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Fighting Sweatshops: Problems of Enforcing Global Labor Standards

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Abstract:

In this paper we address the question of how sweatshop production can be opposed, given the globalization of the apparel industry and the dominance of retailers in its commodity chain. After briefly reviewing conditions in the industry, we discuss the role that consumer pressure might play. We discuss three different, but potentially complementary, approaches: agreements between nations, codes of conduct and monitoring, and worker empowerment. We conclude with an analysis of the Workers' Rights Consortium, a newly -created organization comprised of universities, students, and non -governmental organizations. We conclude that despite its limitations, a vibrant consumer -based movement is emerging which -when united with the effort to organize workers at the point of production -has the potential of reducing sweatshop production in this most globalized of industries.

In a world in which the annual sales of transnational corporations approaches \$5 trillion, representing a third of the world's productive assets, how can labor fight back against oppressive and exploitative conditions?

The structure of global industries fosters sweatshop production. A growing number of transnational firms exhibit the characteristic structure of buyer-driven commodity chains.¹ In this form of production, retailers place wholesale orders with manufacturers, who in turn rely on independently-owned contractors around the world to employ the labor necessary to fill those orders.² When retailers, as opposed to manufacturers, call the shots, production tends to be highly fragmented, although manufacturer-controlled production chains are also becoming highly disaggregated. Such fragmentation has always been true in the garment industry, since most garment manufacturers—even well-known brand names such as Liz Claiborne—ultimately depended on selling their clothing in department stores and other retail outlets. During the past two decades retailing in the United States has become increasingly concentrated in a few hands. A handful of retail giants have overwhelming market power. Today, the four largest U.S. retailers—Wal-Mart, Kmart, Sears, and Dayton-Hudson (owner of Target and Mervyn's)—account for more than two-thirds of U.S. retail sales. Their buying power gives them the upper hand in dealing with manufacturers, since they are often able to dictate wholesale prices, especially for less well-known firms that lack loyal consumers. Moreover, retailers are increasingly designing and selling goods under their own private labels, effectively acting as manufacturers themselves. A quarter century ago, Americans designed and made most of the clothing they consumed. Today, American manufacturers still design most of our clothing, but nearly two-thirds of the clothing we wear is made in factories outside the United States. Most of Asia, including China, with its virtually limitless supply of cheap (and captive) labor, as well as Mexico and Central America, are now engaged in apparel production.

¹See Richard P. Appelbaum and Gary Gereffi, "Power and Profits in the Apparel Commodity Chain," pp. 42-62 in Edna Bonacich, Lucie Cheng, Norma Chinchilla, Norma Hamilton, and Paul Ong (eds.), *Global Production: The Apparel Industry in the Pacific Rim* (Philadelphia, PA: Temple University Press, 1994); Gary Gereffi, "The Organization of Buyer-Driven Commodity Chains: How U.S. Retailers Shape Overseas Production," in Gereffi, Gary and Miguel Korzeniewicz *Commodity Chains and Global Capitalism* (Westport, CT: Greenwood Press, 1994); Gary Gereffi, "Global Commodity Chains: New Forms of Coordination and Control Among Nations and Firms in International Industries," *Competition & Change* 1, 4 (1996): 427-439; Richard P. Appelbaum, "Moving Up: Industrial Upgrading, Social Networks, and Buyer-driven Commodity Chains in East Asian Chinese Business Firms," *International Studies Review*, vol. 3, no. 1 (winter 2000).

²Buyer-driven commodity chains can be contrasted with the Fordist type of industrial organization found in producer-driven commodity chains, which dominates such industries as automobile production. In this form, which characterized the monopoly sector during the mid-20th century, manufacturers determine much of the production process, along with marketing and sales.

Retailers and manufacturers are careful to promote the image of their separation from the contractors who actually make their products, because they do not want to be held legally responsible for workplace violations of labor, health and safety laws. In the apparel sector, for example, retailers point out that they sell clothing designed by thousands of manufacturers who contract out to hundreds of thousands of factories; what happens in those factories is not, in their view, their responsibility. Manufacturers, in turn, argue that the factories they use are independent contractors, who alone should be held responsible for any abuses that might occur even though their production managers and quality control officers are constantly checking upon the sewing shop that makes their clothing.

The contracting system allows retailers and manufacturers to eliminate much uncertainty and risk. Contractors are hired only when they are needed. When business is slow, the contract is simply not renewed; manufacturers need not worry about paying unemployment benefits, or dealing with idle workers whomight go on strike or otherwise make trouble. If a particular contractor becomes a problem, there are countless others to be found who will be only too happy to get their business. Large companies like The Gap maintain connections with as many as a thousand factories around the globe, giving them enormous flexibility (and leverage) in weathering the frequent ups and downs of the fashion industry.

What this means for workers is obvious: they become contingent labor, employed and paid only when their work is needed. Workers experience the flipside of the enormous flexibility enjoyed by retailers and manufacturers. They never know if their factory will be getting work, or – if it does – whether there will be enough for them to be hired. When there is work, workers are sometimes forced to work up to 23 hours a day to meet unrealistic deadlines. Since profits are taken out at each level of the supply chain, labor costs are reduced to a tiny fraction of the retail price.

It is important to emphasize that the ostensive separation of retailers, manufacturers, and contractors is a convenient fiction: in reality, both manufacturers and retailers (the latter directly in their private-label production, and indirectly through their domination of manufacturers) exert considerable control over the commodity chain, setting the retail and wholesale prices that ultimately determine factory wages. Moreover, because they regularly have quality control personnel on-site in the factories, inspecting the garments as they are being sewn, manufacturers and retailers are well aware of factory conditions, their protestations to the contrary notwithstanding. Their control of the commodity chain is real, and is the basis for arguments in favor of corporate liability.

Consider the economics of a dress that is sewn in Los Angeles and retails for \$100.50. 60 percent goes to the department store, and the remainder to the manufacturer. Assuming for convenience a 50-50 split, the manufacturer would keep \$12.50 to cover expenses and profit, spends \$22.50 on textiles, and pays \$15 to the contractor. The contractor keeps \$9 to cover expenses and profits. That leaves just \$6 of the \$100 retail price for the workers who actually make the dress. Even if the cost of direct labor were to increase by half, and all of this increase were passed on to consumers, the dress would still only cost \$103 – a small increment that would make a world of difference to these seamstresses in Los Angeles, whose \$7,000 – \$8,000 in annual wages are roughly two-thirds of poverty level. And if the dress were sewn abroad, the

direct labor costs would be far less: a garment worker in Mexico, would be lucky to earn \$1,000 during a year of 48–60 hour work weeks; in China, \$500.³

When Retailers Dominate: Combating Sweatshops By Consumer Pressure

In 1997, faced with a union organizing drive, Labor Department pressures, and large doses of bad publicity, Guess? moved much of its production out of Los Angeles entirely, to Tehuacán, Mexico, 1,700 miles away. Tehuacán's garment workers average \$25–50 a week. They toil in giant windowless factories with armed guards. As a result, neither independent unions nor U.S. Labor Department officials can create embarrassing publicity for the growing number of American jeans manufacturers who have flocked to a city once known for its natural springs and spas, polluting its valuable groundwater with the chemicals used in the stonewashing process.

