

CHINA AND THE AMERICAN ANTI-SWEATSHOP MOVEMENT

BY KATIE QUAN

As the gradual phase-out of China's apparel export quotas under the Multi-Fiber Arrangement brings a shift in international garment production to China, ambivalence over applying international codes of conduct to China must come to an end, Katie Quan writes. Labor abuses in China affect not only domestic workers, but also workers in Chinese immigrant communities abroad.

Introduction

Advocates of corporate social responsibility (CSR) in the U.S. have been somewhat reluctant to enforce codes of conduct in China, in spite of a general perception that there are many violations of labor rights and labor standards. Most corporations have relaxed the standards that they would apply in other countries, with some formulating a policy of "parallel means" as a substitute for enforcement of codes as normally interpreted. Many labor rights activists have also been equivocal on labor standards in China, and have waged relatively few campaigns addressing the issue.

This reluctance is especially regrettable when evidence indicates that CSR and codes of conduct can be a valuable tool for workers to assert their rights. In the 2001 case of the Korean-owned Kukdong factory in Mexico, for example, workers used codes of conduct to leverage support from students and consumers in Korea and the United States, suggesting that workers elsewhere could similarly benefit from effective implementation of codes of conduct.

The ongoing phase-out of apparel export quotas under the Multi-Fiber Arrangement (MFA), accompanied by a general assumption that a large portion of apparel production and jobs will shift to China, is bound to bring greater scrutiny of labor conditions in China. Under these circumstances, advocates of CSR can no longer afford to be ambivalent about enforcement of labor standards in China. The time has come to discuss the value of corporate social responsibility, to address the challenges to its implementation in China, and to formulate

strategies for engaging China in the worldwide movement for corporate social responsibility.

This article briefly introduces the historical origins of the movement for corporate social responsibility in the apparel industry, and argues that the perceived obstacles to the implementation of CSR in China are not as great as they might seem.

The information in this paper was gathered from formal research, as well as the authors' personal observations as a former garment worker, national officer of the garment and textile workers' union UNITE, and board director in anti-sweatshop organizations such as Sweatshop Watch, the Worker Rights Consortium, and the International Labor Rights Fund.

Background

During the 1990s, a number of high profile exposés of sweatshop conditions caught worldwide attention. Millions watched TV star Kathie Lee Gifford on national television as she tearfully apologized for clothes bearing her label having been made in sweatshops in Latin America.¹ Public attention and outcry intensified when Thai women in a Los Angeles suburb were discovered sewing for \$.50 per hour behind razor wire fences,² and when a Nike contractor was found to have disciplined women workers in a Vietnamese factory by forcing them to run circles in the sun until they fainted.³

While workers were being mistreated and abused, the corporations that manufactured and sold the products were making huge profits and luring customers by advertising their brands as being fashionable and sexy.⁴ Ironically, it was precisely this consumer engagement with branded products that propelled the anti-sweatshop movement forward. While corporations had long profited from sweatshop exploitation, the 1990s brought the recognition that consumers who wore a Nike swoosh or other logos were complicit in this exploitation. Furthermore, consumers realized that they could express their displeasure about sweatshops and support labor rights through boycotts, leafleting, picketing and media exposure against these brands.

Thus the movement for labor rights became a movement for corporate social responsibility, resulting in the establishment of voluntary "codes of conduct" for shoe and apparel producers. Closely modeled on the labor standards established in the International Labour Organization's (ILO)

core conventions, these codes generally set a minimum standard for basic wages and working conditions in an attempt to eliminate the worst forms of exploitation and ensure that investment and development provide sustainable livelihood for workers.

