



Who Can Protect Workers' Rights? The Workplace Codes of Conduct Debate

CONTENTS

Introduction	1
Factory Rules versus Codes of Conduct: Which Option Makes Sense for Business? Stephen Frost	3
Codes of Conduct Don't Work: A View from the Factory Floor Trinh Duong	5
Constructing Codes from the Ground Up Lynda Yanz	6
An Interview with Medea Benjamin	7
Speaking with a Unified Voice: Student Consumers Make Targeted Change David Moore	10
A Labor Viewpoint on Workplace Codes of Conduct Andy Banks	12
NGO-Labor Union Tensions on the Ground Lance Compa	12
The Promise of Corporate Codes of Conduct Thomas Donaldson	16
Readers' Responses	19

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DIRECTOR OF STUDIES: Joanne Bauer

CONCEIVED AND PLANNED BY: Catherine Moller

LEAD EDITOR: Roger Duthie

INTRODUCTION

With globalization, concerns for low-wage workers' rights in multinational enterprises around the world have grown. While the United Nations and the International Labor Organization have developed labor standards that most governments have agreed to, few of these governments have managed to implement those standards effectively. As a result, many in the international human rights movement have turned to voluntary workplace codes of conduct as a more direct and immediate method of protecting workers' rights. However, critics charge that such codes superficially put a human face on exploitative capitalism and can damage poor workers' chances to earn much-needed income.

Workplace codes are designed to protect the human rights of workers; they are often inspired by international human rights standards established in the conventions and declarations of the ILO and the UN. But are codes achieving these goals? Are they addressing workers' real concerns and improving their working conditions? How are codes affecting workers' notions of human rights and, more generally, the legitimacy of human rights for workers? This issue of *Human Rights Dialogue* explores whether the design and implementation of workplace codes of conduct actually protect workers' rights and suggests alternative ways to protect human rights in the workplace.

Voluntary workplace codes of conduct are a form of self-regulation for corporations operating in the global economy. While the impetus and pressure may come from civil society and codes may appear in a number of different forms, it is the multinational corporation (MNC) itself that chooses to adopt and enforce a code of conduct. By providing an entry point for MNCs into the human rights debate, workplace codes of conduct raise a particular concern among activists about the proper roles for the major actors in the human rights movement, including MNCs, nongovernmental organizations (NGOs), trade unions, and consumers. Who should develop codes? Does acknowledging the role of business as a human rights actor and working together with MNCs necessarily mean that labor rights activists and watchdog organizations are being co-opted? By relying on workplace codes of conduct, is the human rights movement handing off workers' rights to the corporation?

This issue of *Human Rights Dialogue* is the fourth in a series on the human rights box—a theme exploring ways to increase participation in the

Continued on page 2

HUMAN RIGHTS DIALOGUE, a quarterly Carnegie Council publication, challenges prevailing paradigms and grapples with fundamental human rights dilemmas. *Dialogue* provides an international forum for an active and evolving debate about how to make the human rights regime more responsive to the vital human needs of all societies.

Introduction

(continued from page 1)

human rights movement and access to the benefits of human rights. Can codes of conduct offer a role for businesses to play in helping to secure the human rights of their workers? Can a human rights tool developed for the most part in the North, such as codes of conduct, account for the concerns and needs of workers in the South, where most of these factories operate?

Human Rights Dialogue asked workers' rights activists to respond to these questions on the basis of their experiences with workplace codes around the world. Stephen Frost leads off by contrasting detailed and strictly enforced factory rules with vague and poorly disseminated codes of conduct in one of Mattel's factories in southern China. (Interestingly, by all accounts Mattel has one of the best track records on codes of conduct, but precisely because of its use of codes it has become a target for critics.) And while we typically think of codes as applying to workers in the South, in her account of the ineffectiveness of codes in New York City's garment industry, Trinh Duong reminds us that abuses occur in the North as well. In the view of both contributors, corporations are profit-seeking entities that use codes as public relations tools rather than for the benefit of workers.

Others workers' rights activists see a potential for workers to benefit from codes. On the basis of her work with women workers in Central America, Lynda Yanz identifies wages and job security as the primary concerns of workers. Codes can be beneficial, she argues, but only if they are developed from the ground up, incorporating workers' priorities and educating workers about their rights in the process. In an interview, activist Medea Benjamin tells *Human Rights Dialogue* that the significance of corporate participation in protecting workers' rights cannot be underplayed: It represents a success on the part of the NGO community in

forcing MNCs to acknowledge their responsibility to protect workers' rights. However, Benjamin warns against putting too much emphasis on corporate self-regulation. Although codes represent a step in the right direction, governments and international bodies should ultimately control the workers' rights agenda by regulating companies through national and eventually international legislation.

Codes that hang unobtrusively on a factory wall and are not translated into the local language, disseminated to workers, or enforced do little to create awareness among workers of their rights. On the other hand, codes developed with the participation of workers that address their concerns and are effectively monitored can raise workers' awareness of their rights and motivate them to defend those rights. But codes of conduct can also have seri-

ous repercussions for workers. As Benjamin explains, it is common for workers to be fired, beaten, jailed, or blacklisted for attempting to secure the rights they learned of through codes of conduct. Such negative consequences generate cynicism among workers about the utility of human rights.

A growing awareness among labor and human rights activists concerning the need to balance job security with improved working conditions may, however, leads to greater worker involvement in code initiatives and stronger, more effective codes. Yanz discovered that women workers in Central America want codes to contain commitments from companies not to pick up and leave when workers demand their rights. Relating his expe-

Continued on page 3

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Editorial and Business Offices: 170 East 64th St., New York, NY 10021-7496; tel: (212) 838-4120; fax: (212) 752-2432; Internet: <http://www.carnegiecouncil.org>

Factory Rules versus Codes of Conduct: Which Option Makes Sense for Business?

BY STEPHEN FROST, *research coordinator, Asia Monitor Resource Center, Hong Kong, PRC*

While visiting a Chinese factory producing goods for a well-known multinational company, an Asia Monitor Resource Center (AMRC) researcher noticed something peculiar. In contrast to the warning and safety signs in Chinese that dotted the factory, a solitary sign in English hung on a wall in one of the plant's major production line divisions. Upon closer examination he realized it was a copy of the company's workplace code of conduct. Speculating on the possible benefits for workers literate only in Chinese, he asked the manager why the company chose English to communicate to these workers its commitment to human rights and fair employment practices. If the message wasn't in Chinese, he argued, then the code was failing

in one of its primary purposes—to inform workers of their rights. The manager agreed, but confessed that he had never really thought about it.

This episode is not surprising. On the contrary, it confirms what the AMRC has been saying for several years: Corporate codes of conduct are not written for workers. They are written about workers, for an audience elsewhere—in shopping malls, on university campuses, or in cyberspace. Codes of conduct are not written by Chinese or Thai workers. Managers in Chicago or Los Angeles write them in a language that engages protest movements and consumer action groups. Codes are not the result of consultations with workers or freely elected representatives. They are the result of media campaigns that publicize wages

and working conditions beyond the imaginations of most European and North American shoppers. They are the product of consumer threats and boycotts. They are not designed to transform Asian workplaces. They are designed to protect and promote brand names and markets.

AMRC is an independent NGO that focuses on Asian and Pacific labor concerns. It provides information, research, publishing, training, labor networking, and other related services to trade unions, pro-labor groups, and other development NGOs in the region. AMRC first conducted research on the working conditions of factories in China producing exclusively for Mattel, Inc. in 1995 and 1996. We dis-

Continued on page 4

Introduction

(continued from page 2)

periences with the student movement against sweatshops in the United States, David Moore explains that the Worker Rights Consortium works in close partnership with workers and reserves its strictest punishments for code violations such as mass layoffs designed to intimidate workers. Code campaigns that empower workers and educate them about their rights, Moore argues, allow consumers to speak with a unified voice and make a real difference in targeted areas, such as college apparel production.

This issue of *Dialogue* also reveals that the relationships among other key actors, particularly unions, NGOs, and MNCs, are as important to the success of codes as are the codes themselves. Andy Banks of the AFL-CIO reminds us that trade unions have been the traditional protectors of workers' rights and internal monitors of work-

ing conditions. Codes of conduct that provide minimum standards for job security, the right to organize, and the right to collective bargaining—that primarily strengthen trade unions—allow labor to maintain its control of the workers' rights agenda. Human rights organizations, by contrast, do not have the knowledge, expertise, or structure to enforce codes, but they can strengthen the labor movement through their networks, credibility, and capacity to respond. Trade unions generally recognize the value of codes of conduct, as long as they remain a supplement and not an alternative to the labor movement.

Whereas Banks and other contributors acknowledge the disagreements between trade unions and NGOs over codes of conduct, Lance Compa provides further insight into the tensions on the ground. These tensions stem from each community's suspicions of the other's motivations, strategies, and accountability. While labor and human

rights movements share the common goals of improving working conditions and protecting workers' rights, Compa argues, they must work together so as not to undermine these goals.

