

CORPORATE RESPONSES TO HUMAN RIGHTS

BY ROBERT J. ROSOFF

Companies doing business in China confront a range of potential labor rights violations and human rights abuses. This is particularly true of companies that manufacture in China using subcontractors; however, companies that sell products or services are also not immune. Robert Rosoff summarizes the most serious rights abuses in China today and suggests steps companies can take to address them.

It is common knowledge that China has serious labor rights and human rights problems. When western companies are questioned about the morality or wisdom of doing business in China under these conditions, company officials invariably respond that they follow the laws of countries where they do business. They often claim that China will "democratize" as it develops economically. Many companies have also adopted codes of conduct to address these problems.

However, these responses are often inadequate. It is difficult to protect workers' rights by following laws that are routinely violated by factory owners and Chinese officials. Likewise, there is no evidence that rights problems are diminishing as China develops economically; on the contrary, many labor and human rights problems appear to be worsening. And while codes are a good starting point for any company that wishes to operate in a socially responsible manner, it is extremely difficult to enforce them adequately in China today. Consequently companies must take additional steps to address these serious problems.

Labor Rights and Human Rights Problems

Western companies contend with four types of labor and human rights abuse in China today: (1) labor rights violations in Chinese factories; (2) persecution of labor rights activists; (3) human rights violations; and (4) sale of military, police and security equipment. While a company's specific concerns will depend on the type of business it conducts in China, all companies that manufacture in China using subcontractors should assume that some of their workers are victims of labor

rights abuse, and that no company employing Chinese workers can provide them with basic freedom of association rights.

It is impossible in the space available to adequately describe the full extent and severity of China's labor and human rights problems. The examples provided below represent just a few of the most serious problems. They have been documented by many different organizations and individuals and in many publications, including Chinese newspapers. Most of the factories mentioned specifically are manufacturing products for U.S. or western markets.

1. Labor Rights Violations in Chinese Factories

Available information indicates that labor rights violations in Chinese factories are extremely common. They include: pay below the minimum wage; excessive work hours and failure to pay proper overtime; bonded or forced labor; improper deductions from wages; dangerous work conditions; and physical abuse and mistreatment.

a) Pay Below the Minimum Wage

China's Labor Law prohibits employers from paying wages below established minimum amounts. In practice however, many factories pay workers less than the required minimums. In 2001, the *New York Times* reported on the plight of millions of migrant workers in southeast China factories. It described the case of one woman, Ms. Fu, who was paid \$24 to \$36 a month "depending on overtime" to pack toys, far below the local minimum wage of \$48 a month. This is apparently not unusual. A Guangdong trade union survey cited by sociologist Anita Chan, an expert on Chinese labor conditions, found that 32% of workers were paid below the legal minimum wage.

In addition, the established minimum wage may not provide a subsistence level of existence. The National Labor Committee (NLC) analyzed basic living expenses in Shenzhen and concluded that the local minimum wage of US\$65 would not come close to covering basic monthly expenses that could total over US\$350. NLC's report noted, for example, that it costs \$12.05 a month to provide milk for one infant.

b) Excessive Work Hours and Failure To Pay Proper Overtime

In 1997 China reduced the national legal workweek from 44 hours to 40 hours, excluding overtime. The Labor Law mandates

a 24-hour rest period per week, does not allow overtime work in excess of three hours a day or 36 hours a month, and sets forth a required scale of overtime compensation.

Nevertheless, violation of overtime laws is common. According to the Guangdong trade union survey, 35% of workers interviewed were not paid the legally required higher rate for overtime work. It is not uncommon for employees to work two or three hours of overtime seven days a week, with only one or two days off every month.

An investigation of Guangdong's Chung Hoo Shoe Factory by the Hong Kong Christian Industrial Committee found that factory managers prevented the 3,000 workers from punching their time cards in order to conceal a large amount of overtime. Overtime averaged three hours after each eight-hour day, and in peak periods some workers toiled for three to four months without a day off.

c) Bonded or Forced Labor

Isolated cases of slavery have been reported in China's semi-legal or underground businesses such as brick factories, stone quarries and greenhouse farms. In addition, many Chinese workers endure work conditions that qualify as forced or bonded labor. One reason for this is China's household registration system (*hukou*), which restricts the right to work to the village or city where workers live. The Chinese government has announced it will end the *hukou* system by 2006; however, it is still partly in effect.

When workers seek work outside of permitted home areas they are often treated as second-class citizens and can be forced to work under terrible conditions and without pay. Some "migrant workers" from rural areas are required by authorities to apply for a temporary residence permit and a work permit to be able to work away from home. However, according to Anita Chan, in some cases when workers cannot afford these permits or simply do not want to spend the money, the factory applies for the permits on behalf of the workers, pays and then deducts a sum from monthly wages.