Another important driver of corporate social responsibility is the sweat-free procurement movement, in which entities such as governments and universities adopt purchasing policies that require vendors to ensure that their products are made in compliance with labor standards. This effort, led by the United Students Against Sweatshops (USAS), has resulted in more than 100 American universities adopting sweat-free procurement policies and joining one or both monitoring organizations: the Worker Rights Consortium and the Fair Labor Association.⁵

Today corporate social responsibility has become an integral part of doing business in the apparel industry, with almost all large corporations adopting codes of conduct and establishing internal or external programs for monitoring contractors. While monitoring compliance with codes of conduct cannot be regarded as a substitute for government enforcement of law and union organizing, it is fair to say that the movement for corporate social responsibility has in a relatively short period of time given rise to a new dimension of corporate governance in the global economy.⁶

The case of a group of workers at the Korean-owned

Kukdong factory in Puebla, Mexico provides an example of the potential effectiveness of properly implemented codes of conduct. A manufacturer of fleece garments for Nike, Reebok, and other major sportswear brands, Kukdong employed 900 workers, mainly women from the villages surrounding Puebla. In January 2001, 850 workers went on strike over the firing of several workers who had complained about spoiled food in the cafeteria and a decrease in pay. Lacking support from the fraudulent “company” union, CROC, the workers reached out to USAS and the Worker Rights Consortium (WRC), an independent non-governmental organization that monitors university licensed products for codes compliance. A WRC investigation substantiated the workers’ claims,⁷ and after its report was made public, Nike persuaded Kukdong to reinstate the workers and remedy the other complaints.

The reinstated workers continued to organize within the plant, and established an independent union called SITEKIM, which management eventually agreed to recognize over CROC. Following negotiation of a collective bargaining agreement, wages have risen by 40 percent, and SITEKIM has gone on to organize other factories.⁸

The Kukdong example demonstrates that in an otherwise labor-hostile environment such as Mexico, international consumer action and strong worker organization can help transform codes of conduct into important tools for workers to assert their rights.



Garment workers in a sit-in-protest at a Guangzhou factory owned by a Hong Kong company. Photo: Reuters.

CSR and American Perception of China

While cases such as that of Kukdong graphically illustrate the importance of CSR and codes of conduct, anti-sweatshop activists continue to display considerable hesitation and equivocation as they wrestle with implementing CSR in China. In the words of the late activist Trim Bissell of the Campaign for Labor Rights, China has become a “planetary black hole” attracting global production with its cheap labor, but “the anti-sweatshop movement has been without a China strategy.”⁹

For example, in January 2000, the University of California (UC) announced that it would not allow any university-licensed products to be produced in countries that do not allow freedom of association and collective bargaining, in effect banning products made in China. According to UC spokeswoman Mary Spletter, “It is a statement that the University of California will not tolerate inhumane work conditions, wherever they occur.”¹⁰

Some anti-sweatshop activists at UC supported the ban, given ample evidence of labor and human rights violations in China. But others opposed it for a variety of reasons: 1) procurement bans hurt workers, and worker advocates should instead pressure corporations to correct labor conditions; 2) the ban was unlikely to be effective, since UC’s relatively small purchasing share would not change corporate investment or Chinese government behavior; and 3) the ban would not strengthen worker organizing, since there are not many NGOs inside mainland China to support workers.¹¹ The upshot is that to date there has been no official ban on UC licensed products made in China.

This inability to come to a unified position on labor standards concerning China echoed previous discussions in the Apparel Industry Partnership (AIP) in the mid-90s and in the Worker Rights Consortium (WRC) in 2000. During AIP’s initial discussion of which codes to adopt, key actors acknowledged fundamental concerns with freedom of association and China’s intolerance of independent unions. But the matter was never resolved, since the AIP’s key actors were willing neither to negotiate lesser standards for freedom of association, nor to immediately confront companies with a demand that they withdraw their considerable investments from China.¹² The AIP’s successor, the Fair Labor Association, has developed “Special Country Guidelines” to deal with countries such as China where laws conflict with codes.¹³ During discussions about pilot projects in the Worker Rights Consortium in 2000, researchers raised the issue of studying violations of labor rights in China, but again that discussion was tabled because the task seemed too enormous for a fledgling organization.¹⁴

The lack of an official relationship between the American Federation of Labor – Congress of Industrial Organizations (AFL-CIO) and the All China Federation of Trade Unions (ACFTU) may be another factor in the reluctance to address labor standards in China. Anti-sweatshop activists dedicated to building strong unions have faced the equally unattractive alternatives of either bolstering the ACFTU, with whom there is no relationship, or aiding the formation of independent unions that might be persecuted. The AFL-CIO unions finally

initiated campaigns against sweatshop labor in the spring of 2000 in an effort to block renewal of China’s Most Favored Nations trading status, but their depiction of the abuse of Chinese workers caused some union leaders and members to engage in racist demagoguery against China,¹⁵ and may have led to an even greater reluctance to address the China issue.