We close this issue of *Human Rights Dialogue* with an article by Wharton School of Business professor Thomas Donaldson presenting the corporate perspective on workplace codes. A consultant to multinational corporations on their business ethics, Donaldson examines corporate goals and strategies in adopting codes of conduct. In contrast to Frost and Duong, he rejects the idea that profit concerns alone motivate the behavior of corporations. Unlike Benjamin, he argues that voluntary codes have proved more effective than those forced on corporations by NGOs, the UN, or the ILO. Only if corporations and their workers develop codes together, and thereby own them, will this human rights tool protect the rights of workers. ❖

Factory Rules vs. Codes of Conduct

(continued from page 3)

covered that employees worked long hours for low wages and in conditions that put a substantial number of them at risk. At the same time, Mattel issued a directive to its subcontractors to abide by decent standards of safety in production and to provide a working environment consistent with the high standards the parent company expected. In 1997 the company went further and announced that its production facilities and contract manufacturers would be required to comply with Mattel's own global code of conduct, the Global Manufacturing Principles (GMP). It then invited a New York business school professor, Prakash Sethi, to organize an independent group capable of developing systems and procedures for implementing and monitoring compliance with the GMP.

The Mattel Independent Monitoring Council for Global Manufacturing Principles (MIMCO) released its first audit report in November 1999. In line with our own research, the MIMCO report detailed workers' ignorance of Mattel's corporate code at their factory in Changan in Southern China. "There appeared to be confusion about the GMP," the authors write. "During interviews, workers exhibited a cursory knowledge of GMP and what it meant for them." Furthermore, "where workers were able to explain elements of the GMP, it appeared to be memorization of certain facts."

This is an interesting finding. More interesting to us, however, is the amount of information—and degree of cognizance—workers have of factory rules and regulations in relation to what they know about their rights. They may be ignorant of Mattel's GMP—which cover wages and hours, child labor, working conditions and freedom of association—but they are fully aware of the detailed factory rules that govern their working lives. Mattel's code of conduct, which can be found

on the company's Web site, runs fewer than 1,000 words. In contrast, every one of the 6,000 workers at the Changan plant receives upon securing employment a 93-page book that outlines every facet of factory life except the code of conduct.

This book, *Mattel's Number 2 Toy Factory in Changan, Dongguan: A Brief Introduction* (1999), covers topics from geographical location to management systems, from the factory hierarchy to essential characteristics of management personnel. A two-page chapter explains the rights and obligations of the enterprise and the workers. Although it does cover some of the same ground as the code of conduct (such as briefly outlining the company's policy of nondiscrimination and

Workers in Mattel's Changan plant are either unaware of the codes of conduct written for them or fail to see what codes mean in their lives.

workers' rights to health and safety protection), the section on rights is as short on detail as Mattel's code.

The book is much more comprehensive in its discussion of worker conduct and obligations. Several chapters describe human resource management regulations and encourage workers to safeguard public order and traffic safety. Chapter 2 specifically deals with regulations and is titled "Factory Rules and Discipline." It is divided into five sections: factory rules; the employee dormitory system; canteen regulations; Mattel's high-quality policy; and wages and hours.

Unlike the factory handbook, Mattel's workplace code of conduct avoids specific details and instead offers vague statements. For instance, on

product safety and quality it declares: "All Mattel, Inc. business partners must share our commitment to product safety and quality and must adhere to those operational and workplace practices that are necessary to meet our stringent safety and quality standards." The factory handbook is much more detailed. For example, the section on factory rules lists 26 regulations, ranging from requirements to display official identity cards correctly to a stipulation that workers arrive at their work stations 15 minutes before their shift starts. Another informs workers that if after a three-month probationary period their pronunciation is not coherent (that is, they are unable to speak Mandarin fluently), their contract will be terminated. The 19 rules for worker dormitories are equally rigorous, ranging from curfew times to safety concerns.

Factory regulations are not only spelled out in great detail, they are also strictly enforced. When AMRC researchers talked to workers in 1999, the most frequently heard complaints concerned the fines levied for breaches of rules. Other common complaints concerned fines for not wearing or losing factory identification cards, leaving work stations without permission, or arriving late to work.

Workers in Mattel's Changan plant are either unaware of the codes of conduct written for them or fail to see what codes mean in their lives. In handbooks or on walls they are more likely to see factory rules than codes of conduct. They are more likely to know the rules and regulations of factory and dormitory life, and the punishments for transgressing those rules, than to be aware of their rights under a workplace code dreamed up in corporate USA.

At the AMRC, we do not argue that corporate codes of conduct fail to make any impact whatsoever. We have made trips to Changan since the MIMCO report was released and it

Continued on page 19

Codes of Conduct Don't Work: A View from the Factory Floor

BY TRINH DUONG, *program director, Chinese Staff and Workers' Association, New York City, USA*

Big retailers such as Donna Karan New York (DKNY) and Sears, Roebuck walk away with billions of dollars by stripping workers of their rights and crushing the life out of them. Retailers sit at the top of a subcontracting pyramid and claim zero responsibility for inhuman and illegal working conditions in sweatshops. Retailers hang back looking innocent, and let the blame fall on manufacturers. Manufacturers duck and run, leaving contractors (the factory owners) to take the blame. Factory owners squeeze profits out of their workers while portraying themselves as victims. Retailers, the sellers of the clothing made in garment factories, hold the most power in this subcontracting system as they decide what goods to sell and at what price they will purchase them. Manufacturers must offer them a good deal. Competition among manufacturers to sell their garments to retailers—on top of manufacturers' thirst for profits—drives down the prices that trickle into workers' wages.

In my organizing work with the Chinese Staff and Workers' Association (CSWA) in New York City, I have seen how toothless voluntary compliance measures and codes of conduct actually are in holding retailers responsible for working conditions. I recently worked on a case in which workers from two of the largest sweatshops in Brooklyn were forced to make Street Beat Sportswear garments for more than 137 hours in a single week for retailers like Sears. These workers were owed almost \$300,000 in minimum wage and overtime pay and damages. Three years earlier, Street Beat Sportswear had signed two compliance agreements with the Department of Labor (DOL). On paper, these compliance agreements looked good. Street Beat agreed to use contractors who obeyed the law. But when the

workers traveled to Washington, D.C. to demand that the agreements be enforced, the DOL said there was nothing that it could do. In fact, the DOL has never prosecuted manufacturers for violations of compliance agreements. The DOL simply came back and did what it usually does—it asked the workers to settle for \$58,000, less than one-fifth of what they were legally owed.

The Street Beat workers quickly realized that if they wanted their rights they would have to organize and take their futures into their own hands. They decided to join with the CSWA and enlist the support of other workers from other industries. At CSWA, we knew that it would be futile to wait for yet another compliance agreement to be signed. We have seen that the government agencies that are supposed to enforce basic laws lack the will to confront the sweatshop problems in this country. As one Street Beat worker said, "In the factory the boss knows no human kindness. Even though I'm in the U.S. I have not been able to enjoy any human rights."

We not only asked for the wages owed but also launched a citywide campaign to challenge mandatory overtime. We demanded that Sears commit to ensuring that all its goods be produced in law-abiding factories. And to preempt the standard tactic of corporations to threaten to move work away in retaliation against our organizing, we also demanded that the company make sure that 75 percent of its goods be produced in local communities. In the face of death threats and fear of violence, the Street Beat workers struggled, organized, and eventually recouped the wages they were owed and an additional sum for damages.

Manufacturers and retailers, with vast financial resources, will often rely on the lengthy, sometimes years long, legal process to demoralize workers.

This group of workers not only used the legal process to file suit against the apparel makers, it also organized its coworkers, galvanized the support of workers of all trades in the community, and publicly exposed illegal conditions in the industry.

The workers and their struggle became central in bringing together garment workers and young workers in other industries to organize and fight for better conditions. With each passing day, more workers and sup-

Voluntary codes of conduct are toothless in holding retailers responsible for working conditions.

porters came forward. Instead of waiting and becoming demoralized, the workers became more active. The struggle and the courage of these workers have inspired many other garment workers to come forward with complaints.

One of the many workers who became involved in the Street Beat campaign was Oi Kwan Lai, a garment worker at a Donna Karan factory in midtown Manhattan. For six years she had been forced to work mandatory overtime without overtime pay and in a factory with prison-like conditions—padlocked bathrooms, surveillance cameras, constant verbal abuse, retaliatory firings, body searches and frisking. When she was not permitted even to take a phone call from her husband while her daughter was sick at home, Mrs. Lai decided to take steps to expose how bad conditions in this

Continued on page 19

Constructing Codes from the Ground Up

BY LYNDA YANZ, *coordinator, Maquila Solidarity Network, Toronto, Canada*

As Northern labor, religious, and nongovernmental organizations lobby and engage with apparel retailers and manufacturers for stronger codes of conduct and transparent verification systems, our counterparts in Latin America and Asia are beginning to discuss the potential and limitations of codes of conduct.

