to date indicate repeated and endemic violations of China's basic labor laws in every single factory. Compulsory overtime with inadequate and illegally low compensation is prevalent. Workers routinely work 10 to 14 hours per day during the busy season. Because of a system of illegal fines and fees, workers actually receive well below the region's mandated minimum wage. Very few workers are covered by government-mandated medical insurance or pension funds. Employees suffer verbal and sometimes physical abuse and sexual harassment.

On the subject of these workers' safety and health, things are particularly grim. Toy factories routinely fail to provide information or training to workers using chemicals at their work posts. Hundreds of workers that surveyed by our Chinese partners reported that they are subjected to harmful chemical substances. These workers may be at risk of lead poisoning, plastic poisoning or welding accidents.

To cite the example of one of the factories we surveyed, the Duoyuan factory making Hasbro toys: Every day, workers are required to move bundles of PVC materials between departments. Each bundle averages about 100 lb. and workers describe these jobs as extremely fatiguing and not fit for the average workers. Production departments are installed with large machines, and workers are denied the necessary training to operate these machines. Induction heating machines and cutting machines are particularly high-risk. However, the only warning notice posted on this machinery reads, “Careful of high temperature.” Chemicals such as paint and dilutants are used in the silk print department. However, the company does not provide any related chemical information nor does it distribute any safety equipment.

Another toy company that we investigated, Yu Bao, would ask workers to make a Faustian bargain just to obtain their jobs. The company keeps two contracts for each worker. The company’s first contract with the worker is used to hand to factory inspectors when they visit. The other is the real contract with the worker. The real contract stipulates the following: “During working hours, in case of injuries and/or disabilities as a result of not following the (machine) operating rules, which the supervisor certifies to be true afterward, the first party (the factory), without exception, does not grant or bear any responsibility, and without exception, the second party (the worker) is himself responsible.” The same contract stipulates that workers must work for 12 hours, seven days per week, and if a worker fails to report for this entire period of duty for any reason then “without exception, the first party (the company) has no relationship (with the employee); and the second party (the employee) must not for any reason raise the issue of litigation.” In other words, if a worker is severely maimed on the job and must leave her post to obtain medical emergency treatment, she is regarded as terminated and has signed away her rights to bring a case forward for any damages. Why would any manager ask a worker to sign such a contract, except that such clauses are actually likely to be invoked? As if all of this were not enough, Yu Bao compels workers to stay on the job by withholding some of their pay as a ‘security.’

Another typical Chinese toy factory is Lee Der Industrial, a supplier to Mattel and now infamous. Lee Der was forced to close down due to excessive lead in its products. This caused immediate unemployment of all Lee Der’s workers; no mention was made as to whether any lead poisoning they may have suffered would be treated. To find out, recently, our Chinese partners traveled to the factory site and interviewed some ex-Lee Der workers. None of the workers knew anything about the materials (including lead) that they were using during production. They had not been informed why the factory closed nor given any information related to the poisoning they may have suffered.

Why do workers accept these jobs? The country’s enormous and desperate population of unemployed have no choice. With well over a billion people, of course China has the world’s largest labor force. In addition, despite the GDP growth rates that appear on paper, there are nowhere near enough jobs, so most of those billion plus people are barely surviving. In the countryside, where 900 million of those people live, the land cannot

support the growing population. Even those peasants who had been getting by are now faced with competition from foreign agricultural markets, a result of expanded trade ties and China's recent entry into the WTO, and that will put tens of millions more out of work. These tens of millions will flee to urban areas to seek work. However, China's cities are also plagued with vast number of unemployed. Again as a result of free market pressures, many of China's state owned enterprises have gone out of business in recent years, creating an even greater pool of unemployed and increasingly desperate workers.

Yes, these workers need jobs. However should we condone the rush to profit from this desperation? We believe there must be global regulations in place that keep powerful corporations from maximizing the profits they can wring from human misery. ILRF is not an organization that opposes global trade, per se, but we cannot ignore the fact that the reason why virtually every US toy company has chosen to produce in China is because of a 'race to the bottom.' The stories and statistics on China's workers that I have cited here today are no secret to Hasbro, Fisher-Price and certainly not to Wal-Mart. These name brands and retail giants have access to the most sophisticated possible information on every aspect of China's economy, including comprehensive data on the nature of China's desperate labor force and vast unemployment problem; these companies are also privy to excellent data on the number of China's labor inspectors, the number of product safety inspectors, and the overall current inspection capabilities of the Chinese government. Multinational corporations seek out production destinations precisely where there is little or no regulation of labor or environmental conditions. Let me restate this: Wal-Mart and the world's major toy brands and retailers are not producing in China despite the lack of meaningful product or worker safety regulation- they are there precisely because of it.