Guess?'s move to Mexico illustrates the problem of combating sweatshops in a world of buyer-driven commodity chains. Manufacturers are likely to respond to union organizing drives or increased governmental scrutiny by contracting with distant factories. Organizing workers at the point of production, the century-old strategy which served to build the power of labor in Europe and North America, is best-suited to production processes which are controlled by manufacturers and where most of the work goes on in-house. Not all industries are equally mobile, but in those in which production can easily be shifted almost anywhere on the planet along with the ever-present threat of such mobility—the effectiveness of point-of-production organizing is severely compromised. The once well-paid, highly-unionized garment industry is a case in point: the number of American garment workers has declined from peak level of 1.4 million in the early 1970s to 800,000 today, and the principal losses have been in those garment centers (such as New York City) that with the highest level of unionization.⁴

Someday, perhaps, a truly international labor movement will confront global capital. But such a day seems a long way off. In the meantime, efforts by organized labor to mobilize factory

³It should be pointed out that at least in the apparel sector, there is no obvious need to pass such modest increases onto consumers. In 1997, the heads of the 60 publicly-traded U.S. apparel retailers earned an average \$1.5 million a year; the heads of the 35 largest publicly-traded apparel manufacturers averaged \$2 million. In that year, according to the *Los Angeles Business Journal*, five of the six highest-paid apparel executives in Los Angeles all came from a single firm: Guess? They took home nearly \$12.6 million—enough to double the yearly wages of 1,700 L.A. apparel workers.

⁴Los Angeles is the exception that proves the rule: Los Angeles alone among U.S. production centers has experienced an increase in garment-sector employment to 160,000 (including 120,000 production workers), thanks largely to its enormous immigrant (and largely undocumented) low-wage workforce. Attempts to unionize garment workers by the ILGWU, and its successor UNITE, have been unsuccessful, and the union has largely abandoned the effort. See Edna Bonacich and Richard P. Appelbaum, *Behind the Label: Inequality in the Los Angeles Apparel Industry* (Berkeley, CA: University of California Press, 2000), esp. ch. 9.

workers at the bottom of the retail -driven production chain must be matched with efforts by so - called private voluntary initiatives, involving at least the threat of organized consumer pressure, to put the squeeze on retailers and manufacturers at the top. Consumers, after all, are not as readily moved as factories.

A Framework for Advancing Labor's Interests in the Face of Global Capital

In an era of unbridled globalization, how can global economic forces be governed? Successful institutions must have the capacity to monitor and enforce compliance with universally agreed -upon standards. One approach is to pursue a formal -legal institutional framework, either through multilateral agreements involving organizations as diverse as the ILO and the WTO, or through such bilateral agreements as social clauses in trade agreements. A second approach involves direct activist pressure on firms to adopt labor standards, which are ultimately enforced by consumer pressure. This approach, which may bypass governments and international organizations, typically seeks to influence corporate behavior directly through the adoption of voluntary codes of conduct. It is oriented toward getting corporations to change their behavior voluntarily, using such incentives as the threat of a consumer boycott or certification to improve a company's standing in consumer markets. "Codes of conduct" typically call for the prohibition of child labor and prison labor, the payment of living wages, a limit on the number of hours worked per week, an end to discrimination and harassment, the right to organize unions and bargain collectively, and full public disclosure of the names and addresses of all contractors and subcontractors. A third approach is to seek ways to enable workers to empower themselves, to effectively advocate the kinds of standards they themselves deem most appropriate. This approach is typically tied to efforts at labor organizing. Needless to say , these three approaches are not mutually exclusive. Moreover, each has strengths and weaknesses.

Formal Agreements: Multilateral Organizations and Treaties

Linking trade to labor standards via bilateral or multilateral agreements would seem to be the most effective way to raise standards; after all, such formal agreements, if enforced, could have sweeping effects across countries, regions, and industries. Much of the discussion thus far has been around the insertion of "social clauses" into trade treaties and agreements, clauses that require the signatories to adhere to minimum standards in the production of goods that are exported. This seemingly straightforward approach has a number of difficulties. First and foremost, it is opposed by capital, which instead is pushing for ever -greater freedom and deregulation in its relentless global search for cheap labor and lax environmental policies. Businesses often advance the claim that such unfettered labor markets are in fact a boon to labor in poor countries , and that the push for social clauses and other regulations are a thinly -masked protectionist effort on the part of organized labor in core countries to price their competition out of the marketplace. Given that direct labor costs are but a small fraction of retail costs, the marginal protections envisioned in most social clause proposals are highly unlikely to have such a perverse effect -when labor costs pennies, small increases can make a substantial difference to workers, while having little impact at the retail level.

Another problem lies in the area of enforcement: who will monitor compliance? What is the likelihood that sanctions would be invoked if violations are found -sanctions that would

have the most damaging effect on the workers themselves, and which could trigger a trade war (a consideration that looms large in the case of China)?

The ILO is one vehicle for generating multilateral standards, and in recent years has committed itself to developing greater coherence among multilateral institutions concerned with labor standards and trade.⁵ The ILO is far from becoming a global arbiter or enforcer of labor standards, however. For example, while ILO convention 131 calls for “machinery adapted to national conditions and requirements whereby minimum wages for groups of wage earners... can be fixed and adjusted from time to time,” the convention merely provides that such “machinery” take into account “the needs of workers and their families” along with “economic factors, including the requirements of economic development.” Notwithstanding the fact that these requirements are extremely broad and vague, the United States has not ratified the convention.⁶⁷ One reason for the weakness of many ILO conventions is that it is a tripartite body operating on the basis of consensus between labor, management, and governments. Its actions are necessarily limited to what can be agreed upon by these three parties. NGOs, which lack legal standing before the ILO, are understandably suspicious and mistrustful of the organization.⁸ Finally, the ILO lacks clout with today’s global players: for example, unlike other UN Director Generals, the head of the ILO is not permitted to speak at WTO ministerial meetings.

Other multilateral organizations considering adopting codes of conduct include the World Trade Organization, the World Bank, the United Nations Commission on Sustainable Development, the Organization of Economic Cooperation and Development, the European Parliament (which has recommended a model code for firms doing business in developing

⁵“Addressing Corporate Conduct: A Roundtable Exploring Initiatives at the Workplace, National, and Multilateral Levels,” Roundtable held May 24–25, 2000 at the YMCA International House, Hong Kong.

⁶Convention 131 (the “Minimum Wage Fixing Convention”) took effect in 1972; it was ratified by 43 countries.

⁷The ILO’s most important general labor standards are found in conventions 29, 87, 98, 100, 105, 111, 131, 138, 155, 161, 174, and 182, which cover the freedom of association, the right to collective bargaining, the elimination of all forms of forced or compulsory labor, occupational health and safety, industrial accidents, minimum wage fixing machinery, the elimination of discrimination in hiring and occupation, and the abolition of “the worst forms of child” (these provisions are found in ILO conventions 29, 87, 98, 100, 105, 111, 131, 138, 155, 161, 174, and 182. See the ILO website’s list of conventions at: <http://ilolex.ilo.ch:1567/public/english/docs/convdsp.htm>.

⁸If an NGO wishes to air a complaint to enforce minimal standards, it must do so through a labor union.

countries).⁹ While it is easy to be cynical about such efforts, in the long term such international institutions could prove to be an important vehicle for establishing and enforcing broad standards, and advocates would do well to work with at least some of these institutions rather than simply write them off.

Absent truly global governance institutions, adoption and enforcement of labor standards remain the ultimate province of national governments. As is well known, governments can be highly selective in their ratification of ILO labor standards (the U.S. is particularly deficient in this regard), and even more selective in terms of implementation and enforcement. Mexican labor law, for example, provides for a maximum work day of eight hours (seven for night work), double pay for the first nine weekly hours of overtime, and triple pay for additional overtime.¹⁰ Needless to say, these legal requirements are seldom, if ever, honored in the apparel production sector. Similarly, article 123 of the Mexican Constitution calls for a regionally determined minimum wage adequate to satisfy the normal demands of a head of household – “material, social, and cultural, including the ability to provide obligatory education to his/her children.”¹¹ This provision calls for a living wage, something that is never found in apparel production in Mexico. Nonetheless, firms doing business in Mexico use such protection to get themselves off the hook when abuses occur in their contract shops; they can simply point to existing legal protections and argue that it is not their job to enforce Mexican labor law. China also has strong legal protections, providing for, among other things, maternity leave and sickness benefits. These are also honored primarily in the breach.