It should be noted that not all anti-sweatshop activists share this reluctance and equivocation. Some labor groups and NGOs such as Global Exchange and the International Labor Rights Fund have attempted to address labor standards in China, but on a scale that is much smaller than similar efforts in countries such as Mexico, Thailand, or Indonesia. The most well known exception is the Hong Kong-based Labor Rights in China group, which has consistently exposed labor rights violations in Chinese workplaces and advocated for independent unions.

Even taking these exceptions into account, the general reluctance and equivocation that dominates the approach to labor standards in China creates the real risk that CSR advocates will create a double standard between countries where codes such as freedom of association can be more easily implemented, such as Mexico, and those where such standards cannot easily be implemented, such as China.

Such a double standard has already been formally proposed by the World Federation of the Sporting Goods Industry in the form of a theory of “parallel means,”¹⁶ which allows the following of different roads to move in the same direction. What this theory fails to recognize is that internationally recognized core labor standards are meant to be uniformly applied to all countries; otherwise “double” effectively negates the very meaning of “standard.” Secondly, sometimes the means are just as important as the end. This is especially the case with codes such as freedom of association, where the right of workers to engage in the process of organizing and expressing their concerns can be even more important than the actual result they achieve.

MFA Phase-out and China

Regardless of the vacillation of NGOs, labor standards in China are likely to come under sharper focus with the scheduled phase-out of apparel export quotas under the Multi-Fiber Arrangement in 2005, which is expected to bring a shift in production from many different countries to a few large ones, especially China.

Around the world, garment workers and their advocates are bracing for the kind of widespread job dislocation and depression of wages that previous trade deregulation has caused. After passage of the North American Free Trade Agreement (NAFTA) in 1995, more than 760,000 jobs were lost in the U.S.,¹⁷ decimating the garment industries in California and causing widespread unemployment among low-wage immigrant Chinese and Latin American women. Researchers are still trying to predict the outcome of the phase-out of the MFA worldwide, but there seems to be general consensus that China will end up with a proportionately greater share of the apparel production market.¹⁸

If more production does go to China, leaving workers in

other countries to face job loss and economic depression, then there is bound to be closer scrutiny of China's labor standards and practices. Workers losing their jobs will want to know that there is at least a minimum floor on exploitation and that workers in the receiving country have the right to organize and negotiate for improved working conditions. This scrutiny will allow Chinese labor to take advantage of internationally-recognized standards to raise the value of their own labor market and build a sustainable living. Thus the reluctance to deal with labor standards in China will probably soon be replaced with considerable urgency in dealing with those same issues, and labor standards will certainly be addressed.

Resolving Challenges to CSR

Detailed discussion of enforcement of codes of conduct in China is best left to those practitioners who have already engaged in it, or researchers who have studied it closely. However, there are a couple of concerns from the viewpoint of the Chinese American community and the global anti-sweatshop movement that I would like to raise here.



Photo:Reuters.

The first concern is that labor practices in China have an enormous influence on labor practices in Chinese American immigrant communities, and when those practices violate American labor law it not only hurts the workers, but is shameful and embarrassing to all Chinese Americans. During the past decade or so, there has been a widespread practice of "late payment," or paying the workers several weeks or months after the pay is due—a system that exploits people in their deepest economic vulnerability. There have also been numerous cases of overtime hours worked without overtime premium pay, and some cases where Chinese workers have been smuggled into the U.S. illegally, forced to pay tens of thousands of dollars to their smugglers, and made to sleep at their sewing machines at night.

