



Piece by Piece

How the Overtime Pay of Piece-Rate Workers
in China is Falling Short

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About Verité

Verité is an independent, not-for-profit social auditing, research, and training organization based in Amherst, Massachusetts, USA. Verité's mission is to ensure that people worldwide work under safe, fair, and legal conditions.

Verité's work includes:

- factory audits for compliance with international standards and corporate codes of conduct;
- research into key questions related to workplace human rights in global supply chains;
- evaluations of supply chain and human rights-related risk for multinational corporations and investors; and
- capacity building for governments, businesses and nongovernmental organizations to improve implementation of labor protections.

Since 1995, Verité has conducted over 1700 comprehensive factory evaluations for multinational corporations and local suppliers in 69 countries; numerous factory-based management training and worker-education programs in Asia, Latin America and the Middle East; and research for socially concerned investors worldwide.

Other research by Verité includes:

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Introduction

The piece-rate worker is an almost universal feature of factories in China supplying to the export market. Verité's experience auditing factories in China since 1995 has indicated that the majority of factories producing goods for export pay production workers by the piece.¹ This method of payment is sanctioned by the Chinese government and is the payment method of choice by factory managers because of its perceived productivity incentives.

While paying workers by the piece can, in principle, offer workers the opportunity to earn more than they would at an hourly wage rate, it also presents serious logistical challenges in terms of overtime compensation. In Verité's ten years of experience auditing hundreds of factories in China, we have found overtime wage payment violations among piece-rate workers to be persistent and widespread. The confusion around compensation for piece-rate work, its susceptibility to fraud, and the variety of laws and regulations that govern wages in China mean that verifying workers' pay under a piece-rate system is extremely difficult. The result is that **workers are denied income that they are entitled to under Chinese law and corporate codes - amounting to at least 13 to 15 percent of their wages**, according to Verité's estimates.

This Issue Brief provides a description of the legal and logistical problems encountered in ensuring that the overtime work of piece-rate workers is properly compensated and the on-the-ground manifestations of those problems that Verité has witnessed during social audits of factories. It concludes with recommendations on how to address the problems.

We hope that, through the provision of this information, Verité's experience with the complexities of the issue and its verification will help to raise awareness among all stakeholders - including multinational brands, factories, the Chinese government, domestic and international labor unions, and international and domestic Chinese NGOs - and help to ensure that piece-rate workers are paid the overtime wages that they are due.

The Problem: Logistical Challenges and Insufficient Regulations

The Logistics

It is important to emphasize at the outset that the proper and fair compensation of overtime work by piece-rate workers is not a simple or straightforward undertaking. Factory managers are faced with a real and legitimate set of logistical challenges to the compensation of piece-rate overtime.

Primary among these challenges is the determination of “overtime” work itself. There are two different national-level regulations that can apply here. The first is the regulation pertaining to work-hour limits. The second is the regulation pertaining to overtime compensation for piece-rate workers. While the former regulation sets clear limits on what shall be considered overtime hours (see details below), the latter regulation establishes that piece-rate workers shall be compensated with overtime premiums *after production quotas are met*. Under the latter regulation, then, it is conceivable that workers might be paid regular wages until they meet the production quota, even if they have to work overtime hours to do so.

A second challenge is in determining the number of pieces produced during the overtime hours. Verité’s experience has indicated that factories seldom track their production outputs in ways that would allow a simple distinction between pieces produced by an individual worker during regular hours as opposed to during overtime hours. Pieces are in most cases still counted by hand, and the mechanisms and arrangements by which pieces are produced vary among and within factories.²

A third - and related - challenge is in determining the rate of pay upon which to base overtime premiums. National regulations state that overtime premiums for piece-rate workers be based on the regular piece-rate wage. However, that wage differs by the type of piece (e.g., sewing buttons on a shirt versus seams on a pair of jeans), and workers regularly produce anywhere from two to 15 or more different types of pieces daily. This reality, combined with the fact that pieces produced during regular versus overtime hours are not generally tracked, means that the documentation necessary to pay piece-rate workers a separate overtime premium for each type of piece produced does not commonly exist.

The Law

China is governed by both national-level and regional-level regulations. While regulations promulgated at both the national and regional levels do address the issue of overtime compensation for piece-rate workers, these regulations fall short of providing adequate guidance.