Beyond the apparel industry, codes of conduct have become a model for institutionalizing internationally-recognized core labor standards, and have been proposed by human and labor rights activists for inclusion in trade institutions such as the North American Free Trade Agreement, the Southern Common Market (MERCOSUR), and the World Trade Organization. Similarly, labor standards have been proposed for adoption by global financial institutions such as the International Monetary Fund and the World Bank.

These proposals for integrating core labor standards into business and economic development programs have become a key strategy in the broader dialogue about promoting sustainable economic development on a global basis. Labor standards are intended to prevent unfair competition by eliminating prison labor, child labor, and other practices which give some businesses tremendous advantages over others. They are also designed to narrow income inequality by enabling workers to earn a livable wage and protecting their right to bargain

⁹ See “Addressing Corporate Conduct,” *op.cit.*

¹⁰ From Mexico’s *Ley Federal del Trabajo*, Title III, Chapter II, Articles 61, 66 – 68; translated in *Commercial Laws of the World, Mexico, Labor Laws* (Ormand Beach, FL: Foreign Tax Law Publishers, revised March, 1996 and supplemented March, 1998).

¹¹ National Interfaith Committee for Worker Justice, “Cross-Border Blues,” report of a human rights delegation to Tehuacán, Mexico in February 1998.

collectively in their own interests. Such standards can be promoted on a mandatory basis through governmental or supra-governmental legislation or accords or on a voluntary basis through codes of conduct.

Codes of Conduct and Monitoring

Codes of conduct governing production are not new, although interest in codes has increased dramatically in recent years. For example, the anti-apartheid movements successfully forced companies to sign on to the Sullivan principles in the late 1980s.¹² Recently, the adoption of codes governing collegiate licensing has been at the center of student demands in the growing anti-sweatshop student movement (see the last section of this paper). Codes have been established by trade associations, NGOs, unions, and universities, and even governments.¹³

A number of corporations have adopted their own codes of conduct, some as a result of government initiative (for example, the Fair Labor Association and its predecessor, the White House Apparel Industry Partnership), and some on their own (for example, The Gap). Recently, at the behest of UN Secretary General Kofi Anan, some 50 multinationals (including Nike, Shell, Bayer, Dupont, Ericsson, Healthon/WebMD and Unilever) recently joined with dozens of labor associations and NGOs (such as Amnesty International and the World Wildlife Fund) in signing a "global compact" containing general principles (not a legal code) in support of human rights, elimination of child labor, permitting free unions, and prohibiting environmental pollution.¹⁴

During the past ten years, the adoption of such codes of conduct as corporate policy has signaled a shift in the way that the business community views corporate responsibility. Whereas in the past, corporations commonly refused to be held accountable for working conditions in subcontractors' firms, now there is a growing recognition that compliance with labor rights should be a normal obligation of doing business, and that corporations should utilize their

¹²The Sullivan Principles were initiated in 1987 by the Reverend Leon Sullivan, currently President of the International Foundation for Education and Self-Help. The Principles were intended to provide a Code of Conduct for companies operating in South Africa during apartheid; they eventually became widely accepted as the socially responsible standard for equal opportunity for companies operating in South Africa as well as elsewhere in the world.

¹³In cities such as San Francisco, Pittsburgh, and Cleveland, resolutions have been adopted to ensure that products purchased by the city are made in accordance with labor standards. See <http://www.uniteunion.org/sweatshops/cities/cities.html>.

¹⁴Critics of the compact – such as Greenpeace, one of a number of NGOs that refused to sign the agreement – pointed out that Nike and Shell, among others, were some of the worst violators of the espoused principles, denouncing the compact as a "blue wash," allowing some of the largest and richest corporations to wrap themselves in the United Nations' blue flag without requiring them to do anything new." See Joseph Kahn, "Multinationals Sign U.N. Pact on Rights and Environment," *The New York Times* (July 27, 2000): foreign section (NYT website).

financial influence to intervene in the labor practices of their vendors. Moreover, as apparel corporations monitor for compliance with their codes of conduct, they are assuming enforcement responsibilities which sometimes extend well beyond those of local legal regulations, and in doing so are defining a new role for corporate governance.

Adopting a code turns out to be relatively easy; implementing it is another story. Although many recently -adopted codes of conduct (particularly in the collegiate licensing industry) call for full public disclosure of all factories involved in the supply chain, getting accurate, up -to-date information can be a truly daunting task, even when manufacturers appear to be forthcoming in publishing such information on their websites.¹⁵ Factories come and go with astonishing rapidity, as well as subcontract to other suppliers. Knowing the location of a factory does not mean gaining access to it; gaining access does not assume the technical knowledge required to make intelligent audits. Auditing compliance with seemingly straight -forward wage, hour, and safety provisions requires a great deal of technical know -how, since most firms are adept at hiding violations from outside observers. Auditors not only must know how to read time cards, payroll records, and evaluate health and safety conditions, but must have the ability to speak with workers in confidence (and oftensecrecy) about their working conditions. It is clear that implementing codes of conduct ideally requires the cooperation of local NGOs and unions, who alone understand the circumstances faced by workers and are likely to gain trust and access.

The “living wage” provisions of many codes of conduct provide a special challenge, since their rigid enforcement could lead to a tripling or quadrupling of prevailing wages in some locations, potentially creating a host of problems.¹⁶ The proliferation of codes is another potential problem: in a factory that serves a number of manufacturers, which code applies? What about production in the factory that is not subject to any code?

Finally, there is always the danger that manufacturers, fearful of bad publicity or even sanctions, will shift production away from problematic factories rather than work with them to improve conditions, costing workers their jobs. This is especially likely to be true in the case of internal corporate codes, which are intended to avoid abuses and the embarrassing revelations that go along with exposure: such internal codes are enforced with company -hired monitors, do not involve any sanctions against the manufacturers, and are likely to lead to a “cut and run” response as firms seek to mitigate potentially bad publicity by shifting production to other sites. On the other hand, when firms negotiate codes of conduct with third parties (such as

¹⁵ Gear for Sports, Nike, Russell Athletic, Champion, Eastpak, and Jansport have all published factory location data on their websites.

¹⁶ For example, pricing apparel workers well above other workers and even some middle class service jobs; creating tiny isolated “enclave economies” without spillover effects into the general labor market; and driving production out of the country, despite all efforts otherwise. See John F. Witte, “Report on the Living Wage Symposium, November 19 -21, 1999,” Robert M. La Follette Institute of Public Affairs, University of Wisconsin -Madison (February 8, 2000). Available at http://www.lafollette.wisc.edu/livingwage/Final_Report/report.htm.

governmental bodies or NGOs), and provide for independent monitoring and verification, it is more likely that manufacturers can be compelled to improve conditions in their existing factories, rather than blame the factory and move production elsewhere. We further examine some of these issues in the next section, where we examined different kinds of monitoring programs.

Monitoring Programs

A variety of monitoring systems have been devised with active industry participation. One is SA8000, a social accountability standard developed under the auspices of the Council on Economic Priorities Accreditation Agency; another is WRAP (Worldwide Responsible Apparel Production), a creation of the American Apparel Manufacturers Association; and the Fair Labor Association (FLA), an offshoot of President Clinton's Apparel Industry Partnership. All these programs utilize private for-profit monitoring firms, which manufacturers engage to monitor contractors (such as Cal Safety and Price Waterhouse Coopers.) These programs differ in their details, and the leaders of each one criticize the others for their deficiencies. Nevertheless, they share a common purpose: to certify manufacturers and their contractors as sweat-free.