In August 2001, a San Francisco garment factory known as Wins of California closed down abruptly while owing 200 workers fourteen weeks of back pay, totaling around one million dollars.¹⁹ The Chinese immigrant workers had not previously complained to the authorities about their lack of pay because this practice is common both in China and in Chinatowns. The authorities might never have known that this illegal practice was taking place if the employer had not closed her plant; even the paid factory monitor was not initially aware of it. The workers were eventually compensated through a special government fund more than a year later, but this employer continues to deny wrongdoing and operates other businesses in the Chinese community in spite of having treated employees in a way that most Americans would consider outrageous and disgraceful.²⁰

This same employer tried to force her way into a meeting that Sweatshop Watch and other worker advocates convened at the garment workers' union building in September 2001, claiming that unions are financed by the government, and as a taxpayer she had the right to attend the meeting. When I told her that in America unions are not financed by the government but only by workers' dues she left the union hall, but this experience brought home that she believed, as undoubtedly many workers did, that the union was financed by the government as it is in China. This perception has made it difficult for union organizers to organize Chinese immigrant workers, and has taken a great deal of effort to dispel.

The second concern relates to the interpretation and implementation of freedom of association, perhaps the most important code for union activists. The interpretation follows the ILO's Convention #87:

"Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation... The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof".

As the Kukdong case illustrates, the right of workers to form unions of their own choice is crucial when existing unions do not fairly represent them. But we have seen ample evidence that independent unions in China are not welcome, with some leaders of independent unions being detained

without trial.²¹ For advocates of corporate social responsibility this means that Chinese workers have no voice in workplace affairs if their union does not speak for them.

Technically speaking, the official requirement that unions must receive approval from the ACFTU does not constitute a ban on independent unions; but the question is what criteria are used to approve certain unions rather than others. Thus the issue may not necessarily be with the law, but rather with the implementation of that law. If in practice only ACFTU affiliates are approved, that indicates that independent unions are prohibited. But if non-ACFTU unions are also approved, that implies an acceptance of independent unions.

This is not to suggest that Chinese workers should form millions of independent unions in their workplaces; in fact quite the opposite. In America, the vast majority of trade unionists do not advocate the formation of unions independent of the AFL-CIO either, since this weakens the voice of the union movement. Independent unions that operate outside the AFL-CIO mainstream, or that have broken away from the mainstream, tend to be small, weak and unsupported in times of need. At the same time, almost all American trade unionists would uphold the option of workers to form these independent unions, in case existing unions do not fairly represent their workers. The option of forming independent unions serves as a check and balance, a constant reminder to the mainstream union movement that they must either serve the workers or face a possible challenge from independent unions.

Strategically, those who have been serious about reform within the U.S. labor movement have worked from the inside. These efforts culminated in the 1995 election of John Sweeney as AFL-CIO president, and have led to many progressive policies and programs introduced during his tenure. In the same way it is possible that activists within China's trade union movement are also working to make the movement more democratic and powerful.

From the point of view of an American anti-sweatshop activist, freedom of association, including the right to form independent unions, needs to be upheld as a safeguard against inadequate representation by existing unions. At the same time, because the overwhelming majority of the workforce in China belongs to the ACFTU, it makes strategic sense to work within the existing union structure to address democratic representation and labor policies from within.

Conclusion

Discussion of CSR and China is long overdue. Although some advocates of CSR have been reluctant to broach the subject, the likely shift in world production of apparel to China following the complete phase-out of the MFA makes confrontation of these issues urgent today.

Examples such as Kukdong show that codes of conduct can effectively improve working conditions under the right circumstances. While there are many challenges to CSR in China, solutions may not be elusive as they seem, as long as the parties involved bring a sincere commitment to improving conditions for workers. The kind of dialogue and engagement

taking place today is critical for the process of such problem-solving to begin.

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CSR on the Agenda in Beijing

A recent international conference in Beijing suggests that the concept of corporate social responsibility is making headway in China. Following is the agenda of the conference, which included two papers adapted for publication in this issue of CRF.