In May 1999, I participated in a four-day conference hosted by the Nicaraguan Maria Elena Cuadra Movement of Working and Unemployed Women (MEC), one of the largest and most active feminist labor rights organizations in Central America. The conference was held in Managua, Nicaragua, with women representing six women's groups and two unions from Nicaragua, Guatemala, El Salvador, Costa Rica, the Dominican Republic, and Mexico. Mirroring a similar initiative that had been carried out the previous year by women's groups in Asia, the participants evaluated the potential of codes of conduct for pro-

of conduct and whether they believe codes might be useful tools for improving working conditions and wages.

Building on their research results, conference participants examined the content of codes from the perspective of women workers. Rather than start from the terms of existing codes, they identified a list of priority issues that should be addressed in any code. The resulting 12-point program included provisions for a living wage, the prohibition of discrimination, special protections for pregnant workers, improved health and safety practices, and respect for local law and international labor standards, such as the right to organize.

The researchers identified two top priorities for workers: wages and job security. The comments of Mayra Jimenez, the secretary-general of FUTRAZONA, a union organizing in the Dominican Republic's free trade zones, resonated deeply with other participants: "Even if we earn the legal national minimum wage, we don't make enough to feed ourselves, let alone our families." The participants agreed that, given current wage levels, women need to work overtime to survive. What workers objected to was being forced to work overtime whenever their employers decide that they are needed. Workers complained that supervisors usually don't tell them until the end of the day that they have to stay and work overtime, which gives them no opportunity to make other arrangements for their children.

Jacqueline Garcia, also of FUTRAZONA, described how in her factory demand varies widely, from periods in which workers are forced to labor intensively for long hours, to days with no work at all. On slow days, she said, workers can't make even their base wage. "And managers make

things worse by making piece rates dependent on the pace of production of the whole team," she explained. "It doesn't matter how many bra brooches I sew in an hour, my pay depends on the final output of finished bras. In order not to have to pay top rates, management combines experienced and new workers on the same line."

Women also want an end to the use of financial (and other) punishments for minor "offenses." According to Rosa Medina, who makes pants in a Korean-owned maquila in Guatemala, workers are regularly docked pay for arriving even five minutes late: "The managers hit us and then dock our pay, which oftentimes we have to wait an extra week or two to receive. When we finally get our pay, we never know how it has been calculated, because it comes in cash with no pay slip."

A MEC representative also emphasized that maquila workers in Nicaragua do not support boycotts or any other strategy that will put their jobs at risk. In a country with over 60 percent unemployment, maquila jobs are prized. To address employment security, codes should contain a commitment from companies at the top of the subcontracting pyramid (major retailers and brand-name companies such as Nike, the Gap, and Levi Strauss) not to "take flight from one day to the next" whenever workers demand their rights and improved wages. The bottom line for the conference participants was that codes of conduct should protect workers' jobs, not make them more vulnerable.

The research confirmed, however, what many of the groups already suspected—that the vast majority of maquila workers still know very little

The bottom line is that codes of conduct should protect workers' jobs, not make them more vulnerable.

moting greater respect for the rights of women *maquila* workers. (*Maquila* is short for *maquiladora*—a foreign-owned factory allowed to import components and raw materials duty-free and re-export the finished product.) They came together to share the results of research on women maquila workers in their home countries, specifically what workers know about codes

Continued on page 15

An Interview with Medea Benjamin

MEDEA BENJAMIN is executive director of Global Exchange in San Francisco, USA, and the Green Party candidate for United States Senate, California, USA



Human Rights Dialogue: What role do nongovernmental organizations play in codes of conduct initiatives?

Medea Benjamin: NGOs have been instrumental in getting companies to adopt codes, in pushing for stronger codes, and in pressuring companies not to solely monitor the enforcement of their codes through organizations such as accounting firms, which we feel don't have the trust of workers or adequate sensitivity to do a meaningful job. NGOs have pushed this process all along, and we are continuing to push it. There are many NGOs that have participated in and been at the forefront of defining independent monitoring. NGOs also have challenged companies to work with groups that they would normally see as their adversaries, such as local labor rights organizations or more militant women's organizations, and some of these experiments have actually been quite positive. This whole process is being pushed by an alliance of workers' rights groups in the countries where the factories are located and workers or human rights groups in developed countries. Unfortunately, the process has been pushed more by the consumer end than by the worker end. But there's a real effort being made now by NGOs in the North to partner with NGOs in the South.

Dialogue: What role does consumer pressure play in this process?

Benjamin: Consumer pressure is incredibly important and has been the driving force behind a lot of the anti-sweatshop movement. Unfortunately, most of the workers are in countries where they can't speak out, or they're not informed of their rights, or they live in fear. In these instances, it is the voice of consumers

that is beginning to open up the space for workers to speak out and to organize. This consumer-worker alliance that is being built into the process is quite extraordinary, and in the long term it will lead to major changes in the way that the rules of the global economy are written.

Dialogue: What differences exist between the perspectives on codes of NGOs in the North and those in the South?

Benjamin: In the North we see codes as a positive step forward. Companies have at least recognized responsibility through codes. They no longer claim, as they did in the early 1990s, that they are just the buyers and can't be held responsible for conditions in suppliers' factories. In the South many workers' rights groups see codes as a justification for not doing anything substantive, as a smoke screen. They think codes have never been disseminated in a serious way to workers and that often they are not just meaningless, but actually harmful because they give companies cover.

I have visited many factories around the world that produce for U.S. companies and have adopted codes of conduct. The factories are supposed to post the code in a visible location and explain its contents to the workers, but many times the code is simply not posted or is posted in English when workers don't speak English. The last time I saw a code in a factory in Mexico, it was placed so high up on the wall that you couldn't even read it. I don't think that most companies have been very serious about translating the codes into reality on the ground, and most workers I talk to have never heard of the code of conduct.

We have put too much emphasis on codes and probably too much empha-

sis on voluntary enforcement. It is untenable to expect companies to enforce their codes voluntarily. What we have right now, with corporations regulating themselves through codes of conduct, is definitely an interim measure.

It is untenable to expect companies to enforce their codes voluntarily.

Dialogue: How can workplace codes be improved to address workers' concerns more effectively?

Benjamin: Codes can be improved on several levels. One is the content of the code itself. I don't know of any code that includes a living wage, and many codes don't include freedom of association or address gender discrimination. Codes should also contain a guarantee from companies that workers who struggle to enforce the code will not be retaliated against. More important is the enforcement of the codes, which requires that workers understand them. Certainly there could be a lot more ongoing educational sessions to teach workers about the content of the code, how that code is to be enforced, and what role workers can play in the process.

Dialogue: How do codes of conduct address the issue of child labor?

Benjamin: The way to address the issue of child labor is through the living wage. If parents earned living wages

Continued on page 8

Interview with Medea Benjamin

(continued from page 7)

they wouldn't feel the desperate need to send their children to work. The greatest flaw in the codes of conduct is that they don't call for a living wage.

Dialogue: How are NGOs involved with workplace codes accountable to workers and representative of their concerns?

Benjamin: Many NGOs have tried to involve workers more in the process. Some organizations employ former workers as the core of their staff or as spokespersons. Others use workers for specific tasks, for example, having workers themselves carry out surveys about workers' issues. At Global Exchange, we have garment workers speak for us when we go around the country talking about issues such as working conditions and workers' rights.

Any training program developed by an NGO must be carried out in a way that workers can relate to. In the past the people running these training programs were often not the workers themselves, but people one or two steps removed. These training programs should take place at the factories so that workers understand that management has agreed to this activity and there will not be repercussions for participating.

Dialogue: What is the relationship between NGOs involved in promoting codes of conduct and labor unions and other worker organizations? What would you say to the argument that strengthening unions would be a more effective method to protect workers' rights than codes of conduct?

Benjamin: I think that is true. In the end the only ones who can stand up for workers' rights are workers themselves, and so it certainly makes sense to improve the atmosphere so that unions and any other kind of worker associations can organize. Monitors come

and go, NGOs come and go, and who is left in the factories but the workers?

Some unions feel that codes of conduct and NGOs are usurping the power of or the need for unions. I think this tension will continue to grow and has to be resolved in some way. We should be using codes to support unions and not to take over their role. Then there is the whole question of how unions in the United States, for example, could do more to promote

We can pressure our Congress to support national legislation that forces U.S. companies to adhere to ILO standards.

free and independent union organizing overseas. Unions in this country have traditionally worked in a more protectionist mode, but now they have come to recognize that there is no way they can improve wages and working conditions in the garment industry here in the United States if they don't work in solidarity with unions overseas.

Unfortunately in many countries, like China, strong unions don't exist at this moment. China, in fact, is one of the biggest problems. It is hard to talk about this process as a movement in a positive direction internationally when you have a country like China that with the sheer weight of its population can bring down the working conditions in its whole region. Workers in China are not allowed to organize into independent trade unions—they can only be part of the government-led union, which does almost nothing to protect workers' rights. There is also the migrant labor situation in China, with workers coming from thousands of miles away—14-, 15-, and 16-year-old girls who have never worked in a factory before, who are totally unaware

of their rights, living in constant fear, getting to see their families once a year. China is a distorted model of development, but it has become a huge part of the production process.

Dialogue: What strategies would work in China?