National regulations require that:

1. No worker shall be paid less than the minimum wage (which is typically measured monthly).³
2. Piece-rate workers receive overtime premiums of no less than 150, 200, and 300 percent of their regular piece-rate wage, *after production quotas have been met*, for work performed during overtime hours, and on days of rest or national holidays, respectively⁴; and that production quotas for piece-rate workers must be “scientific and reasonable.”⁵
3. The regular workweek is eight hours per day, 40 hours per week, and workers must receive at least one day off in seven.⁶

These national-level regulations have potentially significant implications for workers’ pay. The stipulation that overtime premiums shall be paid to piece-rate workers *after production quotas have been met* opens up the possibility that, where workers have not met their production quotas during regular work hours, they may continue to receive regular piece-rate pay (without an overtime premium) during “overtime” hours up until the point at which the production quota is achieved. The level of overtime-premium pay received by piece-rate workers thus would hinge on the level of the production quota, in cases where a production quota is used. Furthermore, there is very little guidance on the setting of production quotas in national level regulations (beyond the requirement that quotas be “scientific and reasonable” - terms that are not further defined in the regulations).

These national-level regulations also create a lack of clarity regarding how piece-rate workers should be compensated for overtime work when production quotas are *not* used.

Verité has analyzed the regulations on overtime compensation of piece-rate workers set forth in nine regions where garment manufacturing for export is common (see Table 1 below). The analysis indicates that, in general, regional guidance reiterates national-level edicts and fails to offer more detailed instructions, with a few exceptions. The regions are: Beijing, Guangdong Province, Jiangsu Province, Shanghai, Shenzhen, Tianjin, Wuhan, Xiamen, and Zhejiang Province⁷.

Most of the regions under study - including Beijing, Guangdong Province, Jiangsu Province, Tianjin, Wuhan, Xiamen, and Zhejiang Province - reiterate that piece-rate workers shall receive overtime premiums after production quotas are met. Only two provide guidance on how to set the production quota: in Guangdong Province, the production quota should be set at a level that could be achieved by more than 70 percent of workers performing the same job in the same workplace within legal work hours; and in Jiangsu Province, by more than 90 percent of workers.⁸

In Xiamen, the regulations provide further guidance on how to ensure that piece-rate workers are paid at least a minimum wage: namely, the regulations state that the total monthly piece-rate wages should be based on the production quota and the unit piece

rate and that these monthly piece-rate wages should be no less than the monthly minimum wage.

In Shanghai and Shenzhen, regulations do not link the awarding of overtime premiums to the achievement of the production quota. These regulations require that piece-rate workers be compensated with overtime premiums of 150 percent, 200 percent, and 300 percent if they are required to work beyond the regular work hours on regular workdays, normal days off when they are not compensated with other days off, and on legal holidays, respectively. Guidance on how to set the production quota is not provided.

Table 1. Regional regulations on the overtime compensation of piece-rate workers

	When do piece-rate workers receive overtime premiums?	Guidance on setting of production quota?
Beijing	– After production quotas are met	– None
Guangdong Province	– After production quotas are met	– Reasonably and scientifically set – Set at a level that could be achieved by more than 70 percent of workers within legal work hours
Jiangsu Province	– After production quotas are met	– Reasonably and scientifically set – Set at a level that could be achieved by more than 90 percent of workers within legal work hours
Shanghai	– For all overtime hours worked	– None
Shenzhen	– For all overtime hours worked	– None
Tianjin	– After production quotas are met	– None
Wuhan	– After production quotas are met	– Reasonably and scientifically set
Xiamen	– After production quotas are met	– Reasonably and scientifically set
Zhejiang Province	– After production quotas are met	– None

In all of these regions, employers are instructed to base overtime premiums on a piece-rate worker’s regular wage during regular work hours.

An examination of how piece-rate workers are compensated in practice sheds light on the adequacy of the above-described regulations.

The Result: Overtime Wage Deficit for Piece-Rate Workers

How Do Deficits Happen?