Agenda of the Conference

on Labor Relations and Corporate Social Responsibility Under Globalization

November 25–26, 2002

Renmin University of China, Beijing, China

25 NOVEMBER

09:00 – 09:45 Keynote speeches

Feng Jun, Vice President of Renmin University
Zeng Xiangquan, Dean, School of Labor Relations & Human Resources, Renmin University
Sarah Cook, Ford Foundation
Chen Yin, Vice Chairman of China Employer's Confederation

10:15-12:00 Part I: Development of Globalization and Corporate Social Responsibility Moderator: Bob Jeffcott

10:15-10:20 Introduction by Bob Jeffcott
10:20-10:45 Peter Utting, United Nations Research Institute for Social Development, Geneva Switzerland
The Corporate Responsibility Movement: Implications and Challenges for Developing Countries
10:45-11:00 Dennis Driscoll, Faculty of Law, National University of Ireland, Galway; Raoul Wallenberg Institute
The Business Case for Corporate Social Responsibility
11:00-11:35 Liu Junhai, Professor & Assistant Director, Institute of Law, Chinese Academy of Social Sciences
Philosophy and Approaches to Strengthening Corporate Social Responsibility in China

13:30-17:00 Part II: Codes of Conduct, Monitoring & Social Dialogue Moderator: Peter Utting

13:30-13:35 Introduction by Peter Utting
13:35-14:00 Bob Jeffcott, Maquila Solidarity Network, Toronto, Canada
Multi-Stakeholder Codes and Monitoring Systems: Will they Benefit Workers?
14:00-14:25 Aurret van Heerden, Fair Labor Association, Washington, D.C., U.S.A.
Accountability and Transparency – The Keys to Real Corporate Social Responsibility
14:25-14:50 Alan Roberts, Ethical Trading Initiative, U.K.
The Ethical Trading Initiative
14:50-15:15 Nina Ascoly and Ineke Zeldenrust, Clean Clothes Campaign
Discussing Key Elements of Monitoring and Verification
15:45-16:10 Apo Leung, Asia Monitor Resource Centre, Hong Kong
Cases from the Toy Sector

26 NOVEMBER

08:30-12:00 Part III: Corporate Social Responsibility, Labor Legislation and Labor Standards Moderator: Katie Quan

08:30-08:35 Introduction by Katie Quan
08:35-09:00 Todd McKean, Independent consultant, Guangzhou, China
Overview of CSR and Labor Standards
09:00-09:35 Tim Connor, Australia
Time to scale up cooperation? Unions, non-governmental organizations and the international anti-sweatshop movement
09:35-09:50 Dr. Liu Kaiming, The Institute of Contemporary Observation, Shenzhen
Codes and Overtime: Report on an Enterprise Survey in China
09:50-10:15 Tan Shen, Tsinghua University, Beijing
Chinese Academic & Social Group's Approach
10:45-11:10 Qiao Jian, Labor College, Beijing, China
Corporate Social Responsibility and the Role of Trade Unions
11:00-11:30 Jill Tucker, Reebok International Ltd.
Worker Representation Efforts in China, a Case in Fuzhou, China

13:30-16:15 Part IV: Corporate Social Responsibility and Human Resource Management Moderator: Todd McKean

13:30-13:35 Introduction by Todd McKean
13:35-14:00 Katie Quan, Institute of Industrial Relations, University of California, Berkeley, CA
Corporate Social Responsibility in the Global Apparel Industry: A View from the American Anti-Sweatshop Movement
14:00-14:35 Steve Frenkel, Australian Graduate School of Management, University of New South Wales; University of Sydney, Australia
Compliance, Collaboration and Codes of Labour Practice: The adidas Connection
14:35-14:50 Lek Yimprasert, Bangkok
The Case of Thailand
14:50-15:15 Rosey Hurst, Impactt Ltd., U.K.
Resolving Excessive Overtime Through Sound HR Management Mechanism

16:15-17:30 Summary, Ways Forward, and Closing Moderator: Sarah Cook