Of the various industry-based approaches, the Fair Labor Association has made the greatest effort to address the weaknesses of most monitoring programs. It has done so largely in response to the student movement and its offshoot, the Workers' Rights Consortium (see the next section of this paper). The FLA has, for example, shown a willingness to work with some local groups in areas of the world where there are factories, as students have urged. The FLA calls for two kinds of program to monitor workplace conditions. The first provides for self-monitoring through industry inspectors, an approach whose limitations will be discussed below. The second approach, external monitoring, calls on manufacturers who belong to the FLA to hire outside monitors from an FLA-approved list that includes both private monitoring firms and local non-governmental organizations, and to conduct a combination of announced and unannounced visits. During the first three years that a company participates in the program, 30 percent of its factories must be externally monitored; thereafter, 5 to 15 percent must be monitored each year.

Critics object that the FLA's external inspections system allows manufacturers too much control over which factories will be investigated, and by whom. The manufacturer provides the FLA's executive director with a list of factories that could be monitored, based on such considerations as size and risk of non-compliance (as revealed by a history of violations). The FLA does have the right to modify the list, but its charter stipulates that "there shall be a general presumption in favor of the Participating Company's suggested list of Applicable Facilities." It further provides that any decision to change the proposed list "shall be made in consultation with the Participating Company." That would appear to give veto power to manufacturers. Moreover, the provision that only a small percentage of a manufacturer's factories be annually monitored means that years may go by before a particular factory is inspected—and years are a lifetime in an industry where manufacturers are constantly shifting their production sites around the globe. Furthermore, when a worker complains to the FLA, the manufacturer has 45 days to respond. Only then, if the association's executive director is not satisfied with the response, will an investigation be ordered. Such procedures are likely to encourage cover-ups and false reporting. Monitoring reports are never released to the public. Instead, they are open to review by the manufacturer for 60 days before they are returned to the FLA, which summarizes the findings

in annual reports from which “proprietary or confidential” material – which apparently includes information about specific factories – is excluded. Finally, the FLA’s 14 – member board – which includes six manufacturer representatives, six NGO representatives, one university representative, and the executive director – requires a “super –majority” consisting of two –thirds vote on both the manufacturer and NGO side when it comes to making important changes (including the decertification of any company), effectively giving manufacturers veto power over any significant decisions on the part of the organization.

It seems clear that the FLA was never designed to change the industrial dynamic that produces sweatshops: nothing in its rules requires manufacturers to pay more money to their contractors in order to increase workers’ wages, nor even suggests that manufacturers might be held legally accountable for abuses that occur in factories with which they contract.

How effective are codes of conduct, and their attendant monitoring programs?

Unfortunately, very little systematic research has addressed these questions. The little research that has been done is not very encouraging.¹⁷ There are a number of descriptive studies, but few attempt to link actual factory conditions to the adoption and enforcement of codes of conduct, nor to isolate the impact of codes from other factors affecting labor conditions. The studies which exist are based on individual cases, some written by academics, others by monitors, and some by human rights delegations comprised of academics, religious personnel and NGO staff.¹⁸

¹⁷This section is taken from Reich, Quan, and Zabin (2000), where it was adapted from Esbenshade, 2000. In addition to studies of monitoring and compliance, there is a growing literature that addresses questions of strategy – for example, whether codes of conduct complement or undermine union organizing efforts, or the possible effect of codes on the relative competitiveness of different countries. See, for example, Yanz, Lynda, Bob Jeffcott, Deena Ladd, Joan Atlin, Maquila Solidarity Network. *Policy Options to Improve Standards for Garment Workers in Canada and Internationally*. Ottawa: Status of Women Canada’s Policy Research Fund, 1999; Jeffcott, Bob, and Lynda Yanz. *Codes of Conduct, Government Regulation and Worker Organizing*. Canada: Maquila Solidarity Network, 2000; Harvey, Pharis J., Terry Collingsworth and Bama Athreya. *Developing Effective Mechanisms for Implementing Labor Rights in the Global Economy*. Discussion paper. Washington: International Labor Rights Fund, 1998; Sabel, Charles, Dara O’Rourke, and Archon Fung. *Open Labor Standards: Towards a System of Rolling Rule Regulation of Labor Practices*. Discussion paper presented at the Annual Meetings of the World Bank Seminar on Labor Standards, 1999; Labour Rights in China. *Hong Kong NGO Seminar on Codes of Conduct 15 July 1999*. (Seminar Report.) Hong Kong: Asia Monitor Resource Center, 1999.

¹⁸Oxfam GB, FLACSO, PIFIC – PUCMM, and CIPAF. *Evaluation of Levi Strauss & Co.’s Terms of Engagement Process*. Dominican Republic: Oxfam, et al., 1998; Insan Hitawasana Sejahtera. *Peduli Hak: Caring for Rights. An intensive research, evaluation and remediation initiative in two Indonesian factories manufacturing Reebok footwear*. Jakarta, Indonesia: IHS 1999; Anner, Mark. *Lamaquilay El Monitoreo Independiente en El Salvador*. San Salvador:

In many cases, workers in factories covered by codes of conduct are not informed by their employers, and as a result are completely unaware that the codes exist.¹⁹ Moreover, when manufacturers do adopt codes, they often fail to implement enforcement mechanisms.²⁰ When such mechanisms are adopted, they typically either entail internal monitoring systems, or the hiring of external monitors with expertise in firm auditing.²¹ Both of these approaches suffer

Independent Monitoring Group of El Salvador (GMIES), 1998; Molina, Norma and Carolina Quinteros. "El Monitoreo Independiente en El Salvador," in *Codigos de Conducta y Monitoreo En La Industria De Confeccion. Experiencias Internacionales Y Regionales*. Editors Ronald Koepke, Norma Molina, and Carolina Quinteros. El Salvador: Heinrich Böll Foundation, 2000; COVERCO. *1st Public Report Independent Monitoring Pilot Project with Liz Clairborne, Inc.* Guatemala: COVERCO, 1999; Interfaith Center on Corporate Responsibility. *Footwear Manufacturing Fact - Finding Report. NIKE and Reebok Plants in Indonesia, Vietnam, China.* New York: ICCR, 1998; National Interfaith Committee for Worker Justice, *Cross Border Blues: A Call for Justice for Maquiladora Workers in Tehuacán*, Chicago: NICWJ, 1998.

¹⁹ Women Working Worldwide. *Women Workers and Codes of Conduct. Asia Workshop Report.* Manchester, UK: Women Working Worldwide, 1998; Women Working Worldwide. *Women Workers and Codes of Conduct. Central America Workshop Report.* Manchester, UK: Women Working Worldwide, 1999; Green, Duncan. *ETI Southern Participation Conference.* www.cleanclothes.org/codes/edu98-09.htm#action, 1998; Siahaan, Emelia Yanti Mala Dewi. "Códigos de Conducta y organización de trabajadores en las plantas de la industria de la confección en Indonesia," in *Codigos de Conducta y Monitoreo En La Industria De Confeccion. Experiencias Internacionales Y Regionales*. Editors Ronald Koepke, Norma Molina, and Carolina Quinteros. El Salvador: Heinrich Böll Foundation, 2000; U.S. Department of Labor, Bureau of International Labor Affairs. *The Apparel Industry and Codes of Conduct: A Solution to the International Child Labor Problem?* Washington DC: USDOL, 1996.

²⁰ U.S. Department of Labor, Bureau of International Labor Affairs. *The Apparel Industry and Codes of Conduct: A Solution to the International Child Labor Problem?* Washington DC: USDOL, 1996; Varley, Pamela, Ed. *The Sweatshop Quandary. Corporate Responsibility on the Global Frontier.* Washington, DC: Investor Responsibility Research Center, 1998; Sajhau, Jean-Paul. *Business ethics in the textile, clothing and footwear (TCF) industries: codes of conduct.* (Working Paper.) Geneva: International Labour Organization, undated.