A straight reading of Chinese legal regulations as detailed above would indicate that the proper method for compensating piece-rate workers for “overtime” work (which can be defined in different ways, as noted above) is to pay them an overtime premium based on the unit piece rates for the particular types of pieces produced. However, as previously noted, this process is not without complication, and in practice most factories do not pay piece-rate workers in this manner. The difficulty in determining which pieces are produced during regular versus overtime hours, joined with the broad nature of the legal provisions on this issue, form a “perfect storm” in which factories have in practice been interpreting the law as permitting a variety of questionable and problematic accounting methods, such as the conversion of total piece-rate wages to the hourly legal minimum wage plus a bonus.

The most common legal violations that Verité has encountered in the compensation of piece-rate workers for overtime are reflected in the table below.

Table 2. Common overtime payment violations experienced by piece-rate workers

Payment Scenarios	What Workers Are Told	What Factory Management Records Show
A	Workers are paid regular piece-rate wages for all hours worked	Workers are paid: a monthly minimum wage + an overtime premium based on the minimum wage + a “production bonus” (which is equal to the amount by which their regular piece-rate wage earnings exceed the minimum-wage-plus-overtime-premium formulation) NB: In some cases, factory managers also underreport the number of overtime hours worked, in order to ensure that the piece-rate wages actually paid to workers conform to the minimum-wage-plus-overtime-premium calculation. ⁹
B	Workers are paid regular piece-rate wages for all hours worked, plus an hourly or lump-sum overtime “subsidy” for overtime hours that does not conform to legal standards	The same as above, except that the production bonus includes a subsidy which is sometimes hourly and sometimes a lump-sum
C	Workers are paid regular piece-rate wages for all hours worked	Factory managers underreport the number of overtime hours worked, and then pay workers an overtime premium based on an hourly average of their total daily earnings ¹⁰

There are two different types of overtime payment violations reflected here: those that can at least potentially be related back to a lack of clarity and guidance in the law, and those that constitute a more conscious attempt to circumvent legal regulations.

In Scenario A, factory managers are paying workers according to the regular piece rate for all hours worked, in order to capitalize on productivity incentives. In order to ensure that they meet the requirements for paying overtime premiums, they calculate what they would have paid workers in minimum wages plus an overtime premium. In almost all cases, workers have actually earned more than this through their piece-rate wages; and so the remaining sum is paid in a “production bonus.” Because the law is not clear on whether this “conversion” to the minimum wage is acceptable, factory managers regularly claim to Verité auditors that they are within legal bounds in employing this practice. In fact this method of payment has become widespread.

Scenario B entails a similar procedure to Scenario A, except that the production bonus includes a subsidy which is sometimes hourly and sometimes a lump-sum.

The latter part of Scenario A, in which managers underreport hours worked by piece-rate workers, as well as Scenario C, constitute more obvious and deliberate efforts to evade the law, since they entail an actual misrepresentation of the number of overtime hours worked by piece-rate workers.

All of these payment methods entail losses of income for piece-rate workers, since in actuality either they are not receiving any overtime premium, or their overtime premiums are not based on their regular wages but rather on the minimum wage or a flat fee.

Overall, overtime wage violations are one of the most common problems found by Verité in social audits in China. In 2005, such violations were detected in 60 percent of factories we audited.

Why Do Piece-Rate Workers Accept Underpayment?

In Verité’s experience, piece-rate workers accept these alternative payment methods for one or more among several reasons. Workers may be unaware of their right to be compensated for overtime at a premium. If they are aware of this right, then workers often do not know or understand precisely the premium to which they are entitled. This lack of awareness and clarity is compounded by the lack of transparency in pay records. Workers are sometimes given payslips, and sometimes not - only 75 percent of factories audited by Verité in 2005 provided their workers with payslips. Even when workers do receive payslips, they are often missing key information or opaquely written such that it would be impossible for a worker to ensure being properly compensated for overtime hours. For example, again in 2005, of the factories audited by Verité that provided payslips, overtime wages were not recorded for 39 percent, overtime hours were not recorded for 30 percent, and regular hours were not recorded for 23 percent.

How Much Pay Are Piece-Rate Workers Losing?

It is impossible to know the true extent of the overtime wages lost by piece-rate workers as a result of improper pay practices and incomplete record-keeping. However, it is illustrative to take the case of a fictitious worker and manipulate the compensation received according to the different schema, to demonstrate the percentage loss in pay under each scenario.