Benjamin: At Global Exchange, we have never really set up ongoing partnerships with companies; we have worked more as a watchdog group. But since China is a unique case, we couldn't think of anything else but to work with companies. So we started a group with Mattel, Levi Strauss, and Reebok to come up with a set of principles for companies working in China, and then began to set some realistic goals of what we could accomplish as NGOs and companies working together. We have developed research projects to look at the needs of migrant workers and the particular problems they face in factories—having to pay deposits and recruitment fees to get jobs, having fines taken out of workers' salaries—issues that are particular to China and the migrant labor system. We are coming up with some basic regulations that companies would impose on themselves.

Dialogue: What measures, methods, or initiatives exist other than codes and unions to improve workers' rights?

Benjamin: I think the next step is legislation. So far only a small number of companies have been publicly reprimanded for labor problems, and they tend to be the companies with bigger brand names. But what about all the other companies that have not been exposed or touched by this process? Some of the name-brand companies are saying, "This is not fair—let's have a level playing field." With companies calling for a level playing field, with so much student enthusiasm, and with a louder outcry for fair trade in the wake of the WTO protests, we could put our Congress on the line and pressure

it to support national legislation that promotes fair trade and forces U.S. companies to adhere to ILO standards. I can see in the coming years, for example, U.S. legislation that focuses on health and safety issues in factories anywhere in the world. Once U.S. companies have to abide by these regulations, we can say, What about French companies? What about Japanese companies? Pressure would build for international legislation.

Unfortunately, we still don't have bodies at the international level with sanctioning power around workers' rights—the ILO has all kinds of conventions on workers' rights but no way to enforce them, and the WTO has no mechanism to protect workers' rights. There is pressure within this country for the United States to agree to an international body with enforcement power, but we are still a long way from actually achieving this.

Dialogue: How can the involvement of NGOs with workplace codes compromise or enhance their organizational goals and activities?

Benjamin: There is currently a lot of soul searching on the part of NGOs concerning the role that they want to play in this process. Some groups feel that they don't want to be sucked into a system where the power dynamic is ultimately in the hands of the company, and they don't want to compromise their legitimacy by entering into a partnership with corporations. On the other hand, some NGOs claim that somebody has to do this job, and that if it is not their organization, then it will be organizations that are more pro-company and less worker-friendly. NGOs should always be true to their original goals and be ready to pull out at any moment, in a public manner that denounces the process itself, if they feel that they are being used in the process rather than using the process for the betterment of workers' lives.

Certainly Global Exchange has had firsthand experience of this question

working with Nike. We were accused by other NGOs of getting too close, of compromising too much. They criticized us for even sitting at the table and commending Nike on some changes that the company had made. They felt that these changes were minimal and that by giving Nike such positive reinforcement, we hurt the anti-sweatshop movement's chances of bringing about real change. It forced us to step back and re-evaluate the process and see if

You start to work with companies and sometimes it becomes hard to step out and question whether you are making a significant change.

the gains were greater than the possible losses. This is happening with NGOs all around the world. But it is a slippery slope. You start to work with companies and you find that the people are nice, that some of them are really trying to improve conditions. You start to feel that you have a good relationship, and sometimes it becomes hard to step out and question whether you are making a significant change, whether you could make a bigger difference if you were in the adversarial position.

Dialogue: Do you think that codes of conduct allow corporations to dictate the workers' human rights agenda?

Benjamin: It is important to talk more about international codes rather than codes that each company designs. Most codes of conduct are based on internationally recognized rights, on the ILO's own standards. These codes have been forced on companies. The companies did not want to have the

codes, so the code itself is not the companies' agenda.

Dialogue: What role does human rights language play in the work NGOs are doing with codes at the local level? What sort of impact, if any, are workplace codes of conduct having on workers' notions of human rights?

Benjamin: Many NGOs are doing a lot of important work developing training programs to inform workers of their human rights. But this is not necessarily based around codes of conduct. NGOs inform workers of their human rights as stated in their local labor laws, international treaties, everything from the Universal Declaration of Human Rights to ILO conventions to specific codes. In many countries the local labor law is actually as good as the code, it's just not being enforced. NGO involvement has increased workers' awareness that labor rights are human rights according to national and international law and company codes. This effort is beginning to give more legitimacy to union organizing in the context of human rights.

Dialogue: Do codes of conduct sometimes have a negative impact on workers' notions of human rights?

Benjamin: Yes. I can think of case after case where workers have been informed of their rights through codes of conduct, but when they tried to secure those rights they were fired, beaten, jailed, or blacklisted. There is not a week that goes by when we are not informed of workers in one place or another who have been fired for standing up for their right to organize a union, or their right to increase their wages, or to get a fair wage, or even their right to enforce the local labor law. When workers stand up for their rights and don't get them and then suffer a backlash, they often become cynical about rights and about codes. ❖

Speaking with a Unified Voice: Student Consumers Make Targeted Change

BY DAVID MOORE, *senior, Brown University, Providence, Rhode Island, USA*

Since the spring of 1998 colleges and universities in the United States have experienced a renewed wave of student activism against widespread violations of workers' rights in factories that produce their licensed apparel. United Students Against Sweatshops (USAS), an organization with chapters on more than 175 U.S. college campuses, has led the movement, which grew out of the publicity campaign against inhumane working conditions in the global apparel industry. That spring, I listened to firsthand testimony from a young man and woman my age who worked in a factory in the Dominican Republic, sewing apparel for my school, Brown University, and many others. Hearing their experiences of 12-hour workdays and starvation wages compelled me to become active in the Brown Student Labor Alliance in Providence,

Codes of conduct allow colleges and universities to speak with a unified voice in demanding basic labor standards for the factories where their apparel is made.

Rhode Island, a chapter of USAS and a supporter of workers struggling to ensure their rights. The experience in my local chapter led me to participate at the national level, and I am now a USAS representative to the governing board of a new anti-sweatshop organization, the Worker Rights Consortium.

In its efforts to support workers fighting sweatshop conditions around

the world, USAS must confront a fundamental dilemma. Though the global apparel industry offers inhumane working conditions and sub-poverty-level wages, its sweatshop jobs are better paying than most others in developing countries. If universities try to come clean on the sweatshop issue by moving all apparel production back to unionized factories in the United States, it would cost workers in developing countries their jobs. Therefore, USAS calls on the apparel industry to keep these jobs in the countries where they are so desperately needed, and asks colleges and universities in the United States to pioneer ways to improve working conditions and empower workers.

The first step a school can take is to adopt a code of conduct, a document that sets minimum labor standards for factories producing collegiate apparel. Duke University and Brown University passed the first two of these codes in the spring of 1998; now, more than 200 colleges and universities in the United States have adopted a code of conduct for the hats, t-shirts, sweatshirts, rocking chairs, and other items that bear their school's name. Colleges and universities send their code to each of their apparel licensees, who either sign the document or lose their contract. Most have signed.

Codes of conduct allow colleges and universities to speak with a unified voice in demanding basic labor standards for the factories where their apparel is made. Students favor codes of conduct because they offer a way to institutionalize responsible buying practices. The general public's interest in sweatshops may peak and wane, but codes of conduct ensure that basic labor standards are included in a school's apparel licensing operation as policy, not just principle.

It hasn't been easy, however, to convince college and university administrations to agree to a code of conduct that adequately addresses workers' concerns. Most of the original codes were passed without four crucial provisions: women's rights (protection from sexual harassment and forced birth control), the right to organize and collectively bargain, full public disclosure of factory addresses, and a living wage. College administrations stated that the women's rights, collective organizing, and public disclosure principles were unrealistic and that a living wage cannot be calculated.

Through a flurry of sit-ins, teach-ins, and rallies, USAS spent 1998 and 1999 convincing university administrations that these provisions were crucial. Student activism proved immensely effective: Today women's rights and the right to organize are recognized in most collegiate codes; apparel companies have begun to disclose factory addresses in response to combined student and administration pressure; and a collegiate symposium in November 1999 at the University of Wisconsin-Madison has reached consensus that a living wage can indeed be calculated, as human rights activists have argued for years.

But even a strong code of conduct is only a piece of paper unless the apparel factories are effectively monitored to ensure that the standards are enforced. Most apparel companies sign a code of conduct without even attempting to meet its demands. The proper monitoring mechanisms for a code of conduct became the subject of prominent debate on college campuses this past year, with the emergence of two new organizations seeking to monitor implementation of university codes: the Fair Labor Association (FLA) and the Worker Rights Consortium (WRC). The Fair Labor Association, which grew out of

efforts by the Clinton administration to bring labor advocates and the apparel industry both to the table, allows companies to choose and hire an accredited external monitor to perform factory inspections. The FLA proposes that monitoring a 5 to 15 percent sample of preselected factories is sufficient to ensure that the FLA code is being met at all of a company's facilities throughout the world.

USAS and other groups have been protesting that the FLA is ineffective at best, and damaging to worker campaigns at worst. Even though many FLA member companies have disclosed the addresses of factories producing collegiate apparel, this is not required by the FLA. Furthermore, no information about factory inspections will be made public under the FLA, and worker complaints are investigated by the company in question and their contracted monitor. Supporters of the FLA may claim that the abuses of the apparel industry require immediate, practical solutions, but students will not support an organization that places a label of "sweat-free" on every garment made in a preselected factory inspected once every ten years by a contracted monitoring company.

