

Introduction: The following article is the testimony of Sr. Ruth before the Congressional-Executive Commission on China's Roundtable on Codes of Conduct on April 28, 2003, in Washington, DC. The testimony was an opportunity to discuss the role(s) of Corporate Codes of Conduct as they have evolved over the past decade or more. Usually, analysis of these codes revolves around their content, that is, what are the standards to which corporations hold the factories where their products are produced anywhere in the world. Sr. Ruth's testimony examines the role of codes of conduct in the broader setting of governance and the role of corporations in society. It presents some of the problems corporations face in adopting codes of conduct and the ways in which success of a code should be measured. More than that, it presents the role that corporations have been given or have taken in the area of governance.

CODES OF CONDUCT in CHINA

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The function of codes of conduct in China needs to be placed within the larger context of codes of conduct and enforcement systems throughout the globalized world. We will see that what is happening in China is parallel to what has happened and is continuing to happen within the contract supplier system worldwide.

In countries with strong legal codes that recognize the rights of workers, including standards related to occupational health and safety, working hours, right to organize and engage in collective bargaining, etc., it is society as a whole that has established those standards. The standards themselves are expressed through the society's legal codes and enforcement systems. These give evidence that the societies hold themselves individually and collectively accountable for upholding the standards that they have devised. The standards include, of course, those standards to which corporations are held.

As production and assembly has moved from countries where such standards, legal codes and strong enforcement exist, to other countries, differences are readily apparent.

1. The standards to which factories are held by the society and its government vary from country to country. In fact, these standards are often much lower than those in the "home" countries of the corporations placing the orders in the factories.
2. The legal systems for the enforcement of standards range from non-existent to minimal at best.
3. The legal channels for addressing poor standards or violation of standards either do not exist ...or the workers are in danger if they express concerns or raise issues.

For at least the past decade, if not longer, a steady stream of media reports has exposed the harsh realities within factories to consumers, investors, as well as to labor rights and human rights organizations. Different countries and the problems within factories in those countries rise to public consciousness as a result of media focus and then as the months pass, other countries have taken their place.

One of the mistakes within the varied responses to these exposes and reports has been to see the problems as isolated, the exception to the norm, etc. The responses have focused on a particular factory, a particular situation. Heroic work has been done by coalitions of

organizations to bring about change in a particular factory.... while the other factories in the same trade zone or province or country continue with similar patterns of behavior.

The underlying question within all of this is the following:

*Where does the power exist to bring about change
within the factories as individual factories
and within the supply chain components
within any country, including China?*

We need to keep in mind that for many industries, the factories of production or assembly are usually not owned by the corporations or the brand names with which we are all so familiar. They are contractors or vendors for the corporations. This lack of corporation ownership makes the power issue even more important.

Yet, the focus of the media has been on the corporations placing orders within the factory. In response, corporation after corporation have produced a standard for the work place, the factory; hence the Codes of Conduct as we know them today. Although called by many names, these codes were set forth as the standard for the factory or, another way to say it would be, the "laws" for performance in the factory.

We need to pay attention to what has taken place with this development. We have concluded that the corporations bear ultimate responsibility for the conditions under which their products are manufactured or assembled. We then expect them to become the creators of the standards for the factories and the enforcers of those standards.

In other words, we have handed over the role of the society and its governance - making and enforcing standards and laws - to the corporations we are attempting to hold accountable. It is a shift in power, a shift in responsibility and a shift in accountability.

When this plays out within the production system, we have the common phenomenon of almost any factory which accepts orders from numerous corporations, having a display wall with the various codes of conduct for these corporations framed and available for anyone who wants to take the time to read them. In theory, at least, these are the standards within which products are produced within the factory.

Careful examination of the various codes quickly exposes one of the major flaws of the role of codes of conduct in a production factory. The codes from the various corporations are not the same. So what is the standard to which the factory must adhere? Is it the common denominator or the higher standard or a combination thereof? Is it one standard one day and another standard another day depending on the product being produced and/or the corporation for which the product is being produced and/or the particular inspection, monitoring, certification team that is coming? How is the management of the factory to know, much less the workers?

Whose standard is it really? It does not matter which code of conduct we are using, it is still not the rule of law and governance of the community or country in which production is taking place. In fact, in many instances, the codes of conduct are higher than the legal standards within the country of production. This is certainly true in China...and so many other countries that could be named.