However, instead of giving the workers their permits, some factories require migrant workers to surrender them and other personal documents when they are hired, and some refuse to return the documents if they quit their jobs. Without these documents, workers can be arrested by police, mistreated, thrown into detention centers and then deported back to the countryside. Fear of arrest and deportation causes many workers to continue working at jobs where their rights are violated, trapping them in a bonded relationship. [See elsewhere in this issue, "Institutionalized Exclusion: The tenuous legal status of internal migrants in China's major cities."]

d) Improper Deductions From Wages

Under Chinese Law it is illegal for factories to require deposits or to withhold wages. However, this law is frequently violated. When Chinese workers are first hired many are required to pay a large sum of money, up to two month's wages, as a "deposit" to their employer. Some are also required to pay large "recruitment fees" in order to get jobs. Such payments may prevent workers from earning the minimum wage.

In one documented case, employees manufacturing goods for a large U.S. company were required to work in the factory for two years before their deposits would be returned. Some workers could not afford to leave their jobs until their deposits are repaid and were therefore subject to a form of bonded labor.

e) Dangerous Work Conditions

The *South China Morning Post* reported official figures stating that accidents at mines, factories and public places killed 47,000 people in the first half of 2001. Accidental poisonings, most often in shoe and garment factories, kill hundreds every year.

In the case of the Xiamen Jiamei Cutlery Company, documented by Anita Chan and Robert Senser, nearly a quarter of the 400 workers had been maimed or injured. Some of these workers, unable to get jobs elsewhere because of missing fingers or arms, were obliged to continue working under the same hazardous conditions and sustained additional injuries.

f) Physical Abuse and Mistreatment

Amnesty International has documented numerous cases of serious physical abuse of Chinese workers, including beatings inflicted by supervisors or private guards, some using electric batons, and has concluded that torture in China is widespread.

Chan and Senser have described in detail coercive regulations that management of some factories imposes on workers during and after working hours. Such regulations include prohibitions on talking, even during meals; marked routes for walking within the factory compound; bans on leaving the compound at any time without special permission; and prohibitions against getting engaged, married or pregnant. In one factory studied, anyone using the toilet more than twice in a workday forfeited nearly a fifth of her or his monthly wage. Violating such rules can bring not only fines but also physical punishment, psychological harassment or even dismissal with loss of at least two weeks' pay.

2. Persecution of Labor Rights Activists

In its efforts to discourage the formation of any group that could challenge its authority, the Chinese government recognizes only the official All-China Federation of Trade Unions as a representative of worker interests. Many workers have been imprisoned or subjected to 'reeducation through labor' for attempting to organize independent unions, advocating the right to strike, or simply speaking out and organizing around livelihood issues. Like other political prisoners they are sometimes singled out for particularly harsh treatment, including beatings, denial of medical care, torture, and imprisonment in psychiatric institutions where they are force-fed psychiatric drugs with terrible side effects.

In December 2000, Cao Maobing, a 47-year-old electrician at the Funing County Silk Mill in Jiangsu province, was forcibly detained in a psychiatric hospital and force-fed drugs after he spoke to Western reporters about attempts to establish a union elected and run by workers at the mill. Chinese workers employed by a western company or one of its subcontractors who seek to establish an independent union risk a similar fate.

Companies adopting codes of conduct will find it difficult to



Photo: Reuters.

enforce them in Chinese factories until workers are free to enforce their legal rights through independent trade unions. For that reason it is important for socially responsible companies to take action on behalf of imprisoned labor activists. American businessman John Kamm has successfully advocated the release of such prisoners of conscience for many years without negative repercussions to his business activities in China.

3. Human Rights Violations

The Chinese Constitution guarantees “freedom of speech, of the press, of assembly, of association, of procession and of demonstration.” In practice however, the Chinese government routinely arrests people who seek to exercise these rights.

The possibility that employees of western companies could be arrested for exercising basic rights is real, not theoretical. The *Irish Times* reported that a Chinese Microsoft employee named Dai Dongxue applied for political asylum in Ireland in 2001 on the basis that her participation in the Falun Gong might result in her being persecuted on her return to China. In supporting Dai’s asylum application, Amnesty International wrote to the Irish Minister for Foreign Affairs that she “might face detention and torture” in China because of her religious activities.

In February 2001 Xue Donghua, an employee of Electronic Data Systems (EDS), his wife Dr. Gao Zhan and five-year-old son were detained in Beijing on alleged espionage charges. EDS established a special legal counsel committee and Xue and his son were eventually allowed to return to the U.S. with no evidence presented and no charges filed. Gao, however, spent five and a half months in detention, during which she was convicted and sentenced to ten years in prison for spying for Taiwan before being deported to the U.S. on “medical parole.”