Students do support the Worker Rights Consortium, which proposes

an entirely different approach to enforcing codes of conduct. The WRC has been developed by students, labor rights experts, and workers themselves. Unlike the FLA's top-down method of monitoring factories, the WRC focuses on educating workers about their rights under codes of conduct and then giving them an outlet to report possible code violations. Workers can confidentially report code violations to the WRC agency, which will then investigate and work with universities and companies to remedy the violation.

As with the initial code of conduct adoption campaign, most university administrations were reluctant to join the WRC. In order to make the student voice heard, we organized rallies and sit-ins across the country, a ten-day hunger strike at Purdue University, and an occupation at the University of Wisconsin that ended in the arrest of 54 student protestors. The WRC now has 58 college and university members.

Yet workers continue to face tremendous repercussions for trying to protect their rights. I recently heard firsthand testimony from two Nicaraguan workers who were included in mass layoffs when their union attempted to negotiate an 8-cent raise from the Target and Kohls corporations. The WRC aims to meet the challenge of such repercussions in two ways. First, to ensure that it addresses worker priorities such as job security, the WRC will be working in close partnership with workers and will not try to take their place at the bargaining table. Second, the WRC reserves its strictest punishments—financial penalties and wide publicity—for behavior such as intimidating workers through mass layoffs.

The apparel industry has employed codes of conduct before as a way of reassuring the public of its commitment to labor standards. But because of the attention that student activism has brought to the issue, the college and university codes mark the first

time that the efficacy of codes will be tested before a wide audience of dedicated observers. The results of the WRC will tell us much about the ability of the anti-sweatshop movement to enforce strong codes in targeted

Students will not support an organization that places a "sweat-free" label on every garment made in a factory inspected once every ten years by a contracted monitoring company.

areas such as collegiate apparel production. The FLA's task of ensuring code compliance in factories producing apparel for the broader general market is much more daunting. It is unlikely that voluntary codes alone can accomplish such widespread change.

To ensure long-term protection of workers' rights in the entire apparel industry and throughout the global economy, energies might be channeled into increasing the authority and effectiveness of an international regulatory and investigatory body, such as the International Labor Organization. In the meantime, the code campaign has introduced hundreds of students and consumers to issues of corporate accountability and workers' rights, as well as inspired many students to continue their involvement in these issues after college. ❖

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A Labor Viewpoint on Workplace Codes of Conduct

BY ANDY BANKS, *senior faculty, National Labor College, Silver Spring, Maryland, USA*

Joaquin Escobar* is a banana worker, and one of 18,000 union members in Colombia's banana industry. He makes only \$11 a day, but because of his union's contract with Chiquita, Joaquin and others who labor long hours on Colombia's banana plantations make the best benefits (such as retirement and family health care) of the 45,000 unionized banana workers in Latin America. But Joaquin is not happy. It's not the backbreaking work that upsets him. It's what is happening next door in Ecuador.

Hector Lopez* makes \$2.50 a day as one of Ecuador's 225,000 banana workers who suffer under a brutal and environmentally dangerous production system dominated by Noboa, the fourth-largest banana exporter in the world. Unlike the banana industry in the rest of Latin America, Ecuador's is nonunion.

Chiquita and other banana traders have told their unions in Latin America that the growing market share from Ecuador means that they cannot compete in the world market. In the face of

overproduction and low-wage competition from Ecuador, Chiquita and Dole are rumored to be seeking buyers for their banana operations. If this happens, the companies will be laying off Joaquin and tens of thousands of other unionized banana workers in Latin America, quickly reducing them and their communities to abject poverty.

To Latin American banana unionists and their activist allies in the United States and Europe, the options are few and clear: improve the horrible human rights conditions for banana workers in Ecuador to stabilize the jobs and working conditions of Joaquin Escobar and other banana workers in the region. The banana workers in Ecuador must be allowed to unionize.

The plight of banana workers is a common scenario in the global economy. It hardly matters which industry we look at. This situation highlights the need for a new type of international trade union action: the code of conduct campaign. Such campaigns, organized by social justice, human rights, student, and religious groups around the world, provide two bene-

fits: a new strategy for unions in dealing with the effects of globalization on workers, and a much-needed convergence of forces between trade unions and others fighting the brutal consequences of unregulated corporate hegemony.

Worker empowerment is and always has been the most enduring way to end poverty and correct abusive workplace conditions. The traditional method of worker empowerment, and the only one that has proved effective, is the self-organization of workers into unions. To empower workers we must open space for workers to organize democratic unions, independent of government or employer domination. The right to form unions is not simply one of many codes that need to be sought: It is the primary one.

The core work of unions is organizing, bargaining collectively, and enforcing collective agreements. Enforcement is essentially a monitoring process whereby a shop floor structure of union activists—called shop stewards, delegates, or factory committees—watches for employer violations of a collective agreement negotiated

* Workers' real names have not been used in this article.

NGO–Labor Union Tensions on the Ground

BY LANCE COMPA, *senior lecturer, School of Industrial and Labor Relations, Cornell University, Ithaca, New York, USA*

Serious tensions between NGOs and trade unions, two major advocates of workers' rights, underlie any discussion of workplace codes of conduct. The tensions stem from questions of legitimacy that bedevil both communities.

Trade unionists see themselves as representing stable organizations with dues-paying members. They have a ready answer to the question, "Whom do you represent?" The situation for NGOs is far more complex. No single organization speaks authoritatively for

the NGO community. Unlike union leaders, NGO activists are not elected. Some NGOs are membership organizations funded by contributions from individuals. Payments are often sporadic and crisis-driven, in contrast to regular union dues. Other NGOs depend on government grants, wealthy individuals, foundations, and even corporate donations. Dependence on such sources tends to limit NGO activities to those that do not exceed the risks that the funders are willing to take, whereas unions are constrained only by

the democratically determined wishes of their members.

When NGOs purport to speak for workers, therefore, trade unionists often question their accountability. Many unionists also harbor suspicion, even resentment, of NGO activists who assume a high profile on workers' rights issues without ever having passed through the crucible of an organizing campaign, hard-nosed collective bargaining, or a strike. How can they know what workers are really up against? Trade union advocates believe that, as

between the employer and the union. For a union adequately to enforce a collective agreement, it must systematically assign shop stewards or delegates from each work area and shift covered by that agreement. Only through an on-the-job union structure can all workers stay informed and organized and can the union be instantly aware of violations. Stewards and delegates (who are workers themselves) are accountable not only to their immediate fellow workers but also to the rest of the workforce through the union structure. Worldwide, there are from 15 million to 20 million shop stewards and delegates.

Unions are far from reaching consensus on external monitoring and codes of conduct. Some feel that codes are an employer's tool—a co-optation of real unionization efforts and a cheap substitute for collective bargaining. Some fear that monitoring by NGOs undermines the bargaining process and forces workers into a dependent relationship with those NGOs.

Other unionists see codes and monitoring as promotions of the “international community.” This community is composed of staff and elected officials from international offices of national union centers, ILO staff, and some labor-oriented NGOs. With the end of

the Cold War, these organizations have been in search of a new mission. Suspicions of careerist or turf-promoting motives underlie some unionists' skepticism about the creation of a new international profession of certified “social auditors.”

Still a third set of unionists sees the code of conduct movement as essential for building future international col-

Worker empowerment is and has always been the most enduring way to end poverty and correct abusive workplace conditions.

lective bargaining structures, which are essential to the survival of unions everywhere. According to this third group, codes should provide minimum standards in three key areas: job security, the right to organize, and the right to collective bargaining. Most violations of workers' human rights occur in these three areas. These unionists seek to negotiate codes that meet the needs of workers who are trying either

to establish unions or to maintain or strengthen a long-term union relationship with the same company. Although these unionists insist that unions themselves monitor the codes, they also greatly value the assistance of pro-union NGOs, especially in countries such as Ecuador, where union structures are nonexistent or weak.

Monitoring programs need the assistance and guidance of the social justice community in three fundamental ways. First, national and international monitoring oversight boards with representation from human rights, student, religious, women's rights, and environmental organizations need to be established to give trade union monitoring efforts the high-profile protection that comes only from these groups. Second, targeted union campaigns for trade union rights must continue to benefit from the ability of social justice organizations to mobilize activists against corporations where their important global markets exist, usually in industrialized countries. Finally, human rights professionals are sorely needed to help train trade unionists in the nuances and skills required in credible monitoring programs.

Continued on page 14

workers' organizations, unions should have the primary role in the fight for workers' rights in the global economy.

Many trade unionists fear that the real goal of corporate backers of codes of conduct is the destruction of strong, class-based workers' organizations that can organize, bargain, and back up their demands with the power to strike. In their place would be scattered, small, resource-starved NGO monitors whose only clout lies in ad hoc public relations campaigns that will soon tire consumers. Some unionists suspect that NGOs making codes of conduct a priority are really engaged in entrepreneurial grant seeking, since companies, foundations, and governments are more

comfortable with notions of corporate social responsibility and private sector initiatives than with tougher national and international regulation. While not dismissing the value of codes of conduct, most unions still see strong laws effectively enforced by government authorities, along with self-organization and collective bargaining, as the best ways to advance workers' interests. To them, corporate codes of conduct should be seen as a supplement to labor law enforcement and collective bargaining, not as an alternative.