When codes of conduct are seen as something imposed from the outside rather than a standard of behavior that is adopted from within the society, for the benefit of all involved, it depends on an external enforcement system for adherence. Hence we have the various systems of monitoring, inspection, certification, etc. that have developed as means and method of enforcing the codes. Again with most of the monitoring, inspection and certification, the power of enforcement comes from the outside: outside the community and often, outside the country of production.

For us at CREA, there are three central issues that we use to evaluate whether or not the code of conduct and whatever enforcement systems are in place for that factory/code are succeeding:

1. What changes for the workers? Although a simple question, this should be the reason why we are looking at codes. It is the situations in the factory that we are trying to address. It is critical that we see these codes and the situations they are trying to address not as an abstract exercise but rather as the day-to-day reality for workers in China, most especially, but in any country where the assembly plant system works worldwide.
2. How is power of enforcement transferred back to civil society and other components of society within China...and within other countries? If all the inspecting, certifying, monitoring, enforcing continues to have to come outside the community, it will continue to be a system of putting out fires, of presuming that if a small percentage of factories are okay, that they all are.
3. Where do the money and the power attached to the money accumulate as a result of all the inspecting, certifying, monitoring, etc.? If we are looking at a system that can be sustained over time, there needs to be the transfer of sufficient funding and the associated power to the communities where the factories are located. The funding needs to remain within the community to support a sustainable economic system where appropriate governance can develop and function.

While all of this is applicable anywhere in the world, the specifics of China are our focus today. CREA suggests the following:

1. The need to start with recognition of the inherent dignity of each human being, so that workers are not seen only in terms of what they are able to produce.
2. The need to look at ways of strengthening civil society within China. Organizations such as the Institute for Contemporary Observation (ICO), with which CREA is collaborating on a project, need to be seen as equal partners. We need to find ways to have work such as theirs seen as the ordinary, the way it should be done, rather than the exception or the extra-ordinary means of functioning.
3. The CECC, corporations, any group working on the issue, needs take a look at why companies move to China. What is it that they gain because of the labor situation there as compared to other countries? For companies moving production to China because of the lower costs and standards there, there needs to be the means of holding these corporations accountable.

For example, how does the issue of “just in time” production and the on-going shortening of turn around time in relationship to orders being placed and demands placed on factories, resulting in abusive situations for workers?

4. There needs to be a greater analysis of Chinese law related to labor, including occupational health and safety, wages, overtime, freedom of association and right to organize, and systematic ways of addressing these. This needs to be coupled to an examination of the International Labor Organization (ILO) standards relating to occupation health and safety, work hours, etc., followed by the examination of each of these codes of conduct and their enforcement systems. Again, the underlying issue is how to bring these together in order to improve standards for workers.
5. How do we make it beneficial for factory managers to adhere to the standards? At the present time we use a system of rewards and punishments based on the placing and withdrawal of orders to ensure compliance with the code of conduct. How do we move this reason for compliance to a standard that is beneficial for all factory managers to adhere to? How do we make adherence to codes the norm rather than the exception?

Within the Chinese governmental system, how do we make it possible for a factory to be singled out positively if its standards go beyond the legal?

6. How do we provide support for collaborative efforts between corporations to enhance their power to bring about change as well as to create an equal standard? How would the development of a collaborative code of conduct be constructed that would not be the lowest common denominator? And then, how do we provide a neutral space for a trial of this to take place and evaluated, without the spotlight or glare of publicity so that change for the workers could really take place.
7. On another level, how do we get investors, the investment community including Wall Street and the other markets around the world to recognize that raising working condition standards is a beneficial thing even if the costs of production are higher? How do we communicate that the continual drive to lower costs of production contribute to the violation of the standards of performance and behavior that we are trying to raise in these codes of conduct?

These systemic questions, and many others that could also be raised, focus the issue of codes of conduct on the global production system as it functions within society, most specifically in China. For more than a decade, members of CREA's staff have worked with numerous corporations on issues of code of conduct development, reporting mechanisms, monitoring and inspections; in fact, we continue to do so even as I speak here today about the need to look at the issues on a systemic basis. CREA is convinced that real change, sustained change, change that affects the lives of workers, and their communities cannot and will not take place without looking at the systemic issues.

In the meantime, we salute and support the efforts of those who seek to promote, enforce and report on codes of conduct and compliance with them. These efforts should not be taken lightly. This is hard work. It is important work. Hopefully, we will be able to learn from the experiences of all of us who have worked and continue to work on the issues that these codes of conduct seek to address and devise the methods for system change that remain before us.