In the example presented in the following table of a worker's monthly hours, this worker worked 176 regular hours, 16 overtime hours on regular days of work, and 32 hours on regular days off - which constitutes a relatively light workload in Verité's experience. For the sake of this example, we will say that this worker produces a constant 120 pieces per hour (although in reality production differs according to piece); and the unit piece rate is a constant RMB 0.025. Recall that the pieces produced during overtime on days of work and 'days off' should be compensated at 1.5 times and 2 times the compensation of pieces produced during regular work hours.

As shown in the calculations, **this worker experiences anywhere from a 13 to 15 percent deficit in pay as a result of improper overtime compensation.** It is important to note that, as the level of overtime increases, so would the percentage deficit in pay. Thus 13 to 15 percent is a relatively conservative estimate of the true cost to workers of these improper pay practices.

Table 3. A comparison of overall compensation levels for piece-rate workers according to different overtime payment methods¹¹

Payment Scenarios	What Workers Are Told	What Factory Management Records Show	Total amount of underpayment vis-à-vis the best-case salary	Underpayment as percent of best-case salary
Best-Case	<p>Worker is paid regular piece-rate wages for work produced during regular hours, and overtime premiums for work produced during overtime hours:</p> <p>176 h x 120 pc/h x .025 RMB/pc = RMB 528</p> <p>16 h x 120 pc/h x .025 RMB/pc x 1.5 = RMB 72</p> <p>32 h x 120 pc/h x .025 RMB/pc x 2 = RMB 192</p> <p>Total RMB 792</p>	same	n/a	n/a
A	<p>Worker is paid regular piece-rate wages for all hours worked:</p> <p>224 h x 120 pc/h x .025 RMB/pc = RMB 672</p>	<p>Worker is paid minimum wage plus an overtime premium based on the minimum wage rate of 2.09 RMB/h¹²; plus a production bonus (which in actuality is equal to the amount by which her regular piece-rate wage earnings exceed the minimum-wage-plus-overtime-premium formulation):</p> <p>176 h x 2.09 RMB/h = RMB 367.84</p> <p>16 h x 2.09 RMB/h x 1.5 = RMB 50.16</p> <p>32 x 2.09 RMB/h x 2 = RMB 133.76</p> <p>Subtotal RMB 551.76</p> <p>Production bonus RMB 120.24</p> <p>Total RMB 672</p>	RMB 120	15.2%
B	<p>Worker is paid regular piece-rate wages for all hours worked, plus an hourly or lump-sum overtime “subsidy” for overtime hours that does not conform to legal standards*</p> <p>224 h x 120 pc/h x .025 RMB/pc = RMB 672</p> <p>48 h x .3 RMB/h = RMB 14.4</p> <p>Total RMB 686.4</p>	same	RMB 105.6	13.3%
C	<p>Worker is paid regular piece-rate wages for all hours worked:</p> <p>224 h x 120 pc/h x .025 RMB/pc = RMB 672</p>	<p>Factory manager underreports the number of overtime hours worked, and then pays the worker an overtime premium based on an hourly average of her total daily earnings.¹³</p> <p>176 h x 3 RMB/h = RMB 528</p> <p>8.75 h x 3 RMB/h x 1.5 = RMB 39</p> <p>17.5 h x 3 RMB/h x 2 = RMB 105</p> <p>Total RMB 672</p>	RMB 120	15.2%

¹¹This table oversimplifies the overtime calculations for a piece-rate worker, since workers rarely produce just one type of piece with just one unit piece rate per day (or month, in this case).

*The subsidy of RMB 0.3 per hour is an example of a real subsidy used in a factory audited by Verité.

Toward a Solution: Recommendations for Action

The salience of these issues as they relate to the fair treatment of Chinese piece-rate workers cannot be overemphasized. Overtime work is pervasive and extensive in Chinese factories producing for export markets: fully 100 percent of factories audited by Verité in the past four years run at least some overtime shifts; and 90 percent of factories audited in 2003 and 2004, and 66 percent in 2005,¹⁴ ran overtime hours above and beyond legal limits. Thus, overtime work is a critical and ubiquitous element of a piece-rate worker's overall compensation.

Verité offers the following recommendations as first steps toward rectifying the deficit in compensation provided to piece-rate workers.