The western press frequently reports on serious human rights violations by the Chinese government, including the

arrest of Chinese citizens who simply criticize the government; denial of due process and unfair trials; widespread use of torture; continued occupation of Tibet and the destruction of Tibetan culture; arrest, torture and murder of members of “illegal” Christian churches and of Falun Gong practitioners; extensive and unfair use of the death penalty; and “harvesting” of organs from executed Chinese prisoners without their consent or the consent of their families.

Reports of human rights abuses or other controversies in China often result in boycotts of Chinese-made products among western consumers. For example, during the spy plane standoff in April 2001, when China held U.S. servicemen and women captive, K-Mart reportedly received thousands of calls and e-mail messages from customers urging it to stop buying so many goods from China. In response, K-Mart management warned Chinese diplomats that it would seek new suppliers unless the crew of the American aircraft was released promptly.

4. Sale of Military, Police and Security Equipment

A large number of Western companies are engaged in selling products and technology to the Chinese military, police and security services, which can be used to commit human rights violations or limit freedom of speech and dissent.

The International Centre for Human Rights and Democratic Development criticized Nortel Networks for conducting joint research with a Chinese university on speech recognition technology for use in automated surveillance of telephone conversations. Minnesota based Identix, Inc. (formerly Visionics Corp.), inventor of controversial face-recognition technology, is seeking to supply the technology to China. Some members of the U.S. Congress have expressed concern about the potential abuse of civil liberties in the United States that could accompany use of this technology. According to press reports, Identix will

not sell its products to Iraq, Libya or Iran, but it will sell its products to China in spite of a real potential for misuse by police and security services.

The China Working Group

In May 1999, in an effort to address these labor rights and human rights problems, a group of non-governmental organizations (NGOs) and socially responsible investment companies (SRIs) endorsed Business Principles for Human Rights of Workers in China (Principles) and initiated a sign-on campaign for all companies operating in that country. The Principles contain basic standards that all companies should follow in China (and worldwide), including refusal to use forced or bonded labor; protection of workers' occupational health and safety; and promotion of freedom of association. By adopting and implementing the Principles, or incorporate them into an existing code of conduct, companies can protect the rights of Chinese workers, while protecting themselves from boycotts or bad public relations that can result from doing business in a country where rights are seriously abused. Adopting the Principles is therefore not only morally right but also good for business.

However, implementing the Principles in China is extremely difficult. At a minimum, after adopting the Principles companies need to utilize both internal and external monitors to ensure these standards are being upheld. Even at that, monitoring alone will not work for a number of reasons. For one thing, the Chinese government does not adequately enforce its labor law, so labor rights abuse is rampant. Many factory owners and managers have become adept at deceiving monitors. Since independent trade unions do not exist, and the judiciary is not sufficiently developed or independent, workers cannot adequately enforce their rights. These factors make it very difficult for companies to operate in China in a socially responsible manner.

The China Working Group (CWG) was established in January 2001 to help western companies implement the Principles and address these complex problems. Concerned NGOs and SRIs joined the CWG in the hope that a collaborative approach with companies might improve rights of Chinese workers to a greater degree than an adversarial approach. Many large multinational companies are participating, including Cisco Systems, Intel, Nike, Reebok, and Target.

All participating companies have a code of conduct that tracks the Principles, and they agree to work to fully implement the Principles over time. Participants fund research and take part in "dialogue group" discussions of best practices that address common issues. Many are engaged in innovative projects that seek to address difficult problems. For example, Reebok has undertaken democratic elections in two of the Chinese factories it utilizes on the belief that elected worker representatives are much better able to represent workers and protect their rights in negotiations with management. Another CWG participant, Nike, has joined other companies to post "local labor law" posters in factories. These posters describe labor law and provide contact information for

government officials, as well as for an information center that can provide advice in cases of labor rights violations.

The Need for Company Responses

Although China has joined the World Trade Organization this does not mean that labor rights and human rights problems will improve. Indeed, it is likely that many of these problems will worsen as the Chinese government seeks to keep as many workers employed as possible, and cracks down on growing worker unrest. These issues will increasingly be reported in the western press as the 2008 Beijing Olympics approaches. Companies involved in China must develop more sophisticated ways to deal with these problems if they hope to avoid rights violations and consumer backlash.

However, solutions exist. Once a company makes a conscious decision to address these issues, and adopts a good code of conduct, it must obtain detailed knowledge of conditions in China and specific methods of dealing with them. The China Working Group exists to supply this information and provides a collaborative approach to address these problems that will benefit all companies doing business in China. It provides the best available collaborative means of addressing the serious labor rights and human rights problems that exist in China today.

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