



Looking for a **quick fix**

How weak social auditing
is keeping workers in sweatshops



Clean Clothes Campaign

“Auditing is more about securing orders than improving the welfare of the workers, that is why the management only make cosmetic changes to impress the auditors and not to better the conditions of workers.” Worker, Factory A, Kenya, producing for Wal-Mart and Sears

“Before you came, I have been interviewed by at least three different people and they all asked me if I was a contract employee or a regular one. If they were auditors and have not taken any concrete steps about it then it is quite useless.” Worker, Factory C, Pakistan, producing for KarstadtQuelle, C&A, Disney and Wal-Mart

“Whenever social auditors come to this factory, we are given holiday.” Worker, Factory C, India, producing for KarstadtQuelle, Kingel, Derma Group, Otto, Spiegel and Littlewoods

“New or young looking workers would be arranged for paid leave during the audit lest they did not behave properly during the audit.” Research on Factory C in China, producing for Warner Bros, Hatland and the Beijing Olympic Committee

“All the twenty-one workers interviewed ... said that no improvements had been made in the health and safety situation in the factory since they joined the factory.” Research report from SA8000-accredited factory, north India, producing for BCL, Saki and RCC

Looking for a quick fix

How weak social auditing
is keeping workers in sweatshops

COLOFON

This report is the result of extensive collaboration between the Clean Clothes Campaign and the researchers from the countries profiled. Our special thanks go to the workers who gave of their precious, very limited, free time, and those managers and auditors who shared their experiences with the researchers.

We are grateful to the research organizations for their contributions: Centre for Education and Communication (India), Kenya Human Rights Commission (Kenya), Org. "AUR" - National Association of Human Resources Specialists (Romania), Alternative Movement for Resources and Freedom Society (Bangladesh), Pakistan Institute of Labour Education and Research (Pakistan), Social Awareness and Voluntary Education (India), Association Attawassoul and Saâd Belghazi (Morocco), Urban Community Mission (Indonesia) and Labour Action China (Hong Kong).

Principal writer: Duncan Pruett

With contributions from: Jeroen Merk, Ineke Zeldenrust and Esther de Haan.

Thanks for the support and comments from Martin Hearson, Christa de Bruin, Joel Lindefors and Cliff Ip.

Editor: Nina Ascoly

Designer: Annelies Vlasblom, Amsterdam

Printing: PrimaveraQuint, Amsterdam

This publication was made possible through funding of the Dutch Ministry of Foreign Affairs. The content reflects the views of the Clean Clothes Campaign, not necessarily of the Dutch Ministry of Foreign Affairs.

© 2005 Clean Clothes Campaign



Contact information:

Clean Clothes Campaign
PO Box 11584
1001 GN Amsterdam
The Netherlands

Phone: + 31 20 41 22 785
Fax: + 31 20 41 22 786
E-mail: info@cleanclothes.org
Website: www.cleanclothes.org



Table of Contents



4



00 Preface

7



01 Introduction and summary

11



02 Cheating and sloppy auditing

17

Advance warning of audits make fraud and deception easier	20
Fraud on wages, hours and contracts	24
Model factories and hidden subcontractors	25
Corruption in some cases	25
Superficial visits by auditors	26
Abandoning the quest for the perfect audit?	28



03 Why basic auditing is never enough

31

Falling below the radar	32
Freedom of association	33
Insufficient provision of medical care and sick leave	38
Discriminatory hiring practices and sexual harrasment	38
Abuses related to wages and overtime	39
Do workers have a real say?	41
The reality of worker interviews	41
Taking into account views of other local players	47

5

Workers not being informed about their labour rights	48
Complaint mechanisms as a means of redress	49
Lack of skill and experience of auditing staff	50



04 The social audit industry: not transparent and unaccountable

53

Origin of the the social auditing industry	54
Global financial auditing firms	54
Quality control firms	55
Specialised social audit firms	56
Not-for-profit social audit organisations	57
Size and growth: how many social audits are taking place?	58
Serious credibility problems	59
Difficulties of overseeing a secretive industry	61



05 Dumbing down: the trend towards excessive reliance on audits

63

Who is relying primarily on social auditing?	64
BSCI: is the retail industry looking for a quick fix?	64
Misleading claims	66
Weak multistakeholder round tables	67
Wrap: another attempt to lower the bar?	67
ICS: french retailers band together	68
Impressing consumers with claims of compliance	68
Avoiding the cost of compliance	70
Are we forgetting the lessons learned?	72



06 Social auditing that matters 73

Social auditing can be effective – the toolbox approach	74
Why we need more than auditing	74
Partnership with local organisations	75
Grievance and complaint mechanisms	77
Education and training	77
Address purchasing practices	78
A pro-active approach to freedom of association	79
Remediation	81
Need for transparency to help critique, improve, oversee	82
Don't go it alone!	82
Building credibility: working in MSI's	83



07 Abbreviations 85



08 Bibliography 87



09 Endnotes 93

Boxes

The context for social auditing	19
What happens in a social audit	23
A series of admissions of the failure of social auditing	27
Can you really measure the living wage?	40
How labor inspection has failed workers in Swaziland and Madagascar	54
Interaction with government labour inspections	55
Fair Wear Foundation Audit Teams	57
Auditors unwrapped in the Philippines	67
Spectrum disaster: a worst case scenario	71



00

Preface



8



This report is the result of a collaborative research effort, coordinated by the international secretariat of the Clean Clothes Campaign (CCC). CCC international partner organisations (trade unions and non-governmental organisations) have strongly pushed for better information on developments related to “social auditing”, the most commonly-used tool to determine compliance with codes of conduct in workplaces where garments and sports shoes are produced. The CCC believes that this information is also of value to employers and buyers who have also expressed a need to break the deadlock surrounding discussions related to social auditing. This need for better-informed debate comes against a backdrop of only limited progress in improving conditions for workers in garment and sport shoe industry supply chains, in spite of a decade and a half of campaigning for change, and the continued use of social auditing by many companies to help present themselves as socially responsible.

In 2004 terms of reference for a multi-country research project into the state of social auditing were developed by the CCC International Secretariat. In 2005 research was commissioned to take place in nine countries where substantial garment and sports shoe production takes place.

All of the country-level research cited in the following chapters was carried out by local organisations from the CCC partner network with long-term experience in working with workers in supply chains. For this reason, the report highlights not only the views and experiences of workers, but also the expert opinions of the research organisations.

9

The researchers followed a common research framework though there was some flexibility in choosing factories and designing interview questions.