²¹ Varley, Pamela, Ed. *The Sweatshop Quandary. Corporate Responsibility on the Global Frontier.* Washington, DC: Investor Responsibility Research Center, 1998; Sajhau, Jean-Paul. *Business ethics in the textile, clothing and footwear (TCF) industries: codes of conduct.* (Working Paper.) Geneva: International Labour Organization, undated; Jeffcott, Bob, and Lynda Yanz. *Codes of Conduct, Government Regulation and Worker Organizing.* Canada: Maquila Solidarity Network, 2000.

from the “fox guarding the chicken coop” problem: the monitors are hired and paid by the manufacturer themselves, who obviously have a vested interest in downplaying (or denying outright) any problem that might surface in their contract shops. Several in-depth case studies document the ineffectiveness of company-hired monitors.²²

There are a few pilot programs in which independent NGOs, funded through private foundations and labor and religious organizations, have monitored compliance. For example, the GAP and Liz Claiborne have been involved with independent monitoring projects using local NGOs, although other companies are currently negotiating with NGOs for onetime assessments.²³ Many observers point to the importance of using independent monitors who are adequately trained in labor rights, with a capacity to gain the trust of workers and conduct truly confidential worker interviews.²⁴ When truly independent monitoring is conducted, however, the

²²O’Rourke, Dara. *Smoke From a Hired Gun: A Critique of NIKE’s Labor and Environmental Auditing*. San Francisco: Transnational Resource and Action Center, 1997; National Labor Committee. *Fired For Crying To The Gringos. The Women in El Salvador Who Sew Liz Clairborne Garments Speak Out Asking For Justice*. New York: NLC, 1999; Labour Rights in China. *No Illusions. Against the Global Cosmetic SA8000*. Hong Kong: LARIC, 1999.

²³Anner, Mark. *Lamaquilay El Monitoreo Independiente en El Salvador*. San Salvador: Independent Monitoring Group of El Salvador (GMIES), 1998; COVERCO. *1st Public Report Independent Monitoring Pilot Project with Liz Clairborne, Inc.* Guatemala: COVERCO, 1999; Insan Hitawana Sejahtera. *Peduli Hak: Caring for Rights. An intensive research, evaluation and remediation initiative in two Indonesian factories manufacturing Reebok footwear*. Jakarta, Indonesia: IHS 1999; Oxfam GB, FLACSO, PIFIC -PUCMM, and CIPAF. *Evaluation of Levi Strauss & Co.’s Terms of Engagement Process*. Dominican Republic: Oxfam, et. al., 1998.

²⁴Etienne, Yannick. “Monitoreo and a Mickey Mouse in Haiti,” in *Codigos de Conducta y Monitoreo En La Industria De Confeccion. Experiencias Internacionales Y Regionales*. Editors Ronald Koepke, Norma Molina, and Carolina Quinteros. El Salvador: Heinrich Böll Foundation, 2000; Anner, Mark. *Lamaquilay El Monitoreo Independiente en El Salvador*. San Salvador: Independent Monitoring Group of El Salvador (GMIES), 1998; Molina, Norma and Carolina Quinteros. “El Monitoreo Independiente en El Salvador,” in *Codigos de Conducta y Monitoreo En La Industria De Confeccion. Experiencias Internacionales Y Regionales*. Editors Ronald Koepke, Norma Molina, and Carolina Quinteros. El Salvador: Heinrich Böll Foundation, 2000; Jeffcott, Bob, and Lynda Yanz. *Codes of Conduct, Government Regulation and Worker Organizing*. Canada: Maquila Solidarity Network, 2000; Pineda, Magali. “El Caso de Levi Strauss & Co. en la República Dominicana,” in *Codigos de Conducta y Monitoreo En La Industria De Confeccion. Experiencias Internacionales Y Regionales*. Editors Ronald Koepke, Norma Molina, and Carolina Quinteros. El Salvador: Heinrich Böll Foundation, 2000.

local NGOs frequently lack the ability to systematically gather data, or the technical capacity to analyze payroll and other business data.²⁵

A number of studies, as well as informal reports by unions and workers, suggest that the monitoring of codes of conduct have resulted in limited improvements in some factories,²⁶ and no improvement in others.²⁷ In those studies that reported improvements, the most common concrete examples were improvements in the physical conditions in the plants (ergonomically correct equipment, potable water, ventilation, bathroom access) and correct payment of wages and benefits. There is little evidence that adoption of codes has led to higher wages or respect for the right to organize trade unions. Moreover, one researcher cautions that the costs of physical improvements are born by the local contractor rather than the manufacturer, and as a result may lead to work speed-up in work to cover expenses; this highlights one of the difficulties in implementing codes of conduct that are aimed at the top end of the supply chain, but enforced at the bottom.²⁸

²⁵Burgess, Pete, and Maggie Burns. *Pilot Interim Review*. London: Ethical Trading Initiative, 1999; Harvey, Pharis J., Terry Collingsworth and Bama Athreya. *Developing Effective Mechanisms for Implementing Labor Rights in the Global Economy*. Discussion paper. Washington: International Labor Rights Fund, 1998.

²⁶Pineda, Magali. "El Caso de Levi Strauss & Co. en la República Dominicana," in *Codigos de Conducta y Monitoreo En La Industria De Confeccion. Experiencias Internacionales Y Regionales*. Editors Ronald Koepke, Norma Molina, and Carolina Quinteros. El Salvador: Heinrich Böll Foundation, 2000; Green, Duncan. *ETI Southern Participation Conference*. www.cleanclothes.org/codes/edu98-09.htm#action, 1998.

²⁷Amin, Amirul Haque. "La Realidad de Codigos de Conducta en Bangladesh," in *Codigos de Conducta y Monitoreo En La Industria De Confeccion. Experiencias Internacionales Y Regionales*. Editors Ronald Koepke, Norma Molina, and Carolina Quinteros. El Salvador: Heinrich Böll Foundation, 2000; Siahaan, Emelia Yanti Mala Dewi. "Códigos de Conducta y organización de trabajadores en las plantas de la industria de la confección en Indonesia," in *Codigos de Conducta y Monitoreo En La Industria De Confeccion. Experiencias Internacionales Y Regionales*. Editors Ronald Koepke, Norma Molina, and Carolina Quinteros. El Salvador: Heinrich Böll Foundation, 2000; Women Working Worldwide. *Women Workers and Codes of Conduct. Asia Workshop Report*. Manchester, UK: Women Working Worldwide, 1998; Women Working Worldwide. *Women Workers and Codes of Conduct. Central America Workshop Report*. Manchester, UK: Women Working Worldwide, 1999.

²⁸Pineda, Magali. "El Caso de Levi Strauss & Co. en la República Dominicana," in *Codigos de Conducta y Monitoreo En La Industria De Confeccion. Experiencias Internacionales Y Regionales*. Editors Ronald Koepke, Norma Molina, and Carolina Quinteros. El Salvador: Heinrich Böll Foundation, 2000.