Lest this seem too dramatic a statement, let me cite the example of the US business lobby's efforts to impede improvements to China's labor laws. The Chinese government recognizes the problems faced by its workers. With the assistance of several labor experts, last year a new labor contracts law was drafted to provide basic labor law coverage to the country's growing private sector workforce. The US Chamber of Commerce in China, on behalf of its corporate members, opposed the new draft law and lobbied to weaken the protections the Chinese government sought to instate. China would not be as attractive a production destination to US toy retailers were its workers actually provided with basic legal protections.

The companies that make up the US Chamber of Commerce, and more broadly the companies that consume cheap Chinese goods and hook US consumers on the habit of these cheap goods, do not like regulation. Typically they prefer their consumers to rely on voluntary measures, 'codes of conduct.' This is a device we see used, for example, by Wal-Mart today to explain why binding regulations are not needed to correct human rights abuses. Collectively the various codes and monitoring initiatives that have emerged over the past two decades are referred to under the broader rubric of "Corporate Social Responsibility," or CSR.

In a new report which ILRF just released yesterday, we document the systematic failures of Wal-Mart to enforce its so-called ethical standards in its supplier factories around the world. Key findings include:

- **Decreasing Percentage of Factories Rated Green:** The number of factories rated green (as having no or low-risk violations) had been consistent at 21% for the first two years that data was available, decreased to 10% in 2005 and to only 6% in 2006. Wal-Mart explains the dramatic shift as resulting from increasing standards for factories. However, it is more likely that the factories that actually complied with ethical standards did not meet Wal-Mart's demand for the cheapest possible product, and that Wal-Mart therefore ceased doing business with the more ethical factories.
- **Decreasing Number of People Trained by Ethical Standards Staff:** The number of suppliers and factory management personnel trained by ethical standards staff increased from 4,644 in 2003 to 11,000 in 2005, a significant increase in the number of people being made aware of the Standards for Suppliers. In 2006, however, training was cut in half. Only 5,000 suppliers and members of factory management were trained that year.
- **Recurring Violations:** The 2004, 2005 and 2006 company reports listed some common and repeated violations that are "related to legally required benefits not being paid," "workers not being paid for all hours worked," and "the use of double books to hide the number of hours worked." Wal-Mart describes these common violations as "Global Challenges and Trends." The "double books" violation is particularly telling since it reveals that suppliers and factory management officials recognize that they are violating labor rights standards and laws.

One of the challenges of analyzing Wal-Mart's Ethical Standards program, and the extent of violations against workers throughout its supply chain, is the lack of accurate information available to the public. Information on sourcing policies and practices is conspicuously absent from the Ethical Standards Reports. It is not clear how Wal-Mart decides which factories to use, and it is not evident that its sourcing practices have changed in response to repeated sweatshop exposes. Pressures on suppliers to produce goods quickly and at the lowest possible cost necessarily lead to excessive overtime and illegally low wages due to Wal-Mart's unreasonable deadlines for orders and demands for ultra-low prices.

On health and safety issues, Wal-Mart and other toy brands' codes of conduct and auditing systems are particularly inadequate. We have worked for several years now with trained occupational health and safety experts who led a training program within south China's factories. They found an enormous lack of basic information in these factories, not only among workers, but also among factory management. Neither retailers nor brands bother to provide factory managers with information they have on such dangers as

lead paint exposure. While companies claim to protect workers' safety and health through their codes of conduct, most companies do not take even the first steps to encode meaningful standards that specifically identify hazardous substances and train or even suggest to factory monitors how to inspect for occupational illness. I have actually accompanied company monitors on their factory inspections so I can attest to the fact that nowhere in the standard questionnaire do company auditors ask such questions as what are the factory's accident rates, what are the rates of illness among workers, what are the systems for hazard communications, what procedures are in place to limit exposures to chemicals, etc. Health and safety inspectors with whom we work report that many toys are hand-painted by workers who stand over the toxic fumes applying paint to the toys for up to 20 hours per day! If Wal-Mart and other toy retailers had been measuring illness rates among their factory employees, might we consumers have known much sooner that there were problems here?