In addition the views of managers and auditors were sought. The researchers found it was difficult to obtain interviews with managers and social auditors. Where the researchers succeeded in interviewing managers in most cases the managers asked that their names and factories be kept confidential. The few social auditors that granted interviews to the researchers made the same request.

670 workers from around 40 factories in Bangladesh, China, Kenya, India, Indonesia, Morocco, Pakistan and Romania, participated in the research through focus groups and interviews. It should be noted that among workers in the industry, there is a climate of fear surrounding discussing working conditions.

The workers interviewed often overcame anxieties about revealing workplace information and more often than not, in an industry riddled with overtime abuses, used up precious hours of free time. This note from the Bangladeshi researchers about the 56 workers interviewed gives a flavour of the sacrifice involved:

To have adequate time from the workers was a challenging task in conducting this study and almost all the time study team members had to hurry to free the respondents as they could give time only after their long working hours. After working for a long period workers become extremely tired, although the study team noted that workers tried to provide as much time as they could. Some of the respondents were interviewed at 9:00 p.m. before going to the factory for night shift work but were quite busy to do their household work as well as to take necessary preparation to go to the factory for night work.



10

In this report we have kept the names of the workers, managers and social auditors confidential as was requested by some of the workers, researchers, managers and social auditors, out of fear for repercussions, loss of orders or loss of auditing assignments.

The CCC partner organisations involved in this research were:

- ▷ Centre for Education and Communication (CEC), India
- ▷ Kenya Human Rights Commission, Kenya
- ▷ Org. "AUR" - National Association of Human Resources Specialists (ANSRU), Romania
- ▷ Alternative Movement for Resources and Freedom Society (AMRF Society), Bangladesh
- ▷ Pakistan Institute of Labour Education and Research (PILER), Pakistan
- ▷ Social Awareness and Voluntary Education (SAVE), India
- ▷ Association Attawassoul and Saâd Belghazi, Morocco
- ▷ Urban Community Mission (UCM), Indonesia
- ▷ Labour Action China, Hong Kong

The CCC and its partners are confident that this research will contribute to ongoing reflection on how to improve practice and policy surrounding the use of social auditing, and more broadly, on approaches to improving life for workers in garment and sports shoe industry supply chains.



01

Introduction and Summary



Workers' Quotes

"I remember the time when there was a union in this factory...in the beginning of 2000... At that time our working conditions were very bad. Not that they are any better now. We used to get absolutely dirty water to drink... we never had any appointment letter... we were forced to do overtime. These were the things that we demand should be corrected.... But the management succeeded in breaking the union."

Worker, Factory A, north India, SA8000-certified, producing for BCL, Saki and RCC.

"I have been working (here) for more than a year. Auditors visit the factory but there is no visible change in our working conditions... I have been having a constant leg pain since I joined. I have complained to the supervisors but have not got time off to see the doctor."

Worker, Factory D, north India, producing for Wal-Mart, Kellwood and Sears

INTRODUCTION

Social audits to check working conditions in production facilities emerged in the mid-1990s after a number of high profile companies were widely scrutinized for substandard working conditions in their supply chains. At that time, a growing number of companies—for example Nike, Gap, Levi Strauss, and C&A—had adopted codes of conduct that in essence were pledges to prevent exploitation and abuse of workers producing their goods. Labour advocates soon challenged these companies to demonstrate conformity to the standards they had adopted. Calls for independent, civil society based forms of workplace assessments were made.

The large majority of companies ignored these calls and actually did very little to implement or enforce their codes of conduct. A few companies, however, started to use social audit firms to inspect workplaces. This was met with little enthusiasm from labour rights activists who suspected that social audits were undertaken mainly to deceive the public. Others questioned the effectiveness of the audits or feared that social audits were mainly carried out as a form of risk assessment.

Many of these fears were validated when researchers and journalists reported on important flaws in social auditing methods. They found that social audits typically failed to detect important instances of non-compliance with labour standards. Workplaces that social auditors found to be in compliance with standards were in fact no more than sweatshops.¹

One decade down the road much has changed and yet stayed the same.

Social audits have become a burgeoning practice within the garment and sportswear industry. Tens of thousands of social audits are commissioned annually by hundreds of brand-name companies ("brands") or retailers. A whole industry of commercial social auditors, self-assigned experts, and quasi-independent ethical enterprises has jumped on the social audit bandwagon (see chapter 4).

On the positive side a number of companies have learned from their own experiences as well as from the critics. They have started to identify the limitations of social auditing methods and have moved in the direction of a more comprehensive approach to improve working conditions. These firms recognise the need for an overarching system to evalu-

ate company claims and to rise above the limits of corporate self-regulation. A few multi-stakeholder initiatives (MSIs) have been set up that bring together a variety of business interests, NGOs and/or trade unions to try to develop (more) systematic approaches to code implementation, monitoring and verification, as well as developing structures for accountability to civil society. This report will argue that only social audits embedded in a comprehensive range of actions can be useful. These other actions are covered in more detail in chapter 6.

Unfortunately, this comprehensive approach stands in sharp contrast with the current standard practice of social auditing still utilised by many of the biggest players in the industry.

As this report will show, the non-specialist retail sector (supermarkets, discount and department stores) and mail order sectors and in particular are developing less stringent models to implement codes of conduct.

It is in those contexts that unbranded retailers have managed to escape scrutiny, and as a result have felt less pressure to behave in a responsible way toward the workers employed in their supply chains. The social audit methods used by retailers such as KarstadtQuelle (Germany) or Wal-Mart (United States). in fact are based on a seriously flawed model largely discredited not only by labour rights advocates but also by those within the industry who have had a longer-term involvement in this field but on an extended scale. The impact of these programmes on working conditions is at best superficial. Their approach seems for the most part to be minimalist—they tend to invest as little time and money as possible, and more worryingly, they seem to be promoting a "lowering of the bar", in order to make it easier to tell consumers that they are meeting goals for treating workers responsibly. A Chinese NGO identified this phenomenon in interviews with managers in China:

The level of enthusiasm in implementing CSR among brand-name companies far exceeds that of retailers. Factory managers said that in the in-house verification personnel and independent auditors sent by brand-name companies investigated problems quite thoroughly and could not easily be fobbed off. Checks by retailers, however, were generally a little more lax. Workers...could clearly remember investigators from H&M and New Look coming to their dormitories to interview them. Managers in two factories said that Wal-Mart's social responsibility inspection team only spends about three hours at the factories, during which they verify wages, working hours and personnel records, make a brief inspection tour of the factory, and meet three or four workers in the factory office's reception room. They also said that Wal-Mart inspections were generally quite easy to bluff, and that because Wal-Mart's unit prices for orders are extremely low, their inspection teams were not likely to seriously demand that the factory adhere to the code of practice.²

In some cases, these companies fail to address, or turn a blind eye, to extreme abuses of workers, such as was the case in Bangladesh in April, when Spectrum Sweater collapsed killing 64 workers. Workers report that their employers had made their lives hell before the disaster. Workers were held in such low regard that their attempts to raise the alarm about dangerous conditions prior to the collapse were simply ignored,

Workers' Quotes

"Auditing is more about securing orders than improving the welfare of the workers, that is why the management only make cosmetic changes to impress the auditors and not to better the conditions of workers...."