For employers

⇒ On wages:

- Cease the practice of articulating pay practices in two different ways; pay records should be consistent with workers contracts and with how the payment system is described to workers verbally.
- Ensure that workers' contracts clearly describe their method of payment, and that the actual method of payment conforms to what is described in the contract.
- Provide workers with payslips that clearly indicate, in a language that workers can understand, their regular and overtime hours worked and regular and overtime pay rates.
- Post the legal regulations with respect to payment of overtime for piece-rate workers in a prominent location at the workplace, to ensure that all workers have the opportunity to understand their rights in this regard.
- Provide training to all piece-rate workers on the regulations concerning overtime wages.

⇒ On production quotas:

- Establish production quotas using proven time-motion studies, such that quotas can be reached by most workers within the regular eight-hour workday.
- Provide training to workers who are not able to meet the production quota during regular work hours; if after training a worker is still unable to meet the quota, offer the worker the opportunity to move to another work function.¹⁵

For the Chinese national and regional government institutions

- ⇒ Provide enhanced guidance at national and regional levels for proper methods of calculating and compensating the overtime work of piece-rate workers.
 - Regulations should clearly state that the conversion of piece-rate wages to minimum wages in order to calculate overtime premiums is not a legal or acceptable practice.
 - Regulations should clearly state the appropriate procedure for compensating piece-rate workers for overtime in cases where the production quota is not used.
 - Verité recommends a dialogue between government officials, worker representatives, and factory management to determine a fair, equitable, and transparent manner in which to compensate all workers, including piece-rate workers, for all overtime hours worked.
- ⇒ Provide enhanced guidance at the national and regional levels for setting appropriate production quotas.
 - This guidance should specify that most workers should be able to meet the quota within the regular eight-hour workday.
 - Worker-representation organizations should be involved in elaborating this guidance.

For the All-China Federation of Trade Unions (ACFTU) and other Chinese worker-representation organizations and labor-oriented NGOs

- ⇒ Conduct awareness-raising activities for piece-rate workers.
 - Ensure that these workers understand their right to receive overtime premiums and to receive payslips that clearly show how these premiums were applied.
 - Educate workers in methods for confirming that they have received the overtime compensation that they are due.
 - Educate workers in how to follow the proper grievance mechanisms and procedures in a case where they suspect that their overtime compensation is incorrect.

For multinational companies

- ⇒ Ensure that contracted factories in the supply chain adhere to legal overtime-compensation practices.
- ⇒ Include explicit examination of this issue in social audits and other interactions with factories, and ensure that external monitors and internal CSR staff understand and are trained on how to investigate overtime problems related to piece-rate work, as well as to the proper setting and use of production quotas.
- ⇒ Clarify requirements for clear, legal, and equitable treatment of piece-rate workers' overtime in discussions with factory managers and supervisors.
 - Given the real and legitimate logistical challenges associated with compensation of piece-rate overtime work, Verité recommends below a first-best option for calculating overtime premiums. This option is offered as an interim solution, with the hope for a longer-term and more sustainable change to the current system that would involve dialogue between Chinese national and regional government institutions, worker representatives, and business officials to determine a fair, equitable, and transparent manner in which to compensate all workers, including piece-rate workers, for all overtime hours. In the meantime, Verité's recommendation is as follows:
 - The actual average hourly piece-rate wage should be used as the base wage for calculating overtime payments. That is, workers' total piece-rate earnings for all hours worked should be divided by the total number of hours worked to determine the average hourly rate. For overtime hours worked, a corresponding premium of 50 percent, 100 percent, or 200 percent¹⁶ should be paid based on that average hourly rate for work hours performed on regular work days, normal days off, and holidays, respectively.

For factory monitors

- ⇒ Ensure that all factory monitoring teams, both external and internal, receive explicit training to understand and address common payroll violations including piece-rate wage conversions, as well as to the proper setting and use of production quotas.