Surely we can do better than to leave these horrific abuses to the 'free market' to address through such weak and voluntary efforts. None of the systems noted above contain any truly meaningful sanction for bad behavior. As we have seen first-hand in our current case against Wal-Mart, retailers who have played such a strong role in the development of voluntary systems are usually loath to see such systems assist in holding the companies themselves legally liable for non-compliance with local labor laws. This alone is evidence enough that local law enforcement is not the answer.

Why hasn't Walmart been here before you testifying? They are the largest customer for all these brands that have been named, they are the ones who have pushed these companies overseas. Let's tell the story of Huffey Bikes as an example of how the company's price pressures led directly to an unsafe product for consumers, and the flight of a company from good factory conditions where labor laws were enforced to a place where workers could be exploited. What happened to Huffey is also the story of many a toy manufacturer.

Despite making bikes in the United States for many years, Huffey was forced to close three factories and lay off thousands of workers. Huffey could not compete with cheap bicycles coming from China. Celina, OH, where a large Huffey factory was closed, was hit particularly hard by the demand for low cost bicycles. Celina Mayor Paul Arnold said "... [Wal-Mart's] demand for cheaper bicycles drove Huffey out of Celina. [Mansfield News Journal, 12/8/03]

- **After Filing for Bankruptcy, Huffey is Now Partly Owned by the Chinese Government.** After Wal-Mart's unfair demands pushed Huffey into bankruptcy, the Chinese government's export credit insurance agency, known as Sinosure, took control of 30% of the company's stock options. Sinosure executive vice president Zhidong Liang will be Chairman of the Board and over the next five years, Sinosure is expecting to control more than 50% of the company. As part of the deal, Huffey's pension plan was dismantled and its current and former employees must seek assistance from Pension Benefit Guarantee Corporation.

[Daily Deal, 10/18/05; Bicycle Retailer and Industry News, 10/1/05]

According to Gary Gereffi, a Professor of Sociology at Duke University, “Wal-Mart is telling its American suppliers that they have to meet lower price standards that Wal-Mart wants to impose. The implication of that in many cases is if you're going to be able to supply Wal-Mart at the prices Wal-Mart wants, you have to go to China or other offshore locations that would permit you to produce at lower cost. ...”

What do we do, then, to stop this relentless race to the bottom? Clearly we cannot rely on voluntary company commitments as the answer. Companies will not respect worker rights unless there are prohibitive legal sanctions in place. Without the fear of such sanctions, companies like Wal-Mart, Mattel and Disney will correctly calculate that it is cheaper to suffer a little bad publicity once in awhile than to provide systematic and meaningful protections for workers and consumers.

As I have noted, the Chinese government has taken steps in recent years to reform its labor laws, and may over time take more such steps. Nevertheless serious challenges to enforcement remain, and may take many, many years to address. In the interval, it is highly likely that if retailers and manufacturers see enhanced worker protections, they will flee to yet more lawless destinations around the globe.

We at ILRF recognize that enforceable global human rights laws are also a dream for a far distant future. We are doing what we can to utilize existing US laws to hold US corporations accountable for abuses suffered by workers overseas. We have used US laws to bring forward cases in US courts on behalf of abused workers in China and elsewhere. We have also worked with US Congress to strengthen worker rights protections in our trade laws, and to push for adequate enforcement of those labor clauses. We applaud the initiative of Senator Byron Dorgan and Senator Lindsey Graham to promote a new legislative remedy for worker rights abuses in the global supply chains that bring consumer goods to the United States, the S.367 Bill to amend the Tariff Act to prohibit the import, export and sale of goods made with sweatshop labor. These are necessary but not sufficient initiatives, and are, of course, vigorously opposed by the same US business community that claims to be implementing ethical standards in its overseas production. We ask why Wal-Mart and the toy brands have not been called upon today to answer for the exploitation of their factory workers overseas? We look forward to a lively, substantive exchange with US corporations on the investments they have made to promote voluntary CSR initiatives, while all the while vigorously opposing enforceable domestic labor laws and enforceable legislation on international labor standards.

Our grateful thanks to the Committee for the opportunity to present this testimony today.