Worker, Factory A, Kenya, producing for Wal-Mart and Sears

"Before you came, I have been interviewed by at least three different people and they all asked me if I was a contract employee or a regular one. If they were auditors and have not taken any concrete steps about it then it is quite useless."

Worker, Factory C, Pakistan, audited under the AVE scheme, and producing for KarstadtQuelle, C&A, Disney and Wal-Mart

"All the twenty-one workers interviewed ... said that no improvements had been made in the health and safety situation in the factory since they joined the factory."

Research report from SA8000-accredited factory, north India, producing for BCL, Saki and RCC

not just by factory management but by clients as well. The factory had undergone at least one social audit by Carrefour and had undergone a "quality audit" by KarstadtQuelle reportedly done by international social auditing firm SGS.

This report is a critical assessment of the social audit system adopted by these kind of companies.

Chapter 2 and **Chapter 3** look at the ways in which factory owners prepare for audits, worker perceptions of the process, and the perceived impact of audits on working conditions. It covers in some detail, using new field research, why social auditing is not achieving as much as was hoped, in spite of significant discussion over the last 10 years by researchers, journalists and activists³ about whether social audits can accurately assess labour conditions and encourage improvements. In spite of this discussion, and in light of the evidence in this report, it is clear that mainstream social auditing consistently manages to miss crucial violations of workplace rights, in particular regarding as "intangible" areas such as freedom of association, working hours, abuse and harassment.

Chapter 4 looks at the global social auditing industry and assesses its successes and failings over a decade of existence.

Chapter 5 considers current problematic trends toward over-reliance on social auditing, and **chapter 6** makes a series of recommendations for companies and social auditors.

This research draws a number of key conclusions:

1. Social audits are failing to deliver as a tool for assessing code compliance, particularly in determining violations of freedom of association, excessive and forced overtime, abusive treatment and discrimination of workers.
2. Workers and their organisations are marginalized in the social audit process. Without their full participation in the auditing process their concerns, particularly gender-related concerns, are missed. Relevant local stakeholders outside the factory such as trade unions and women's and labour NGOs are rarely consulted or involved.
3. Social auditors are making it too easy for workplaces to receive positive evaluations, particularly by announcing audit visits in advance, thereby giving factory managers time to prepare for audits and convey a false impression of working conditions.

4. Factory managers are deceiving social auditors in many ways, most notably by coaching workers before they are interviewed by auditors to convey false or incomplete information and by falsifying records.
5. Social audits are usually too short, too superficial and too sloppy to identify certain types of code violations.
6. Workers are badly informed about their rights, often too scared for their own jobs to speak up about problems during audits, and generally do not have the possibility to file a complaint.
7. The vast majority of social audits is conducted by global firms whose staff is generally unskilled and inexperienced to do the job, and whose business model conflicts with the requirements for credible, independent social auditing.
8. Audits are often not followed by effective remediation. Improvements at the workplace are limited to health and safety issues and tend to be superficial.
9. The audit industry is closed and secretive, preventing serious discussion about its policy and practices and possible improvements to its methods.
10. Certain buyers, particularly well-known brands that have been targeted by labour rights campaigns, and those cooperating more intensively with labour advocates are actually doing a better job in developing more comprehensive and participatory social audit models. Others, mainly unbranded buyers and non-specialised retailers, are promoting the failing audit model described in this report, particularly in the context of fast growing business dominated CSR initiatives.

There are a number of ways in which the CCC believes that companies that are serious about respecting workers' rights can get on the right track (described in detail in chapter 6):

Place workers at the centre of social auditing processes. Recognizing that the majority of workers in this industry are women all auditing procedures must be gender sensitive. Gender blind auditing is bound to miss out on key input from workers. Workers are the intended beneficiaries of audits therefore their input is not sought out and included in auditing and associated processes (remediation) such efforts will not contribute to sustainable improvements to their labour conditions. Training and education is a precursor for creating an atmosphere where workers are informed of their rights and can effectively use channels intended for conveying concerns.

Sourcing companies must adopt a more comprehensive "toolbox" approach if they want to make a credible effort to face up to their responsibilities to workers in their supply chains. Quality social auditing includes unannounced visits, interviews of workers outside of the workplace and involves skilled local experts and civil society organizations. This alone however is not enough and should be combined with other tools in a broader and longer-term program to address and remediate violations of workers rights. Including partnership with local organizations; grievance and complaints mecha-

Workers' Quotes

"The pieces for which workers used to get rs100 in 1999, we are still getting about 90 or 100 rupees. At present in many pieces they are reducing the rate to 40 to 45 rupees."

Md Ateeq, president, Delhi Leather Karigar Sangathan Trade Union, India

"Workers do not see any improvement in significant areas such as the wage and working hours despite repeated factory audits and worker interviews. They have a sense of distrust and feel that the standards and auditing is completely irrelevant to their everyday working life at the workplace."

Researcher reporting on SA8000-accredited factory in southern China producing for DKNY, Just Perfect and Michael Kors

nisms; education and training; a pro-active approach to freedom of association; address existing business or purchasing practices; effective remediation and increased transparency.

Systematic problems at both the point of production and the point of consumption can only be successfully addressed through an industry-wide approach. Playing an active role in credible multi-stakeholder initiatives (MSIs) can also be a valuable step for companies to take in improving their auditing and other code compliance work.



02

Cheating and sloppy auditing



One standard today, another tomorrow

The standards that auditors are asked to apply tend to be very similar, and are based on the ILO's core labour standards, health and safety requirements, and, in some cases, a "living wage" requirement. Many companies have their own codes of labour practice, and ask auditors to use these.