Glossary

Bonus	a monetary sum provided to workers in addition to their regular and overtime compensation, for meeting or exceeding a factory standard
Double bookkeeping system	method of record keeping in which a factory will maintain two or more sets of records: one (or more) set(s) showing the factory to be in compliance with all local and national labor laws, and one detailing the actual hours worked, actual wages paid to workers, etc.
Hourly rate worker	worker whose compensation is a fixed rate per hour
Overtime premium	rate at which workers are compensated for overtime hours worked; generally an increased percentage of the legal minimum wage or workers' hourly wage, whichever is higher
Piece rate	Wage determined per task completed, such as attaching a collar to a shirt or inserting a zipper
Piece-rate worker	worker whose compensation is determined per task/piece completed
Production quota	set number of pieces to be completed by an individual worker or a production line; generally set per day
Production bonus	a monetary sum provided to workers who exceed the production quota by a specified amount; this sum is provided in addition to workers' regular and overtime compensation

About this issue brief

Verité Research Reports and Issue Briefs illuminate key issues related to labor rights in international sourcing and provide recommendations for action by a variety of stakeholders to improve working conditions.

The research presented in this report was conducted under the supervision of Wenjuan Yao, Director of China Programs and Mary Franck, Director of Reports. The report was written by Wenjuan Yao, Mary Franck, Manying Wu (China Reports Editor), and Erin Klett (Director of Research); and edited by Julie Lohr (Reports Editor).

Endnotes

¹ Eighty-four percent of factories audited by Verité in 2005 paid their production workers by the piece.

² One strong disincentive for factory managers to track pieces produced during regular versus overtime hours and to compensate accordingly was a phenomenon noted by Verité audits several years ago where workers were saving the tags of garments produced during regular hours and submitting them to supervisors during overtime hours to gain increased pay. It was difficult to prove whether a garment had been produced during regular or overtime hours. This likely contributed to factory managers' decisions to transition to a different system of overtime compensation.

³ The Labor Law of China, Article 48, 1994; The Ministry of Labor: The Guidelines for Implementing the Labor Law of the People's Republic of China, Article 57, 1995; The Ministry of Labor: Minimum Wage Regulations, 2004. The law is understood to provide minimum wage protection for all workers, including piece-rate workers. The guidelines for the implementation of the labor law further clarify that this minimum wage protection holds even in situations where a worker and an employer have agreed in an employment contract that, if the worker cannot meet the production quota, then the employer can pay that worker less than the minimum wage. In this case, the labor law would supersede the employment agreement.

⁴ The Ministry of Labor: The Interim Provisions on the Payment of Wages, Article 13, 1994.

⁵ The Labor Law of China, Chapter 4, Article 37, 1994; The Ministry of Labor: Minimum Wage Regulations, Article 12, 2004.

⁶ The State Council: Provisions on Employee Work Hours, 1994; The Labor Law of China, Chapter 4, Article 38, 1994.

⁷ Legal documents referenced below are from: Beijing Municipal Regulations of Payment of Wages, 2003; Guangdong Province Ordinance of Payment of Wages, 2005; Jiangsu Province Ordinance of Payment of Wages, 2004; Tianjin Municipal Regulations of Payment of Wages, 2003; Hubei Wuhan Labor Bureau: Answers to Questions on the Implementation of Legal Minimum Wage Regulations, 2005; Shanghai Municipal Measures of Payment of Wages, 2003; Shenzhen Municipal Ordinance of Employee Payment of Wages, 2004; Xiamen Municipal Ordinance on Payment of Wages, 2005; Zhejiang Province Payment of Wages Management Methods, 2002.

⁸ Guangdong Province Ordinance of Payment of Wages, 2005; Jiangsu Province Ordinance of Payment of Wages, 2004.

⁹ For example, if a worker earns RMB 0.07 per piece, makes thirty pieces per hour, and works for 10 hours in one day, the worker's piece-rate earnings are RMB 21 for the day. Since overtime starts after eight hours, by law the worker must be paid RMB 0.105 per piece for the sixty pieces made during the 9th and 10th hours, for a total RMB 23.10 for the day.

However, factory records show that the worker receives the hourly minimum wage rate of RMB 1.95, which is less than the worker's actual hourly wage of RMB 2.10 (RMB 21 per day / ten hours per day). Factory records indicate that the worker worked nine hours in the day, and earned RMB 15.6 for regular hours, RMB 2.93 for the "one" overtime hour worked, and earned a RMB 2.47 "bonus."

In this way, the worker is paid RMB 21 for the day, and effectively earns the regular piece rate for all hours worked, while the factory records indicate that the worker is paid in compliance with the legal minimum wage.