For their part, some NGO activists question labor's claim to leadership and see a new emphasis on “civil society” in international discourse that

gives NGOs greater status than trade unions. Many NGOs are composed mainly of middle- and upper-class intellectuals and professionals who perceive labor unions as special-interest groups devoted to protecting their own members' jobs and wages at the expense of the larger society. Other NGOs question labor's claim to broad representation. In most countries trade union movements have only a minority of workers in their ranks, and unions tend to represent a higher-paid stratum of male workers in the formal sector. Union formation is notably lacking among informal sector workers, women

Continued on page 14

A Labor Viewpoint on Workplace Codes of Conduct

(continued from page 13)

There is growing but unnecessary tension between trade unionists and human rights organizations seeking to provide support for workers' rights. True, as unionists argue, human rights groups do not have the knowledge, expertise or structure of unions, nor do they have the power for organizing and collective bargaining that trade unions can provide with the collective strength of millions of union members acting in solidarity. But human rights organizations have vast networks of committed activists, public credibility and appeal, rapid response capacity, and other skills that are sorely needed by trade unions. The mere presence of human rights activists in certain repressive areas can mean the difference between survival and extinction for nascent trade unions.

Activity around codes of conduct and external monitoring systems, while often useful, is nonetheless best viewed as transitional to—and weaker than—the bargaining and contract-enforcing activity of trade unions. Codes and monitoring systems should facilitate, not impede or be substituted for, the establishment of functioning worker-controlled trade union enforcement and organizing structures. In short, the goal of codes and monitoring pro-

grams should be worker empowerment through union building. Standards—such as those relating to child labor, discrimination, safety and health, or a living wage—should be included in codes. But, as important as those issues are, they are secondary to, and will follow from the first-order task

The goal of codes and monitoring should be worker empowerment through union building.

of, altering the imbalance of power between workers and employers.

As of this writing a worldwide campaign to set minimum standards for all Latin American banana workers and to protect Ecuadorian workers' efforts at unionization is still in the discussion stage. The talks are being directed by COLSIBA, an organization of Latin American banana workers unions. COLSIBA is being supported by IUF, a global federation of food and agricultural workers unions, and two sympathetic human rights organizations with experience in consumer campaigns: US/LEAP in the United States and EUROBAN in Europe. They have made no final decision on how to bring unionization to Ecuadorian

banana workers or how to protect the job security of workers in the predominantly unionized banana plantations in the rest of Latin America. One idea being discussed is a workers' rights agreement, a hybrid code of conduct negotiated between exporters and banana unions and tied to a union label for banana customers to see before purchasing.

In addition to obtaining basic labor rights for workers, this type of code campaign can also provide a reinvigorated global labor movement with a platform to work with social justice and environmental organizations. Such alliances are prerequisite to an even more ambitious task: the democratization of the global economy. Only when human rights groups support grassroots union efforts to build international monitoring and campaign structures will Joaquin Escobar and Hector Lopez be able to work together to build better lives. ❖



NGO–Labor Union Tensions on the Ground

(continued from page 13)

workers, and workers in export-oriented factories where the effects of globalization are most pernicious and NGOs are most active.

Many NGOs see their primary role in code initiatives as monitors who are adamantly critical of the work of international accounting firms or other corporate-oriented social auditors. Some advocates of workers' rights even oppose monitoring by Northern-based NGOs or

unions and insist that monitoring be performed by indigenous actors. But some of the early experience with local monitoring has only reinforced tensions between unions and NGOs, who have learned that the same problems of inexperience, instability, incapacity, hidden agendas, and sectarianism marking many NGOs in Northern countries afflict NGOs in developing countries too.

One well-known case involves monitoring at the Mandarin apparel facto-

ry in El Salvador under a plan negotiated in 1997 between NGO activists and the Gap, which contracted with Mandarin for clothing production. Monitor activity by an independent group aligned with local NGOs prompted worries among trade union leaders in the factory that monitors were supplanting the unions' role as representatives of workers, and the monitoring group found itself caught between competing union factions among the workers.

Constructing Codes from the Ground Up

(continued from page 6)

about codes of conduct. Of over 500 workers interviewed in six countries, only one worker thought that perhaps there was a code operating in her factory. A few realized through the workshops that the “English diplomas” on the walls were probably codes of conduct. Codes of conduct will not be successful unless workers are knowl-

The Central American Code of Ethics was developed with the active participation of the workers it supports.

edgeable about employee rights and employer obligations contained therein, and how they can use these codes as tools to defend their rights.

The Central American Code of Ethics is one of the few examples of a code of conduct that was developed from the ground up. While it has yet to be effectively enforced, this code was developed with the active participation of the workers it supports, incorporates their concerns (as ex-

pressed at the MEC workshop), and educates them of their rights. The code resulted from a 1997 campaign called *Empleo sí, pero con dignidad* (Jobs, Yes, but Jobs with Dignity). Launched by the MEC and women’s groups in Guatemala, El Salvador, and Honduras, the campaign consisted of a massive lobbying and media effort in Nicaragua and the gathering of 30,000 signatures for a petition. Nicaraguan Minister of Labor Wilfredo Navarro signed the code on February 1, 1998, and the owners of Nicaragua’s 23 maquiladoras endorsed it the following day. Unfortunately, such codes are rare. Top-down company codes of conduct developed and adopted by large retailers and brand-name apparel giants are still much more prevalent.

On a final note, conference participants were concerned that current Northern code developments about which they know very little (because the discussions are usually held in English) will have an unknown impact on their lives. Participants were aware of disagreements between labor unions and NGOs involved in the Apparel Industry Partnership (AIP) in the United States but were unclear about the main issues dividing them. There is no question that groups such as MEC want to continue to collaborate with groups in the North on campaigns to improve conditions in

the maquilas. But the terms of solidarity are clearly becoming more complex as NGOs and unions in both the North and South grapple with how best to support workers’ efforts to improve working conditions without jeopardizing jobs. Before solidarity campaigns are initiated in the North, agreement must be reached with the affected groups in the South on demands and strategies. ❖

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Edited by

Joanne R. Bauer

Carnegie Council on Ethics and International Affairs, New York, and

Daniel A. Bell

University of Hong Kong

Contributors: Abdullahi A. An-Na’im, Joanne Bauer, Daniel A. Bell, Joseph Chan, Jack Donnelly, Yash Ghai, Mab Huang, Inoue Tatsuo, Benedict Kingsbury, Onuma Yasuaki, Norani Othman, Suwanna Satha-Anand, Amartya Sen, Dorothy Solinger, Kevin Y. L. Tan, Charles Taylor

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These problems have complicated efforts to expand the monitoring effort beyond this single facility.

The tensions and differences laid out here complicate but do not prevent unions and NGOs from collaborating in the pursuit of social justice in the global economy. In Guatemala, for example, the NGO monitoring group COVERCO has established strict rules limiting its work to monitoring and reporting, and avoiding any advocacy

role. When workers approach monitors with grievances, COVERCO representatives provide names of trade unionists, NGO advocacy organizations, and labor lawyers to help them.

Trade unions and NGOs still have more in common with each other than either has with corporations, governments, or international organizations that see free trade and free-flowing capital as the solution to low labor standards. Mutual recognition of over-

riding common interests is critical to achieving NGO and union goals as these organizations confront powerful actors in the global economy with demands for social justice. At the same time, awareness of tensions and differences in their own ranks will allow unions and NGOs to navigate the opportunities and challenges that lie ahead. ❖

The Promise of Corporate Codes of Conduct

BY THOMAS DONALDSON, *Mark O. Winkelman Professor, Wharton School of Business, University of Pennsylvania, Philadelphia, USA*

Corporations, it has been said, are taller and richer than most of us, but have exceedingly narrow personalities. As ethical codes for multinational companies proliferate, one may ask whether these exceedingly narrow personalities can ever conform to ethical codes. Two issues stand out. First, can any kind of code be effective in guiding corporate behavior? Second, even if codes hold promise, which kinds of codes are most promising? I will argue that codes do hold significant promise, but some are more promising than others, and that voluntary corporate or industry codes show better prospects than those generated by international actors such as the United Nations and the International Labor Organization.

The pessimism about global codes is understandable, since the formal goal of the for-profit corporation is the maximal return on investment for shareowners. “Most corporate codes could be written by slave owners,” a management consultant once quipped, and it is no secret that some global companies hone their competitive edge through unethical behavior. Incidents such as the Philippines’ 1996 Marcopper mining disaster, in which the dumping of 1.5 million tons of minerals forced the evacuation of 1,200 residents and silted the waterways, are painful reminders that corporate recklessness abounds.