Audit firms can be accredited to apply the SA8000 standard, developed by Social Accountability International, and then supplier factories can pay the firms to audit them according to this standard. Some buyers prefer to audit according to codes developed by multi-stakeholder initiatives such as the Ethical Trading Initiative (more on MSIs in chapter 6). The devil is in the details, though. While standards differ little, the quality and credibility of applying, monitoring and verifying the standards varies a lot.

Whenever social auditors come to this factory, we are given holiday. Worker on a piece rate working under a subcontractor⁴ within Factory C in India, producing for KarstadtQuelle, Kingel, Derma Group, Otto, Spiegel and Littlewoods

Over the last 15 years, the plight of workers in the supply chains of apparel and sports shoe companies has become a cause for public concern. In attempts to avoid scandals and reassure consumers that they take their responsibilities seriously, some companies are relying increasingly, to the tune of thousands of audits each year, on social auditing to monitor or investigate the conditions endured by workers in their supply chains.

Social audits are meant to help identify workers' rights violations in production facilities, to assess and evaluate suppliers' performance in relation to social standards and encourage improvements at the work place. They cannot, by themselves, create change. At the same time, flawed auditing can have the opposite effect by providing a false or incomplete picture of working conditions at a production site. Much, therefore, depends on the quality and scope of an audit.

This chapter presents information on recent social auditing in factories in Kenya, India, China, Pakistan, Romania, Bangladesh, Morocco and Indonesia gathered by local organisations in 2005 specifically for this report. This information is supplemented by references to other research. Areas considered include:

- ▷ the growing practice of factory managers deceiving auditors
- ▷ the superficiality of audits,
- ▷ items that tend to be missed by auditors, particularly in relation to freedom of association or discrimination,
- ▷ the numerous ways in which attempts to include the voices of workers in the auditing process, including through worker interviews, are being undermined,
- ▷ the absence of training and complaints mechanisms,
- ▷ the lack of skill and experience of auditing staff, and
- ▷ the failure to take into account information from other local organisations outside factories.

In covering these areas the chapter also sheds light on the problems faced by auditors in carrying out their work. More importantly, however, the chapter aims to consider to what extent auditing is actually achieving, or failing to achieve, its objective of improving workers' lives. Workers are after all meant to be the eventual beneficiaries of auditing.

The context for social auditing

The steps taken by companies when assuming responsibility for labour standards in the supply chain are often quite predictable. Experience shows that companies often pass through a series of phases when developing policies in relation to respect for workers' rights in their supply chains. Social auditing can be used as one tool at a number of points in the process:

- 1 **Denial:** At this stage, a buyer would deny responsibility for the conditions under which workers in the supply chain are working. Fewer and fewer buyers adopt this position today, thanks primarily to labour rights campaigns that began to occur with increasing frequency in the 1990s.
- 2 **Substance:** At this point, buyers adopt "codes of conduct", usually following the benchmark of the ILO's core labour standards, as laid down in a set of eight conventions, focusing on child labour, forced labour, discrimination, freedom of association and collective bargaining. To begin with, these codes are not much more than commitments on paper.
- 3 **Implementation, monitoring and verification:** The next step is for a buyer to go from paper to practice, by implementing the commitments contained in a code of conduct. This has happened more and more in recent years, as companies were challenged by critics to demonstrate conformity to the standards they had adopted.
 - a **Implementation** refers to the steps required to give practical effect to a code.
 - b **Internal or company monitoring** refers to the management procedures put in place to ensure internally that the implementation has indeed taken place in practice among suppliers.
 - c **(Independent) verification** refers to the process of establishing the credibility of company claims of compliance with a code of conduct. Verification must be carried out by an entity that is entirely independent of, and not in the pay of the company itself. In general, multi-

stakeholder initiatives (discussed in chapter 6) have provided a more credible framework for verification.

- 4 **Workers' participation:** While much progress has been made since the days when companies were stuck at the stage of denial, there is still much to be done to improve labour conditions on the ground. Labour advocates tend to agree that without a meaningful role for the intended beneficiaries of all this—the workers themselves—progress is likely to be limited. Many are concerned that the rising importance attached to social audits is leading to the exclusion of workers from the process.

Social audits may be one tool used to help a company monitor its internal progress in monitoring labour standards. A company may carry out the audit itself, or it may engage a social auditing firm to do so. A supplier may also engage a social auditor to obtain a certification in order to obtain orders from companies that require certification according to one scheme or another, such as SA8000.

The main motive driving the use of social audits is risk prevention. In other words, factories must be cleared of child labour, bonded labour and other extreme labour abuses in case reporters or activists find out and expose the company to consumers. If this happens, the company can point to the fact that it did an audit and that independent experts had given it the all clear.

In all cases, it is the standards preferred by the buyer that are likely to be used, since this process is linked to the internal management system of the buying firm, even if the supplier pays for the audit.

In the process of verification **social audits** may be one tool used by a multi-stakeholder initiative, such as the Fair Labor Association (FLA) or the Fair Wear Foundation (FWF). In these cases, the parameters of the audit will tend to be set by the multi-

The purpose of a social audit is to get a good picture of the labour situation in a workplace. Clearly, unannounced audits can prevent management from having the factory cleaned up in advance or other forms of cheating. And while there are certain instances in which it is appropriate for the date of the visit of auditors to be known in advance (for example when the accountant needs to be present to provide specific information), the research for this report suggests that the vast majority of audit visits are being made with plenty of advance warning for factory managers.⁵ With so much advance warning, there are a wide range of steps that are taken by factory managers to trick auditors even in the more “tangible” areas, such as the practice of only unlocking medical cabinets and fire exits during the visits of the auditors (and then locking and closing them afterwards). And naturally, given plenty of warning, there are many ways in which the worker interview process can be undermined. Unannounced audits at least give auditors a fighting chance to identify problems.

Every month there are two to three visits by buyers in the factory and the visitors basically talk with the management. Workers get prior notice for such visit and sometimes visitors also talk with 10-15 workers who are selected by the management. These workers are instructed by the management what is to be said to the auditors and if there are any workers who are unable to speak according to the instructions then they asked not to come till the visit of the auditors ends. Workers at Factory B, Bangladesh, producing for JC Penny and Wal-Mart

In Factories B and C in Romania, the auditor of Swedish fashion giant H&M has the right to enter the premises at any time within the working day, without any prior notification. The H&M auditor, with an interpreter, is allowed to circulate un-accompanied inside the factory. Under these unannounced conditions, it is easy to see how an auditor has some chance of spotting problems and getting a sense of the real situation faced by workers. Indeed, in Romania, researchers found that in factories where one buyer was allowed to make unannounced visits, better labour conditions seemed to prevail.