@The only study that links labor conditions with manufacturers' monitoring efforts in more than a handful of factories is Esbenshade's case study of 150 factories in Los Angeles.²⁹ Esbenshade analyzed 1998 data collected by the Department of Labor on rates of labor code violations among subcontractors who were and were not monitored by their manufacturer clients.³⁰ This study involved examples of internal and company-hired external monitoring. Esbenshade found that rates of labor violation were significantly lower in monitored factories than in non-monitored factories but still exceeded 60 percent. Esbenshade cites a 1998 study by the federal Department of Labor, which found that compliance with minimum wage laws or overtime laws in all Los Angeles garment factories was only 39 percent – a figure that was not significantly higher in monitored factories (40 percent). Among what the DOL deemed “effectively monitored shops,”³¹ the rate of compliance rose to only 56 percent. *The most recent TIPP survey, released in September 2000, found that overall compliance rates in Los Angeles had dropped still further, to 33 percent; in “effectively monitored shops” the rate was only slightly higher (44 percent).*³²

Although Codes of conduct do not substitute for strong local labor laws, they can support unionization efforts and other forms of worker empowerment efforts (see next section). On the

²⁹Esbenshade, Jill. *Monitoring in the Garment Industry: Lessons from Los Angeles*. (Working Paper.) Berkeley, CA: Chicano/Latino Policy Project, University of California at Berkeley, 1999.

³⁰The 1998 study was one of a series conducted every two years by the Targeted Industries Partnership Program (TIPP), an effort to combine and coordinate federal, State, and local agencies to enforce labor laws in agriculture and apparel manufacturing, as well as educate employers and employees about the laws. TIPP program has four lead agencies: the California Division of Labor Standards Enforcement (DLSE), the California Division of Occupational Safety and Health (Cal OSHA), the California Employment Development Department (EDD), and the U.S. Department of Labor, Wage and Hour Division (DOL). The 1998 study analyzed by Esbenshade was conducted by the DOL alone; studies in 1994, 1996 and 2000 involved broader participation of other TIPP partners.

³¹ *These were shops with* at least six of TIPP's seven criteria for successful monitoring in place (the seven are: review of payroll records, review of timecards, interviews with employees, providing compliance information, advising of compliance problems, recommending corrective actions, and making unannounced visits. TIPP is a combined effort on the part of four governmental agencies to combat sweatshops in the apparel industry: the California Department of Labor Standards Enforcement, Cal-OSHA, the California Employment Development Department, and the U.S. Department of Labor (Wages and Hours Division). Source: US DOL “Los Angeles 1998 Compliance Survey” fact sheet.

³²Nancy Cleeland, “Garment Makers' Compliance With Labor Laws Slips in L.A.,” *Los Angeles Times* (September 21, 2000): A -1.

other hand, they can also contribute to a “culture of minimalism” in which the codes ease the conscience of consumers, certify manufacturers as “doing their best,” and divert attention away from the need for strong labor laws or unionization. Even when codes call for the right to organize, such provisions are easily side-stepped through hiring contingent workers, or pushing production down the supply chain to shops where the code is not enforced.

In essence, the garment industry sees the issue as a public relations problem: it assumes that there are a few “bad apples” giving the entire industry a bad name. Manufacturers thus blame their contractors while refusing to take responsibility for the fact that their own policies create sweatshops and low wages. The manufacturer’s goal is to certify that they and their contractors are “sweat free” – to gain a stamp of approval that will allow them, for the most part, to pursue business as usual. They typically propose basing such certification on brief, sporadic factory visits, which can never ascertain that the truth has been uncovered, especially since the workers, fearing that they will be fired or that their factories will be closed, are afraid to speak to inspectors.

Worker Empowerment

Despite their limitations, codes of conduct can be used as a framework for advancing the goal of empowering workers to advance their own interests. This approach involves a partnership between unions and NGOs in the U.S. as well as in the producing country, to strengthen the hand of workers on the shop floor. This is not always an easy partnership: not only are turf issues frequently involved, but the effort by unions such as UNITE to raise the bar in offshore production is frequently perceived (as partly motivated by protectionist concerns). The existing multi-national forms of union federation, such as ICFTU, WCL, and International Trade Secretariats, have largely been ineffective.

Some efforts at cross-border cooperation on a regional basis have come up with innovative agreements, such as the 1998 Treaty of Maastricht (European Union), which provides for cross-border collective bargaining, and the Southern Market (MERCUSOR) which provides for labor standards to be adhered to in the countries of the South American southern cone.

There is evidence that the U.S. labor movement is beginning to take global organizing more seriously, as is evidenced by organized labor’s involvement in anti-WTO demonstrations, or the Campaign for Global Fairness. UNITE has also supported unionization campaigns in sewing factories in Central America.

In the last analysis, codes of conduct and third-party action can only succeed if they lay the basis for workers to represent their own interests. Consumer movements, like other “conscience constituencies,” can be fickle. Independent unions are better situated to tap into what the workers themselves want, and to remain ever-vigilant once changes are instituted. While NGOs and citizen advocates in core countries may be passionate about eliminating sweatshops or paying workers a living wage, the workers themselves may be willing to trade off some gains in wages and conditions for badly needed jobs. Student advocates in the United States need to be (and generally are) mindful of such considerations, despite their understandable zeal for immediate improvements. It seems obvious that unions and NGOs can mutually benefit from working together: NGOs can be most effective in helping to create codes of conduct, organizing consumer campaigns aimed at bringing pressure on companies to adopt and enforce

them; unions can educate workers about their rights, encourage them to complain when those rights are violated, and help workers organize.³³

The Student Movement and the Workers' Rights Consortium³⁴

The campus anti-sweatshop movement began in the fall of 1997 at Duke University, when a group called Students Against Sweatshops persuaded the university to require manufacturers of items with the Duke label to sign a pledge that they do not use sweatshop labor. The target of this renewed activism is the \$2.5 billion collegiate licensing industry, which pays colleges and universities sizable royalties in exchange for the right to use the campus logo on caps, sweatshirts, jackets, and other items. Students are demanding that the workers who make these goods be paid a living wage, no matter where in the world they might labor. Students are also calling for an end to discrimination against women workers, public disclosure of the names and addresses of all factories involved in production, independent monitoring in order to verify compliance, and guaranteeing the workers' right to freely organize.

The Duke victory quickly inspired students on other campuses. Activists have relied on petitions, rallies, articles in campus papers, teach-ins, and occasionally civil disobedience (or the threat of it)³⁵ to achieve their goals. Georgetown, Wisconsin, Michigan, Arizona, Pennsylvania, and Duke are among the universities where students occupied administration buildings to pressure their institutions to adopt or strengthen anti-sweatshop codes. By the spring of 1999, the movement had spread to well over 100 campuses; by the spring of 2000, reportedly twice that number had adopted codes of conduct covering college licensees, ranging from tiny Bard College in the east to the entire University of California system in the west.

In the summer of 1998, a number of disparate campus groups formed United Students Against Sweatshops (USAS) to facilitate communication between students across the country and plan common strategy and tactics.³⁶ Today, USAS has a Washington office, a full-time

³³One example is Labor Rights in China (LARIC), created in 1999 when three NGOs joined with the Hong Kong Confederation of Trade Unions.

³⁴Part of this section is adapted from Richard P. Appelbaum and Edna Bonacich, "The Key Is Enhancing the Power of Workers," *Chronicle of Higher Education*, Opinion and Arts (April 7, 2000).

³⁵The threat of civil disobedience by the campus anti-sweatshop organization was one reason that the University of California at Berkeley agreed to consider joining the WRC; when Berkeley announced its decision to join, the President of the University of California determined that the entire system would join as well.