Even business trade journals, usually cozy to business, often despair. Margaret Emmelhainz, writing in the *Journal of Supply Chain Management*, notes that while many firms in the apparel industry have global codes, only limited uniformity exists across the codes, the codes themselves lack detail, and they are particularly lax in the area of monitoring and enforcement. For observers such as Stephen Frost, this is not surprising. “Corporate codes of conduct are not written for

workers,” he asserts in these pages. Rather, “they are written about workers, for an audience elsewhere—in shopping malls, on university campuses, or in cyberspace.”

But thoroughgoing pessimism about corporate codes is naive. The idea that corporate hands are forced at every turn by the profit motive was inspired by the economic theories of Adam Smith and Karl Marx but is largely rejected today. Sometimes managers selfishly direct funds to themselves rather than to the shareholders they supposedly represent, and sometimes they do noble things. Cross-cultural studies of managers have shown for decades that the percentage of executives in countries that subscribe to the idea that the “only goal of the corporation is to make a profit” is a minority, ranging from a high in the United States of between 25 and 40 percent to a low in countries such as Japan of less than 10 percent.¹ And bigger does not always mean badder; even activists usually acknowledge that the worst offenders in industries such as apparel and sports are not the giant multinational corporations but the smaller domestic firms in developing countries.

Even NGOs now express optimism about long-term prospects for corporate cooperation. Georges Enderle and Glen Peters’ recent study of global NGOs shows that NGOs are pessimistic about their current relationship with multinational corporations but optimistic about the future. Approximately 10 percent of the NGOs in this study see the current relationship with multinational corporations as “cooperative,” but nearly 60 percent believe that their relationship will be cooperative in the future.²

Ethics or cooperation need not invariably clash with financial success. As David Bobrowsky has argued, MNCs may be viewed as engaging in certain “games” in which appropriate cooper-

ation can mitigate collectively destructive interaction. “MNCs,” he notes, “are involved in three related strategic ‘games’: the ‘regulation game,’ with states and other firms at the international level; the ‘reputation game,’ with consumers, investors, and domestic regulators at the national level; and the ‘management game.’”³ Bobrowsky’s point is that cooperative rules in the form of codes of conduct can lower transaction costs in any (or all) of

Codes are more effective when owned by the corporations or industries themselves.

these three games, thus increasing the benefits of cooperation and reducing the costs of opportunistic actions by other players.

Which codes hold the most promise in guiding ethical corporate behavior? A 1999 study by Ans Kolk, Rob van Tulder, and Carlijn Welters of 132 codes of conduct drawn up by four different groups of actors (social interest groups, business support groups, international organizations, and firms) suggests that voluntary transnational corporations’ codes show more potential than others—at least as long as the other actors are involved in creating, monitoring, and supporting the code. The study indicates that codes generated by transnational actors, while stricter than corporate codes on aspects such as their nature and the position of the monitoring actor, have terrible compliance records. “Monitoring and sanctions remain the most important test for the seriousness of the codes’ implementation,” the study notes, and organizations such as the ILO,

the United Nations, or the Caux Roundtable notably lack the power of sanction.⁴

But not all corporate codes are equally effective. Three success factors stand out. First, codes by themselves are worthless. Studies of domestic codes over the last two decades have failed to show a correlation between merely having a code and improved corporate behavior. The point was made starkly in the most recent survey conducted by the Ethics Resource Center. The Center's *2000 National Business Ethics Survey* revealed no correlation between the presence of a code of ethics and a lessened pressure on business managers to compromise ethics.

Codes, rather, become effective only in the context of certain other organizational and societal factors. Recent research by Gary Weaver, Linda Trevino and P. L. Cochran shows that "integrated" programs do far better than "uncoupled" programs. Their data indicate that uncoupled programs, which provide the appearance of conformity to external expectations while insulating much of the organization from those expectations, are relatively worthless. In contrast, integrated structures, which "affect everyday decisions and actions, where decisions are made in light of these policies, and people occupying these specialized structures have the confidence of and regular interaction with other departments and their managers," made dramatic differences in employee attitudes about ethics. Weaver, Trevino, and Cochran's work supports the point frequently made in business ethics literature that senior management's personal commitment to ethics is critical for code program success.⁵

Second, the right source or impetus for a code is necessary. Medea Benjamin argues in these pages that international codes should be preferred to those "that each company designs." I disagree. Not only has the track record of international codes been dismal owing to the lack of sanctions, but the fact

that a code is, in Benjamin's words, "forced on a company" is a dramatic drawback. Experience shows that unless companies come to "own" the codes and implement them with conviction, persistent failures occur.

The Conference Board recently conducted a survey of global corporate codes and divided them into four basic kinds: instrumental, legal compliance, stakeholder, and values/mission. The first two are the product of external pressures. The instrumental code is inspired by profit pressures on the presumption that ethics will limit employee appropriation of corporate wealth, and the legal compliance code by a threat of legal sanctions. (The instrumental code is the most popular in the United States.) In contrast, the second two are predicated on internal values. The stakeholder code assumes that all constituencies who hold a stake in the corporation, including employees, consumers, and members of the general public, deserve to have their interests factored into corporate decision making, and the values/mission code construes values as part of the underlying identity of the corporation. All evidence suggests that the first two kinds of codes are less effective than the latter two, exhibiting again the importance of corporate ownership of the code.

My argument is not that voluntary codes are to be preferred to legal regulation. Both are clearly needed. My argument is that codes themselves are more effective when owned by the corporations or industries themselves.

Third and finally, stakeholder involvement appears critical for the success of codes. A follow-up study of Kolk, van Tulder, and Welters' analysis of 132 codes focused on the sporting goods industry, an industry that many regard as a "best practice" industry. The study confirmed the earlier study's finding that the likelihood of compliance to codes depends heavily on the interaction of various stakeholders in the formulation and implementation of the code.⁶ Do employees, NGOs, and

local government leaders play a role in shaping the code? The answer may spell a code's success or failure. And for codes that focus on employee standards, the participation by employees in the design of those standards is not only a factor in their success, but also a moral mandate: Protection without voice devolves into paternalism.

Again, codes cannot substitute for laws and regulation. More so-called expatriate laws, which apply to foreign jurisdictions, are probably necessary. As difficult as it is to enforce regulatory principles such as the Foreign Corrupt Practices Act (FCPA) or the new OECD rules on bribery, the results can be encouraging. A recent survey by Mary Jane Sheffet of the head legal counsels of Fortune 500 companies indicated that many of the responding firms had made systemic changes in response to legal pressure exerted by the FCPA.⁷ Hence, although codes cannot substitute for regulation, when they are constructed through the cooperation of stakeholders and owned by the corporations themselves, codes hold significant promise. ♦

Endnotes

¹ Charles Hampden-Turner and Alfons Trompenaars, *The Seven Cultures of Capitalism: Value Systems for Creating Wealth in the United States, Japan, Germany, France, Britain, Sweden, and the Netherlands* (New York: Currency Doubleday, 1993).

² Georges Enderle and Glen Peters, "From Suspicion to Trust: What NGOs Expect from Global Companies" (unpublished manuscript, 1998).

³ David Bobrowsky, "Outsourcing Rights: Multinational Codes of Conduct and the Social Construction of Transaction Costs" (dissertation proposal, New York University, New York, 1997), p. 5.

⁴ Ans Kolk, Rob van Tulder, and Carlijn Welters, "International Codes of Conduct and Corporate Social Responsibility: Can Transnational Corporations Regulate Themselves?" *Transnational Corporations*, 8(1), pp.143-80.

⁵ Gary R. Weaver, Linda K. Trevino, and P. L. Cochran, "Integrated and Decoupled Corporate Social Performance: Management Commitments, External Pressures and Corporate Ethics Practices," *Academy of Management Journal*, 42(5).

⁶ Ans Kolk, Rob van Tulder, and M. van Leeuwen, "How Multinationality Affects Ethics: Codes of Conduct in the Sporting Goods Industry," http://www.fbk.eur.nl/DPT/VG8/P_sale.html (2000), pp.1-25.

⁷ Mary Jane Sheffet, "The Foreign Corrupt Practices Act and the Omnibus Trade and Competitiveness Act of 1988: Did They Change Corporate Behavior?" *Journal of Public Policy & Marketing*, 14(2), pp. 290-300.

Readers' Responses

WEALTHY CANADA CAN SUPPORT HUMAN RIGHTS AT HOME AND ABROAD

In her engaging essay "Reflections of a Global Women's Activist" (Summer 2000), Susan Bazilli reminds us of the dangers of human rights hypocrisy emanating from rich, developed nations in the North. The legitimacy of women's human rights standards depends upon their internal acceptance and promotion by the states of the North as well as the South. If these standards are used by the rich states only to pester and preach to the poor states, they will not be respected and will fail. Such a double standard allows oppressive regimes to dismiss international human rights standards as imperialist intervention. Bazilli thus calls for closing the gap between the local and the global.

I have a concern, however, with Bazilli's use of Canada to attempt to illustrate this point. She argues that in Canada "the resources directed to the international level have drained funding for some of our [Canadian] national women's movements." She claims that Canada is choosing "to support participation in UN conferences and international work, rather than respond to its own civil society groups seeking to change existing Canadian policies that abuse human rights."