In most cases, however, this is the exception, rather than the rule. Auditors tend to tell factory managers in advance that they are coming to carry out an audit. Factory A in north India, for instance was last audited in January 2005 by a Social Accountability International (SAI) accredited auditing firm. After an initial audit, follow-up audits every six months are compulsory. The audit is announced one week before the due date of the audit.⁶

In India there are no unannounced audits by third party as yet. Many of our suppliers will not be able to meet issues raised in social compliance if unannounced audits take place. Announced audits are thus in vogue. It will take time for our suppliers to meet high standards of labour conditions. Employee in India for large global social auditing firm

stakeholder initiative itself, rather than the sourcing company. In the field research carried out for this study, workers themselves were often in the dark as to whether social audits were part of monitoring or verification, and whether the audits were ordered by their own employers, the buyers, or third parties. However, given that verification is still used only to a limited degree by certain more responsive compa-

nies, it is likely that most audits were in fact linked to internal monitoring programmes. It should also be noted that best practices in the field of social compliance are subject to much discussion, testing and experimentation. The aim of this report is not to propose a perfect compliance model, but to look at the problems associated with bad social auditing.

In Factory A in southern China, producing for DKNY, Just Perfect and Michael Kors, preparatory work for the audit was very evident to workers:

The workplace would be cleaned up, the first aid box at the workplace which is locked up at normal times would be unlocked for auditing, the supervisors would give briefings to workers about how they should answer questions from the auditors in case they were picked for interview.

In Factory C in Kenya, producing for Wal-Mart, workers listed the following arrangements made by managers prior to announced audits:

- ▷ *Thorough cleaning of the company,*
- ▷ *provision of towels, soaps and powder to the employees, workers are forced to say that they are always given milk, which is not true,*
- ▷ *They are told to quote low targets to impress the auditors while the targets are usually quite high,*
- ▷ *they are told to say that they don't work overtime, especially not on Sundays, and*
- ▷ *generally, workers are drilled on how to present a good image of the company to ensure that it receives the order.*

Auditors in India said that in the early stages, factories should be given notice in order to get them used to the process. The picture on the ground, however, is one of managers who are already experienced at passing audits. They are increasingly sophisticated in learning how to score well with auditors, taking advantage of the lenient approach of auditors. Separate departments, dedicated to ensuring compliance during audits, clearly become expert at responding to news of a forthcoming visit by auditors.

In China, in Factory C, producing for Warner Bros, Hatland and the Beijing Olympic Committee, it was reported that the supervisors all have a standard coaching manual of how to instruct production line workers during the audit. Workers are told to give standard answers according to the labour law to the auditors. Workers reported that management is careful not to pass on any “evidence” such as the coaching manual to workers.

In northern India all factory managers and auditors interviewed confirmed that the visits of auditors are signalled in advance. Researchers said, “According to the manage-

ment, there is no special planning for it.”⁷ But evidence provided to the researchers from workers showed this is patently untrue.

The day when our factory is cleaned, many dustbins suddenly kept all over the factory, floor neatly swept, workers being given needle guards. It is a sign that auditors are going to come. Worker, Factory A, north India, producing for BCL, Saki and RCC

(Supervisor’s name) is present at the time of the interview so we get to know who was interviewed and what was asked. We hold meetings with the workers, train them, before the audit. We tell them what may be asked and what should be answered. Manager, Factory A, north India, producing for BCL, Saki and RCC

New or young looking workers would be arranged for paid leave during the audit lest they did not behave properly during the audit. Research on Factory C in China, producing for Warner Bros, Hatland and the Beijing Olympic Committee

Among experts, there are different views on whether audits should be announced or unannounced. Auditors often prefer announced audits because the factory is than capable of preparing the visit, for example by making sure that the right managers are available for an interview or that the relevant documentation is accessible.⁸ The not-for-profit social audit organisation GMIES, based in El Salvador, argues that announced visits “are rich in information because they are top to bottom inspections, while unannounced visits are reserved for follow up on specific points so that monitors can count on the surprise effect”.⁹ More advanced approaches nowadays use a combination depending on where they are in the cycle of auditing and remediation (i.e. the initial audit might be announced, but the follow-up visits might be unannounced).

Another reason why visits are often announced is that “retailers and audit firms do not want to jeopardize their relationship with their suppliers who tend to see unannounced visits, part of the so called ‘policing approach’, as impolite and inappropriate interference in their business”¹⁰. It is worth noting that in this context, unannounced initial audits would make it harder for factories to earn their certification, or to qualify in some way to become a supplier. Auditors apparently have an incentive to give advance warning therefore, especially when the supplier is paying, since a factory is likely to require regular re-audits, for instance under SA8000 under the BSCI scheme. If a factory simply fails an audit, it is less likely to need the services of that auditor again in the future. Of course, ensuring all audits are announced in advance would not solve the problem of bad quality audits or the problem of the culture of cheating among factory managers. Managers can easily instruct workers to lie to auditors whenever they come to the factory or even when they meet them outside. The discussion around announced versus unannounced visits, therefore, is mainly useful for its demonstration of the limitations of what can be checked and what can be hidden during a social audit.

What happens in a social audit?

Social auditors will visit a supplier to check whether there is conformity with a labour standard laid out in the code of conduct they have been given. The objectives can include:

- ▷ assessing the problems that exist in a factory,
- ▷ developing a corrective action or remediation plan.

A social audit typically includes three steps, sometimes referred to as the “circle of evidence” (see figure), and takes anything from a few hours to a few days. Please note that chapters 2 and 3 will explore the reality of such audits in more detail.

A document review is carried out to check wages and hours, bonuses, personnel management, the application of internal regulations and collective bargaining agreements. Documents reviewed can include time cards, content receipts, union declarations, and personnel files. How useful a document review is depends first of all on how accurate these documents are (see also section on corruption).

A site inspection—also referred to as a physical inspection or factory walk-through—might reveal health and safety problems. Inspectors might look at emergency exits, fire extinguishers, bathrooms, alleys or passageways, ventilation, cleaning, safety equipment and noise levels. A walk-through might also reveal information on management-worker relations, for instance whether workers seem uncomfortable and stop talking when the line supervisor appears.

Interviews should be a key element of an audit. Interviews are usually held with workers, management, and in best practice cases, with local unions and/or NGOs. It is valuable for auditors to speak directly with workers about the conditions they work in. Auditors can use the interviews, which can also happen outside factory premises, to check if workers get paid the legal minimum wage and the legal overtime rate, whether management has prevented union activities, etc.

Who does the audit?