³⁶See <http://www.umich.edu/~sole/usas/>.

lobbyist,³⁷ and has played a leadership role (along with UNITE) in creating the non-profit Workers' Rights Consortium as an alternative to the Fair Labor Association. The WRC's founding conference was April 7, 2000 in New York City; its first Board of Directors meeting was held July 20, 2000 in Washington, D.C. As of June 2000, 57 colleges and universities had joined the organization.³⁸ At the July meeting the WRC elected its chair, Congressional Representative George Miller (D-CA), approved its articles of incorporation, and authorized a search for Executive Director. Its 15 member governing board is comprised equally of representatives from member universities, student organizations (including United Students Against Sweatshops), and its advisory council (the latter is comprised of primarily of representatives from NGOs and labor unions, with a few academic experts). Notably absent from the governing board are representatives from industry, a deliberate exclusion that reflects the WRC's desire to distance itself from the industry domination it believes to be the fatal flaw of the FLA. Needless to say, manufacturers see it somewhat differently, and Nike has fired the first salvo in industry's war against the WRC: Nike CEO Phil Knight canceled a personal pledge of \$30 million to his alma mater when the University of Oregon joined the WRC, and Nike itself cut off the contract with Brown's hockey team and canceled its multi-million dollar apparel contract (estimated to be worth between \$16 million and \$24 million) with the University of Michigan for the same reason.

³⁷ Eric Brakken, who was student body president at the University of Wisconsin-Madison during the 1998-1999 academic year, and played a leadership role in the student movement that occupied buildings and compelled the campus to adopt its code of conduct.

³⁸ Member institutions as of June 28, 2000 included Albion College, Bard College, Boston College, Brown University, Central Michigan University, Clark University, Columbia University, Cornell University, DePaul University, Earlham College, Georgetown University, Haverford College, Illinois State University, Indiana University, Loyola University Chicago, Loyola University New Orleans, Macalester College, Miami University of Ohio, Middlebury College, New York University, Northern Illinois University, Oberlin College, Saint Joseph's University, Saint Mary's College, San Francisco State University, Smith College, St. Cloud State University, The College of the Holy Cross, Transylvania University, Trinity College, Union College, University of Arizona, University of California-Berkeley, University of California-Davis, University of California-Irvine, University of California-Los Angeles, University of California-Merced, University of California-Riverside, University of California-San Diego, University of California-San Francisco, University of California-Santa Barbara, University of California-Santa Cruz, University of Connecticut, University of Illinois, University of Iowa, University of Massachusetts-Amherst, University of Massachusetts-Boston, University of Massachusetts-Dartmouth, University of Massachusetts-Lowell, University of Massachusetts-Worcester, University of Michigan, University of Minnesota, University of North Carolina at Chapel Hill, University of Oregon, University of Wisconsin, University of Wisconsin-Stevens Point, Western Michigan University.

The WRC operates on a fundamentally different premise than the FLA: its main approach is not to *certify* factories as sweat-free, but rather to *verify* licensee reports about factory conditions, as well as respond to workers' complaints as well as conduct spot investigations. (For a summary of differences between the WRC and the FLA, see Table 1.) In other words, the WRC will try to ensure that manufacturers and retailers are living up to their codes of conduct, while refusing to certify them as "sweat-free." The WRC's justification for this approach is that in a global production system, no approach to monitoring can hope to identify and eliminate most sweatshops; certifying manufacturers as "sweat-free" on the basis of imperfect monitoring systems will lull consumers into passivity, under-cutting pressures for systemic change. Instead, the WRC reasons that universities, through their licensing contracts, have the power to force manufacturers to sit at the same table with workers and to make changes in a system that is itself the underlying problem. To accomplish these goals, the WRC calls for developing ongoing relationships with workers themselves, the people whom must be encouraged and protected to report abuses. It assumes that the only way for workers to secure decent and human working conditions is for the apparel companies that license production from colleges and universities to be held publicly accountable for the treatment of their workers, and for workers to be empowered to act on their own behalf. By these standards, it is not enough that shops look clean. Workers must be paid enough to support a family at a decent and human standard of living. They must have the power to complain about unfair treatment. They must know that they have rights, and that those rights can be enforced. The WRC seeks to increase workers' powers so that they can protect themselves. The WRC also insists on full public disclosure of factory conditions,³⁹ a requirement that would give manufacturers a powerful incentive to correct violations, especially if student demands that manufacturers not be allowed to "cut and run" are met.

To empower workers, the WRC plans to contact NGOs, religious groups, and unions in the areas where there are factories. Such groups are likely to be familiar with local conditions and to speak the language of the workers, as well as to be trusted by them—in contrast to foreign accounting firms and the like, which often appear to be (and are) representatives of the employer. The local advocates will inform workers of their rights under local laws, as well as about any codes of conduct to which manufacturers have agreed, so that the workers can speak up when their rights are violated. In the short term, such a plan means putting in place a truly independent system of unannounced factory investigations. In the long run, the WRC's approach means helping to create a safe environment, where workers can organize independent unions and engage in collective bargaining, if they choose.

This approach is not without its critics.⁴⁰ The WRC's emphasis on verification rather than certification has been criticized as a "gotcha" approach designed to spotlight problems

³⁹ According to one estimate, as of April 12, 2000 some 40 colleges and universities required full disclosure on the part of their licensees. See Bama Athreya, "We Need Immediate, Practical Solutions," *Chronicle of Higher Education*, Opinion and Arts (April 7, 2000).

⁴⁰ Many of these concerns are articulated in Athreya, *op.cit.*

rather than point toward solutions. It will necessarily focus initially on firms in countries with a strong trade union and NGO presence, at a tiny percentage in the global apparel industry. Perversely, this may actually encourage manufacturers to shift production over time to regions or countries (such as China) where it is difficult for unions or NGOs to gain access to factories, since such places are less likely to generate negative reports. The WRC's emphasis on empowerment requires a high degree of capacity - building in producing countries, for example, training local NGOs to monitor conditions, investigate reports of abuses, and train local labor organizers.

At the present time, the WRC lacks the financial resources to accomplish these goals, although it has ambitious plans for fund-raising. It plans to spend the next couple of months finding and hiring an executive director, as well as hosting ten "dialogue sessions" with apparel and other manufacturers, in hopes of gaining a better understanding of how it can obtain information on working conditions, as well as to inform the industry about the WRC and what it hopes to accomplish. Most members appear to be adopting a "wait and see" attitude: they will pay their dues for a year, and see if the WRC can deliver on its promises. The state of the student anti-sweatshop movement will also play a role in determining the WRC's future. Many universities were pressured into joining only because of threatened or actual student activism on their campuses; if student pressures are relaxed, it seems safer to predict that those universities which currently belong to both the WRC and the FLA will choose the latter as the safer, less radical alternative.

Conclusion⁴¹

In a global production system, especially one that is characterized by powerful retailers and invisible contractors linked together in buyer-driven commodity chains, buyers clearly have an important role to play. American consumers have repeatedly indicated that they are willing to incorporate ethical principles into their buying habits, even if it means slightly higher prices. To take one recent example, a national random survey of 1,826 adults conducted by the University of Maryland's Program on International Policy Attitudes, 74 percent believe they have a "moral obligation" to ensure that people in other countries whomake "products that we use... do not have to work in harsh or unsafe conditions;" when asked to choose between a \$25 piece of clothing that is "certified as not made in a sweatshop" and a \$20 identical garment of unknown origin, 76 percent said they would choose the "sweat-free" garment. Some 78 percent also said they think the WTO should consider such issues as labor standards and the environment when making decisions on trade.⁴² One example of consumer-led pressures making a difference is the Rugmark campaign, which has been effective in reducing child labor and other abuses in the global carpet

⁴¹ This section is partly adapted from Richard P. Appelbaum and Peter Dreier, "The Campus Anti-Sweatshop Movement," *The American Prospect* (September -October 1999): 71 -78.