The problem with this argument is that Canadian development assistance represents only 0.7 percent of the Canadian central government budget, a meager 0.29 percent of Canada's GNP. It is hard to argue that Canada is directing too many resources to the international level. Bazilli hurts her own argument by presenting the case as "either/or," that is, Canada can support either local human rights or international efforts. The reality is that the rich, wealthy state of Canada has the resources to support local and global efforts.

Bazilli correctly identifies the hypocrisy in a policy that ignores abuse

at home while pointing the finger at others abroad. She also adeptly warns of the dangers of relying on a legal framework alone to bring about positive change for women. She persuasively argues that effective change in the status of women depends upon local women's organizations' mobilizing their communities to engage their local governments to respect international women's rights.

William Felice, professor of political science, Eckerd College, St. Petersburg, Florida, USA

PROSTITUTION IS STILL A HUMAN RIGHTS ABUSE

Yes, it is essential to ensure that prostitutes are treated fairly under the law, but it shouldn't be suggested that the activity is not "coercive, degrading, and a form of violence against women" ("Fifteen Years after the World Charter for Prostitutes' Rights," Summer 2000). In the United States, the vast majority of prostitutes have been sexually abused as children and began selling sex as minors, on average at age 14. In addition, a high percentage of prostitutes are addicted to drugs or held in some form of debt bondage. In short, participation is generally not a free choice. When this fact is combined with the violence inherent to prostitution, it is clear why prostitution is considered a human rights abuse.

Where prostitution has been legalized, as in Amsterdam, women continue to be subjected to high levels of sexual assault and only break even financially after sleeping daily with ten men. Legalized prostitution also makes forced trafficking of women a much easier business to conduct, as the only difficulty in trafficking becomes moving women across borders. Indeed,

WHAT DO YOU THINK?

Do you have a response to "Who can Protect Workers' Rights? The Workplace Codes of Conduct Debate"? Share it with thousands of other *Human Rights Dialogue* readers. Send your comments before December 15, 2000, to: Roger Duthie, Human Rights Initiative, Carnegie Council on Ethics and International Affairs, 170 East 64th Street, New York, NY 10021-7496, fax: (212) 752-2432, e-mail: rduthie@ccea.org. We regret that we will not be able to print every response. Please limit your response to 300 words and be sure to include your name and contact information. We reserve the right to edit text as necessary.

500,000 women are trafficked into Europe annually, compared to the 50,000 brought into the United States.

Finally, fighting against forced trafficking and prostitution need not require the abuse of the women involved. Sweden has seriously reduced prostitution and trafficking by prosecuting the male clients—while decriminalizing the sale of sexual services. International aid and local legal services should be used to provide economic opportunities to women, to support those around the world who have been tricked and coerced into prostitution, and to prosecute traffickers and pimps—not to legitimize, and subsequently legalize, a system that abuses women's human rights.

Emma Naslund, political adviser to the chairperson of the European Parliament's Committee on Women's Rights and Equal Opportunities, Stockholm, Sweden

Earl Hadley, independent gender consultant, New York, NY, USA and Brussels, Belgium

Codes of Conduct Don't Work

(continued from page 5)

country are. She sought the help of CSWA's garment workers' committee and launched a campaign to expose the terrible conditions that she endured while sewing garments for Donna Karan. Her courage and initiative emboldened many other Latina and Chinese DKNY workers to step forward.

DKNY's immediate response was not to pay these workers or improve the conditions at its factory but to shut the factory down, as a way to shut up its workers. These women have launched the first class-action suit on behalf of all Donna Karan garment workers in New York State, totally bypassing the many layers of the subcontracting pyramid to hit the employ-

er at the top. Aside from demanding their owed wages, the women are insisting that Donna Karan re-open its factories, ensure that its women workers will no longer suffer harassment, and not close factories when workers speak up for their rights. Last, the workers are demanding that DKNY commit to producing clothing under legal conditions.

Donna Karan's public relations defense of these deplorable conditions is: "We use union contractors." Yet Kwan Lai is a member of Local 22 of UNITE!, which did not keep her from being underpaid and abused. In Manhattan's Chinatown, close to 90 percent of the factories are union shops. Yet, according to research released by the DOL, 90 percent of the factories in Chinatown are in violation of basic labor laws. Even in these union shops,

workers are being paid a wage as low as \$1 an hour and work 12 to 16 hour workdays with no overtime pay. As a result of excessively long hours, countless women are developing work-related injuries and illnesses. There is no alternative for the many women who develop these occupational diseases, except to continue working until they are completely disabled.

We cannot afford to give these manufacturers and retailers even more paper, such as a code of conduct, to hide behind or allow them to continue to promote the empty promise of the union label. When workers come together to challenge the rising tide of sweatshop conditions, then we are striving for a change that affects our lives and is felt throughout our communities, not something that exists only on paper. ❖

Readers' Responses

(continued from page 18)

CULTURE MUST BE ADDRESSED, NOT SKIRTED

Three articles in the Special Beijing +5 issue of *Human Rights Dialogue* (Summer 2000)—Nadia Wassef's and Melron Nicol-Wilson's on female genital mutilation (FGM) and Martha Nussbaum's on the "capabilities approach"—highlight a fundamental problem in the approach of those seeking to promote and protect women's human rights in the context of local cultural and religious practices.

The problem is that those who see cultural or religious practices as antithetical to human rights often presume that FGM practitioners are irrational. Wassef notes, in contrast, that only by assuming that religiously based arguments favoring FGM are rational were human rights advocates able to prompt people to seriously question their reasons for supporting the practice.

Similarly, there is a cultural program on FGM in Kenya that teaches girls about their expected roles as women in society while promoting alternative cir-

cumcision rituals that do not require excision. This program is critiqued for its patriarchal nature as well as for its setbacks; a few girls in the program were later forcibly excised by their families. But does such a program still represent an innovative and useful step forward in the thinking and work against FGM in Africa? I believe so.

Addressing a women's human rights violation like FGM by focusing on its multiple impacts is actually skirting the issue. However useful such an approach is in the short term, in the long run the real issue always needs to be confronted. In order to make a long-term difference, we cannot dismiss or strategically circumvent cultural and religious belief systems.

L. Muthoni Wanyeki, executive director, African Women's Development and Communications Network (FEMNET), Nairobi, Kenya

Factory Rules vs. Codes of Conduct

(continued from page 4)

appears that there have been some improvements in working conditions. Employees at the Changan plant now work in a more effectively ventilated environment, and receive pay slips that are easier to understand. While these improvements are significant, they fail to address core concerns such as workers' rights to associate freely and negotiate with management. These improvements do not provide workers with the freedom and dignity that they need to take an active role in determining their future.

Some activists believe corporations are making sacrifices to implement codes, but in view of the situation at Mattel's Changan plant, it seems clear that corporations could in fact be doing much more. To businesses, levying fines for lateness makes sense, enforcing codes of conduct doesn't. ❖

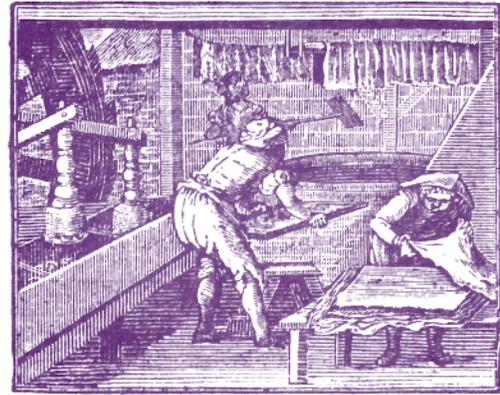
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Leonard Hammer is a lecturer on law and international human rights in Israel at Bar Ilan University, Ramat Gan Law College, and Rothberg International School at the Hebrew University. Focusing on how Israel implements the human rights of migrant workers, Leonard's research will consider the international and local influences upon the development of human rights norms. He received his J.D. from Georgetown University in 1988.

Juana Sotomayor is the Spanish coordinator at the British Council in Quito, Ecuador. Her project will research levels of awareness and expectation regarding economic, social, and cultural rights in both the administration of justice and civil society in rural Ecuador. Juana received her doctorate in jurisprudence from the Universidad del Azuay in Ecuador in 1999, and this year received her M.A. in education from the Universidad San Francisco de Quito.

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Human Rights Dialogue Winter 2001

Humanitarian Intervention

The Winter 2001 issue of *Human Rights Dialogue* will consider military humanitarian intervention and human rights from a perspective that is too often neglected: that of people in countries that have been "intervened upon" in the name of human rights. This issue of *Dialogue* will also consider those who have faced massive human rights violations without intervention. By printing the testimonies of local social justice advocates in places such as East Timor, Kosovo, Bosnia, the African Great Lakes Region, Sierra Leone, Chechnya, and Somalia, *Dialogue* will critically examine the positive and negative implications of greater participation by state and multilateral actors in human rights discourse, particularly through humanitarian intervention efforts. On the one hand, such engagement opens up dialogue and political space for human rights action. On the other, usurpation of human rights language and manipulation of the debate can damage the moral authority of the human rights movement and the credibility of local actors. When this happens, how can human rights principles gain or regain public legitimacy?

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