The vast majority of audits are carried out by international commercial audit firms, such as CSCC, Intertek and SGS. These are known as “third party audits”, because they differ from “second party audits”, which are carried out by a buyer’s own compliance or CSR staff, and “first party audits” which are basically self-assessment exercises carried out by a supplier itself. In this report, the focus is mainly on third and second party audits.

Figure 1 Circle of Evidence



Source:
Vie Thorpe Cornell University ILR Training 2005

24

FRAUD ON WAGES, HOURS AND CONTRACTS

Fraud is a major problem in the field of social audits. Elsewhere the practice of document-falsification has also been well-researched: double bookkeeping, especially of payroll documents and time cards have become common practice in a number of important garment and sports shoe production countries. It has been noted that particularly in China, “counter-compliance” has become a sophisticated art.¹¹ In factory B in southern China, overtime records are routinely falsified to avoid revealing illegal labour practices:

Sewing workers reporting working as many as 150-200 overtime hours in the peak season and have only 1-2 days off a month. The factory falsifies the number of working hours by limiting it to 102 overtime hours a month, the remaining hours are not compensated. Research on Factory B, southern China, producing for Sixty8ight, No Romeo, Marie Melli and Onlingerie

Furthermore, these workers are made party to the fraud, to add authenticity:

The factory keeps two sets of wage records. The falsified one shows the number of working hours, which is never above 102 per month. The workers need to sign their names on both wage records. Research on Factory B, southern China, producing for Sixty8ight, No Romeo, Marie Melli and Onlingerie

In Factory F producing for Gloria Vanderbilt, Wal-Mart and Erika in Kenya, the amount of overtime shown on workers’ timecards is reduced to meet the national legal maximum of 60 hours.

Stage-management around the visits is increasingly common in north India also.

No doctor ever comes. There is an instance when auditors have come and helpers have been asked to act as doctors. Worker, Factory B, north India, producing for Wal-Mart

We (workers) have to work seven days in a week. We are never paid double the wage for overtime since we are paid on piece rate. We always had complaints about low wages and working hours but we could not express it. Auditors have interviewed me once. Before that the management instructed me that we regularly use needle and pulley guards, that we do not have overtime, that we are all paid very well and that all the workers are very happy. Worker, Factory D, north India, producing for Wal-Mart, Kelwood and Sears

The failure of auditing is exacerbated further if auditors do not even care about discovering the truth.

I tell auditors that I cannot tell them the truth in relation to some of their questions. They smile and move on to something else. Manager from a large apparel factory in China¹²

25

Others have found that auditors have recommended ways for managers to get round local laws on overtime hours.¹³

MODEL FACTORIES AND HIDDEN SUBCONTRACTORS

Another popular method of tricking auditors is to maintain a “model factory”, into which auditors are welcomed, whilst subcontracting out the bulk of the work to other factories.. In a group of four commonly-owned factories in China, one has an SA8000 certification and indeed provides relatively good working conditions for workers by all accounts—this certainly helps it get contracts from a number of international buyers that have faced international pressure to improve working conditions, including Disney and M&S. Workers in the other three factories in the same group report however that work from this model factory is being subcontracted to their factories, in which working conditions are considerably worse. They produce goods for buyers including Etam (France) and WE International (Netherlands), who is a member of the SAI advisory board.

In extremely busy times, they are required to work till two in the morning and even overnight without being compensated with a day off. There is no day off for consecutive months in the peak season. Only when less orders are placed can workers have one to two days off per month. Workers from these two facilities have very strong complaints about the long working hours, exhaustion and stress. Research on factory D, China.

A consultant in India advising firms on passing audits acknowledged that the practice of not disclosing subcontractors is very common. At other times, subcontractors need only fill out self-assessment checklist forms—it’s clear that such practices are wide open to abuse by unscrupulous employers, who can provide a false impression via the self-assessment forms. It should be noted, however, that SA8000-accredited auditors are required to audit all subcontractors as standard procedure, and that if suppliers are found to be hiding subcontractors from auditors, it can cost them their certification or even an order from a buyer.

CORRUPTION IN SOME CASES

In China, managers of factories offer bribes to auditors in exchange for a clean bill of health. This practice, according to observers, appears to have been limited, in Chinese factories, to “quality control staff from local commercial bodies (who) will usually give them an all clear for a cash bribe”. In research carried out in 2003, managers from three separate factories in China alleged that “staff from Wal-Mart’s purchasing department both sought and accepted bribes”. Although it is unclear to what extent such practices extend beyond China, the problem should be seen as serious, given the high volume of orders being placed in China in comparison with other producer countries. In Kenya, in Factory E, also producing mainly for Wal-Mart, workers claimed that auditors were not only offered cash bribes, but were “given women from the factory”. It should be noted, however, that workers in the factory viewed the current conduct of Wal-Mart auditors as quite correct.

26

SUPERFICIAL VISITS BY AUDITORS

Short visits by auditors, not well prepared in advance, short worker interviews (usually not more than 15 minutes per worker) tend to prevent identification of many problems. These inspections are often very superficial and basically undertaken as a risk assessment. Not much time is spent on searching for violations that are more difficult to detect, such as discrimination, harassment or limitations of the right to organise. Jem Bendell, who critically assessed the SA8000 methodology, argues that a thorough investigation of a production site cannot be done in a two-to-three day audit, which seems to be the average amount of time spent in most audits.

To illustrate the size of the task, the SA8000 Guidance Document on how to do a social audit, which gives very general information, is 67 pages long (GD98-IV). To do a thorough investigation of all issues with on- and off site interviews, focus groups, surveys, documentary analysis, in ways that respond to results as they arise, is an impossible task. People who argue that it is possible either don't know the complexity of the issues, have a very different understanding of the word 'thorough', or have a commercial interest in saying so.¹⁴

It is worth noting that Bendell chose SA8000 as one of the highest standards available among code compliance initiatives, and that, as identified by this report, there is a growing tendency for companies to opt for less stringent options, such as the BSCI standard, referred to by some as "SA8000-lite".¹⁵

We have to be practical. All these auditing visits cost money and we cannot afford to spend more time. Auditors in Romania

Workers interviewed in China (Factory C) had doubts about how certain day-to-day management practices could be inspected during short worker interviews and one-day factory audits:

The factory management has a wide range of fines and penalties to discipline workers. These include a fine of RMB20 for not wearing the factory ID card, a fine of RMB50 for un-authorized leave of one day plus RMB5 for the food subsidy of the day, a fine of RMB20 for not turning off the lights in the dormitory room and poor sanitation. If workers apply for sick leave, not only are they not paid, they will lose the full attendance bonus of RMB50. Workers have strong complaint about these practices and cast doubts about how these day-to-day management practices could be inspected during the short worker interview and the one-day factory audit. Research on Factory C, southern China producing for Warner Bros, Hatland and the Beijing Olympic Committee

Similar doubts were expressed by workers in Factory E in Kenya, which produces for Wal-Mart:

The auditors are always in a hurry; they sometime only use their eyes and never engage the workers. They should know that we have a lot of problems, which they can't know just by using their eyes; they must talk to us if they truly want to know our problems....