According to the factory's calculation system (which is based on the minimum wage), if the worker had been compensated for both the 9th and 10th overtime hours worked, the worker would have earned RMB 21.46 for the ten hours worked (RMB 15.60 for regular hours and RMB 5.86 for overtime hours). Therefore, the factory under-represents the worker's actual hours worked such that the worker's piece-rate wages earned "cover" the legal minimum wage plus overtime premiums based on the minimum wage.

Extrapolating this bookkeeping method to a full month would look as follows: A worker who produced 30 pieces per hour at RMB 0.07 per piece, ten hours per day, for the 23 regular work days in the month, would earn RMB 483. According to the factory's payroll records, this worker worked 23 eight-hour days with one hour of overtime per day, and received RMB 426.19 for all hours worked (RMB 358.80 for regular hours and RMB 67.39 for overtime hours) with a RMB 56.81 monthly bonus, for a total of RMB 483. However, had the worker been paid an overtime premium of 150 percent based on the legal minimum wage for all overtime hours actually worked, the worker would have earned RMB 493.58 for the month (RMB 358.80 for regular hours and RMB 134.78 for overtime hours). Had the worker been paid the appropriate overtime premium based on the worker's piece-rate wage for all overtime hours worked, the worker would have earned RMB 531.30 for the month (RMB 386.40 for regular hours and RMB 144.90 for overtime hours).

¹⁰ Factory managers pay workers overtime premiums based on an hourly average of their regular piece-rate wage earnings because, as previously noted, it is too difficult to track which pieces are being produced during overtime hours and to base the overtime premium on the unit piece rate for those particular pieces.

¹¹ In all of the examples in this table, the wages shown in factory records are the amounts actually paid to workers. However there are also many cases in which workers interviewed report that they are actually paid less than the amounts indicated on factory records. This is one example of a “double bookkeeping” system. We have not provided an example of such practices here since they do not entail any re-engineering of the way in which wages were calculated and instead entail a straight misrepresentation of the pay level of workers.

¹² The minimum wage rate of 2.09 RMB/hour comes from a real factory audit conducted by Verité. The monthly minimum wage rate for the region in which this factory was located was RMB 350 per month at the time of the audit. According to Chinese labor law, to convert this to an hourly rate, a work month consists of 20.92 eight-hour working days (or 167.4 working hours). The monthly minimum wage divided by the number of working hours is thus RMB 2.09.

¹³ Again, factory managers pay workers overtime premiums based on an hourly average of their regular piece-rate wage earnings because, as previously noted, it is too difficult to track which pieces are being produced during overtime hours and to base the overtime premium on the unit piece rate for those particular pieces.

¹⁴ In Verité’s interpretation, the likely cause of this decrease in the percentage of factories with overtime hours violations is not that factories are working less excessive overtime; but rather that more factories are obtaining official permission to run overtime shifts in excess of normal legal limits, through the Comprehensive Work-Hour Calculation System (CWHCS): Overtime is normally limited to up to three additional hours for regular workdays, up to 36 hours per month. Under the CWHCS, companies can apply for a formal exemption from the Department of Labor during peak production periods, as long as the total number of overtime hours for the period under which the special calculations are granted does not exceed the statutory work hour limit for that period. For example, if the CWHCS was granted for a full year, then the total overtime hours for the year could not exceed 432, which is the sum of the overtime hours allowed for each of the 12 months of the year. In Verité’s experience, the CWHCS compromises the ability to audit for compliance with overtime limits and payment of overtime premiums, since factory records must be analyzed for the full period for which the CWHCS was granted - which in some cases is as much as a full year. Analysis of a full year’s worth of factory records is not typically within the bounds of the time and resources available for a standard social audit.

¹⁵ This recommendation takes as its basis Article 26 of the Labor Law of China (2004), which specifies that “the employing unit may terminate a labor contract where a laborer is unqualified for his work and remains unqualified even after receiving a training or after readjusting the work post.” [Verité translation.]

¹⁶ The premiums of 50 percent, 100 percent, and 200 percent are used as, by averaging the total wages and hours, the workers are already paid 100 percent of the regular wage for the pieces made. Therefore, these premiums represent the balance of the overtime wage due.