⁴² University of Maryland Program on International Policy Attitudes (PIPA), "American on Globalization," survey conducted October 21 -29, 1999, and published November 16, 1999 (survey results available at <http://www.pipa.org/OnlineReports/Globalization/contents.html>).

industry. Rugmark presently certifies nearly 1.6 million Indian carpet exports with its label (along with another 118,000 Nepalese carpets; in an industry once dominated by child labor, Rugmark reports fewer than 1,300 instances of child labor were found in Indian factories between September 1995 and February 2000.⁴³ Environmentalists have done nothing with the “buy green” campaign. Various “socially responsible investment” firms provide individuals with information so they can buy stock in companies based on how they treat workers, or whether they manufacture military equipment, or whether they use ingredients that hurt the environment.

But ultimately “point-of-consumption” efforts can only be an adjunct of worker organizing, combined with legislative and regulatory remedies. In the long run only workers themselves can adequately assure their own working conditions. Yet unionizing in many global industries, particularly labor-intensive ones such as apparel, is presently fraught with problems. In the low-income countries where most U.S. apparel is made, the prospects for unionization are especially dim. In Mexico, for example, labor unions are government controlled. One 1997 survey, conducted by an independent Mexican labor federation, found that 95 percent of Mexico's organized workers belong to unions they had no voice in choosing. Efforts to organize independent unions are strongly opposed by the Mexican government, although there are increasing efforts to do so. It is too early to say whether or not independent unions will fare significantly better with the defeat of the once-dominant PRI in this year's elections, although there are hopeful signs that this will be the case. China, on the other hand, outlaws independent unions, punishing organizers with prison terms.

Building the capacity for unfettered union organizing must necessarily be a long-term strategy for union organizers throughout the world. That is why the WRC calls for independent verification of factory conditions, rather than an exclusive reliance on monitoring and certification, as does the FLA. Monitoring requires a laborates system of accountants, inspectors, and other technicians who are likely to become captive of the firms they monitor. Verification, on the other hand, can be accomplished by local non-profit organizations that are called into factories in response to worker complaints. A combination of truly independent monitoring and verification would seem to be the most promising approach. To build an adequate system of monitoring, activists argue, it is necessary to build capacity at the local level, thereby creating a foundation for independent unions.

There is not yet in place a cadre of independent monitoring groups around the world with adequate training and resources and with common standards, similar to the kind of observers that human rights groups send to monitor elections. Companies, on their own, are unlikely to use non-profit groups that they cannot control. Companies are not asked to do their own OSHA inspections; that is properly seen as the role of government. As part of U.S. trade policy, Congress should require public disclosure of manufacturing sites and provide for independent verification of factory conditions for firms that sell goods in the American market. U.S. trade policy could also enact legislation that requires U.S. companies operating overseas to follow

⁴³ Another 347 were found in Nepalese factories between December 1996 and January 2000. See Rugmark website, especially http://www.rugmark.de/english/e_facts.htm.

health and safety standards comparable to those in U.S., and to deny the importation of clothing made under sweatshop conditions.

It goes without saying that full public disclosure of manufacturing sites, independent verification of conditions, and enforcement of labor standards is no less necessary in the United States than it is elsewhere in the world: as noted above, only a third of Los Angeles' thousand of factories are presently in compliance with U.S. labor laws. Joint liability legislation, under which retailers and manufacturers would be held legally liable for violations in their contracted factories, would be an important first step; adequate funding for U.S. Department of Labor enforcement efforts, as well as its counterparts at the state level (especially in California), would be another. At the present time, even these minimal steps are not on the horizon in California or elsewhere in the country. ⁴⁴

From the workers' point of view, it would be helpful if consumers the world over, along with human rights advocates, promoted labor standards that would open opportunities for them to organize into unions of their choice. Consumers, at the same time, must realize that they play a powerful role with retailers. The link between workers and consumers lies in promoting policies calling for labor standards and corporate codes of conduct that limit corporate abuse, provide freedom to organize and collectively bargain, and ensure that the public will uphold human rights.

Somewhere between consumer action and unionization lies legislation aimed at making retailers and manufacturers legally liable for the goods they design and sell, thereby ending the fiction that contractors are completely independent of the manufacturers and a retailer that hire them. Manufacturers clearly exert strong control over the production of their goods: they provide the factories with fabric, determine exactly what will be made, closely monitor the quality of the clothing as it is being sewn, and dictate the price that will be paid for each piece. Why should manufacturers be able to turn a blind eye when their contractors break the law?

When companies move their production abroad, the new consumer -based movements are saying, "you can run but you can't hide." Student activists, UNITE, and the WRC are demanding a system of open production that will hold companies responsible for conditions in their factories no matter where they might be located. This coalition cannot accomplish this on

⁴⁴For a more detailed list of possible domestic solutions, see Bonacich and Appelbaum, *Behind the Label* (op. cit.), Part III. In California, joint liability legislation was periodically approved by the (Democrat -dominated) state legislature, only to be vetoed by (Republican) governors Deukmejian and Wilson. It has not fared much better under the current (Democratic) governorship of Gray Davis, who has made it clear that he would not accept any legislation rejected by the industry. Assembly Bill 633, signed into law in 1999, stopped short of establishing the legal principle of joint liability. It did, however, impose a "wage guarantee" on manufacturers and some retailers (those whomaketheirown clothing lines), whomust assure, along with their contractors, that workers are paid minimum wage and overtime. The State Labor Commissioner was authorized to enforce the measure and revoke the registration of any manufacturer who fails to pay an award.

its own, but in a very short period of time it has laid the foundation for a much more broadly based consumer movement. Americans are becoming increasingly aware that they don't have to leave their consciences at home when they shop for clothes.

Table 1:
Two Approaches to Monitoring Factories
 adapted from the *Chronicle of Higher Education* (March 10, 2000)

Governance	
Fair Labor Association	Worker Rights Consortium
14-member board: six representatives from apparel manufacturers, six from human rights and workers' organizations, one from a university, and a chairman.	15-member board: five students, five administrators from universities, and five members of its advisory board (primarily members of labor unions and human rights organizations).
Budget	
Fair Labor Association	Worker Rights Consortium
Approximately \$1.3 million. Received a \$739,000 grant from the U.S. Agency for International Development. University dues will total about \$300,000; apparel industry dues will total about \$270,000. Universities pay 1 percent of licensing revenues, with a minimum of \$100 and a maximum of \$50,000. Company dues range from \$5,000 to \$100,000, depending on annual revenues.	For now, a \$20,000 grant from the New York-based New World Foundation is the only source of income. Plans call for charging dues to universities of 1 percent of licensing revenues, with a minimum of \$1,000 and a maximum of \$50,000.
Monitoring Process	
Fair Labor Association	Worker Rights Consortium
Would hire independent monitor to investigate working conditions at 30 percent of a company's factories within the next three years, and then 5 percent to 15 percent of sites in each succeeding year. The rest of the factories would be monitored by the company itself. The manufacturers would be allowed to recommend factories that they believe should be inspected, and would be required to allow inspections of their largest sites, and factories in parts of the world where there are widespread labor abuses.	Would perform surprise inspections. In general, monitors would be alerted to possible problems by complaints from workers, and they would recheck factories where abuses of workers have been uncovered, to assure that the problems have been resolved. Spot inspections would be concentrated in "countries and regions that suppress workers' rights and companies with a pattern of violation," according to the organization's code of conduct.
Monitor Selection	
Fair Labor Association	Worker Rights Consortium
Can be companies or local human rights and workers' organizations. Apparel manufacturer would be allowed to pick which monitor would inspect its factories, as long as that monitor has been accredited by the F.L.A.	Would use only local human rights or workers' organizations. Company cannot pick monitors.
Reporting	
Fair Labor Association	Worker Rights Consortium
Requires annual report of compliance from each participating manufacturer. Does not require that sites of factories be published, though some universities now require that information.	Would publicize violations of code of conduct. Would require republication of factory locations. Also, the manufacturer would have to publish all "objective measures of working conditions," including wage levels, benefits, scheduled and average work hours, and a history of violation of workplace laws.