27

Sometimes auditors are simply sloppy in their approach, making basic errors, such as allowing managers from the factory to translate for them during worker interviews, or allowing managers to select the workers for interview:

As all the auditors coming to this factory are foreigners, they need translators. At times, they bring their own translator but in some instances they ask a management person to translate it for them. Research on Factory D, Pakistan, producing for Springfield, Lindex and C&A

Usually, C&A notifies about a future visit and do not come with their own interpreter—this is why the auditor is always accompanied by a person assigned by the company's management. Manager of Factory B, Romania

Workers ... observed that in every month there are two to three visits by the buyers in the factory and the visitors basically talk with the management. Workers get prior

A series of admissions of the failure of social auditing

- ▷ Nike's 2004 corporate responsibility report states that falsification of information by Chinese factories "related to wages and hours of work is common. This extends to the practice of coaching of workers by factory managers trying to deceive compliance auditors" (Nike, 2005).
- ▷ "In China, Indonesia and Vietnam, most payrolls are falsified, a fact known to auditors who feel frustrated because in most cases they can hardly find out what is truly happening in a facility because they can not crosscheck with information provided by workers since they have usually been coached by management" (Adam et al. 2005: 9).
- ▷ The *Financial Times* quotes a compliance executive as saying: "We're rewarding factories that are falsifying records (...). We are creating a disincentive to really play by the rules and comply" (April 21, 2005).
- ▷ Gap also admits that "concealment of overtime and unwillingness to share accurate documentation" is a major issue in China (cited in MSN, July 2004).
- ▷ Software been developed to deceive social auditors. They generate false payment and timecard records, and even include random errors to make the records look more authentic making it more difficult to discover irregularities on wages and excessive overtime (statement made by Neil Kearney (ITGLWF) at ETI conference May 2005).
- ▷ The China representative of Det Norske Veritas, an audit firm accredited by SA8000, said that enforcing labour standards in China is "impossible". "You have in southern China all the factors working against you (...) There are the multinationals, which want low labour costs; the factory managers, who don't like us because of fines for non-conformity, and even the local Chinese Government in many places, which wants this business and does not want it threatened. All this is working against the cause of the workers" (SabgeHsu Shuaijum cited in *South China Morning Post*, December 18, 2000).

28

notice for such visits and sometimes visitors also talk with 10-15 workers who are selected by the management. Research on Factory B, Bangladesh, producing for Wal-Mart and J.C. Penney

It is no wonder, therefore, that where improvements in working conditions are identified by workers, they tend to be relatively superficial, such as signposts, presence of fire extinguishers and toilets, stocking of medical cabinets and provision of drinking water.

Of course, less superficial social audits are likely to be more expensive, since they would require more staff and more hours. See chapter 5 for more discussion on the cost of compliance to good labour standards.

ABANDONING THE QUEST FOR THE PERFECT AUDIT?

In a factory in Pakistan, the managers had evolved a sophisticated understanding of the different styles of auditing:

Although the guidelines are similar of all the brands regarding social compliance, their approach to auditing is quite different. In fact, a lot depends on the auditors. What is a major non-compliance issue for one is very minor for another. For instance, Springfield thinks that deduction from wages on disciplinary grounds is a major non-compliance issue whereas H&M are a lot less stringent on that. During the interview, the manager said that generally US firms are fussier whereas European retailers such as H&M and C&A are more accommodating to minor violations...more concerned with major compliance issues such as crossing the overtime limit, harassment in the workplace, general working conditions and occupational safety and health issues. Research on Factory D, Pakistan, producing for Springfield, Lindex and C&A

The difference in approach between US and European firms was also noted by researchers in Bangladesh, and it complements evidence from field research in Malawi from 2003, which noted the tendency of suppliers in the country to accommodate differing demands of buyers:

At least two of the factories are considering building an extra factory for production directed to the US to accommodate the demands of buyers. This would eventually lead to a situation where there are two standards of working conditions in the same company depending on whether the production is for the US or South Africa. ¹⁶

While it is tempting to recommend that auditors go back to the drawing board, and try again to come up with the perfect methodology for social audits, the sophistication of suppliers trying to cheat their way through audits would no doubt continue to develop as it has done already since the widespread growth in the use of social auditing.

This research would not conclude with any “technical” recommendations on “improving” the methodology of social auditing in the context of China. Rather the research would like to reiterate the core issue of strengthening the awareness and capacity of workers

29

in China to organise themselves as subjects that would participate in bottom up monitoring within the legal framework of worker representation at the workplace. General comment from researchers in China

The overall picture emerging from the research for this report is that, among buyers that seem to be relying primarily on social auditing, progress is only being made in three out of nine key areas:

- ▷ It is contributing partially to reducing the use of **child labour**, to ensuring **forced labour** is not used, and to improvements in the **health and safety situation** for workers.
- ▷ It is failing to bring significant improvements in freedom of association and right to collective bargaining, non-discrimination, wages, working hours, employment relationship, and abusive treatment of workers.

The Ethical Trading Initiative (ETI)¹⁷ notes, however, that even this limited progress is mainly confined to the first tier of the supply chain, and does not stretch, for the most part, as far as the subcontracting factories that play a big role in filling orders from buyers.

Table 1

How do social audits score in improving workers' lives?	
Freedom of association and right to collective bargaining	✘
Forced labour	■
Child labour	■
Non-discrimination	✘
Wages	✘
Working hours	✘
Health and safety	■
Employment relationship	✘
Abuse	✘
■ Auditing having some impact ✘ Auditing having limited or no impact	

30



03

Why basic auditing is never enough



32

FALLING BELOW THE RADAR

Auditors are more concerned with physical aspects of audits such as second exits and regular fire drills but not about things that affect workers most and that is decent living wages. Sohnia Ali, secretary of Mutahida Labour Federation, Pakistan

An audit-only approach is unlikely to be effective in tackling a number of problems also intimately linked to the working conditions of workers, particularly in discovering violations that are intangible such as anti-union policies or forms of discrimination and harassment. This is confirmed by a Pakistani auditor who has done work for the World-wide Responsible Apparel Production (WRAP) initiative described in chapter 5. According to this auditor, buyers tend to be soft on suppliers:

As per law, there is a 48 hour work week but it is violated...(while) workers are to be paid overtime wages at double rate of their wages... piece rate workers are not paid those wages...no worker is allowed to work in a factory without providing one day's rest in seven days, but at times they ask workers to work for 14 days straight...quite a lot of factories fail payment of social security.... (violations regarding) workers' right to form/join any trade union of their choice Auditor Pakistan

The apparel company Gap (US) has also acknowledged that some violations, for example of freedom of association and discrimination, are difficult to uncover.¹⁸ And Nike, a company that has been the subject of much campaigning to improve working conditions at its supply facilities, knows very well the limits of auditing, stating:

(E)ffective monitoring whether a worker truly has freedom to association and bargain collectively is (...) a challenge because there are many subtle methods employers might use to restrict workers' rights to freely associate. While worker interviews are probably the most important tool for assessing compliance around this issue, it can only truly be tested during periods when workers are actively exercising this right.¹⁹

Representatives of the GTZ-AVE project in Romania, listed the following improvements as typical results of audits:²⁰

- ▷ correct illumination,
- ▷ sufficient and clean toilets,
- ▷ proper ventilation,
- ▷ adequate equipment (depending of what kind of products the clients ordered),
- ▷ canteen provision, and
- ▷ proper and appropriate spaces to deposit raw materials.

It is clear that, in spite of limited impact in many cases, the insistence of buyers on compliance, policed by social auditing, is helping to have a limited but positive effect on companies, particularly in areas linked to occupational health and safety.

For instance, in Factory D in north India, producing for Wal-Mart, Kellwood and Sears, workers noted visible improvements in the health and safety situation in the factory in the last five years such as first aid boxes (albeit containing only expired medicines!) and clean drinking water through water coolers.

33

The biggest changes since audits have been that the management has installed equipment for occupational safety and health on the machines. Protective gears on machine wheels were put up. Eye protectors were provided to the workers, which they did not have before. They have also installed a fuse system with the switches, whereas previously it was just a plug-in system. The difference would be that in case of short circuits, the machine will be switched off automatically and will not harm the worker working on it or be the cause of fire or any other hazard. They have built a new staircase, separate restrooms for men and women, 10 new washrooms and extended the dining area of the canteen. They have also relocated the ladies washroom to the second floor and closed down the one that was next to the water coolers on the first floor. The management have strengthened their human resource department and developed personnel files of all the workers, which they didn't have before... Research on Factory A, Pakistan, producing for J.D. Williams, La Blanche Porte, Venca, KarstadtQuelle, Neckermann, Mode & Preis, Zeeman, YDG International and Wal-Mart

While most observers acknowledge that under the right circumstances social auditing can lead to improvements regarding more visible or physical problems there are a number of more fundamental areas which pass under many auditors' radars virtually undetected. These might include:

- ▷ the undermining of freedom of association and collective bargaining by managers,
- ▷ excessive and forced overtime,
- ▷ abusive attitudes to workers on the part of supervisors,
- ▷ withholding of wages owed,
- ▷ insufficient provision of medical care and sick leave, and
- ▷ discriminatory hiring practices.

Overtime abuses, bad management attitudes, withholding of wages and insufficient provision of medical care and sick leave can, in theory, be checked for qualitatively, particularly through workers' interviews. The level of cheating on the part of factory managers during audits suggests that the additional step of interviewing workers outside the workplace in relation to these issues should be taken. If workers have a stronger voice in audits, it is likely that a more accurate picture would be obtained.

FREEDOM OF ASSOCIATION

Today many codes of conduct in the garment and sportswear industry stipulate **freedom of association**, which is the right of workers to be free to join and form trade unions. Research suggests that only 15% of audits take freedom of association into account.²¹ Auditors who spend no more than a couple of hours at most conducting worker interviews, often in an atmosphere of distrust, are unlikely to be able to discern whether workers feel they can enjoy the right to join and form trade unions.

Reality is the management does not want (a union) so we shall never have it. When some people tried in the past the whole system of recruitment in the factory changed, and we were thrown out as employees and taken in as employees of subcontractors. If we ever try now, we will be thrown out completely. Worker, Factory A, north India, producing for BCL, Saki and RCC

34

I have heard of very bad experiences by other workers who were members of unions and were thrown out of a job because of that. Worker, Factory A, north India, producing for BCL, Saki and RCC

Managers are traditionally biased against union organising, and it is a well-known tactic of employers the world over to say that there is no need for a union in a workplace, and to encourage workers to take the same view. In spite of this, at the ILO social auditors meeting, participants said, “in most cases, even where attention is paid to freedom of association, only the managers are asked whether or not they allow unions”.

There is no union in the factory, neither is there any workers representative body, although the management claims that there is no restriction imposed on the workers from them. The factory manager is of the opinion that the workers are happy with their management that's why they don't want to make a union. Interview with manager, Factory C, Pakistan, audited under AVE scheme, and producing for KarstadtQuelle, C&A, Disney and Wal-Mart

It is hard to see how an auditor can make a credible assessment of the level of freedom of association enjoyed by workers when only a manager's opinion is sought!

Normally, when outsiders are not around, anti-union attitudes of managers are made very clear to workers.

Workers ... are not allowed to form any union or organisation. The management has warned them that if any one tries to organise workers and form a union he or she would be handed over to the police. Workers, Factory B, Bangladesh, producing for JC Penney and Wal-Mart

The fear of losing one's job is likely to make trade unions a taboo subject in an audit interview with a worker, as was the experience of researchers who talked to a group of workers about union membership in factory F in Romania. Workers from this factory acknowledged the need for a union. However, they said, that management would not allow it, and made clear that they should not even be discussing such a topic with outsiders. In **none** of the seven countries researched did any workers report being asked by auditors about freedom of association, although trade unions did operate in some of the workplaces studied.

Often, when asked about freedom of association factory managers will point to the existence of some kind of “works council” or “welfare committee” in the workplace, or at least a suggestion box. This is apparently because they have learned that these are things that auditors will give credit for, since these are considered to be “steps in the right direction” towards freedom of association:

A lot of the brands look at the issue of freedom of association as a way to improve dialogue and communication between management and employees. They therefore check to see whether or not there are suggestion boxes, complaint mechanisms and/or worker representatives in the factory. Although they realize that this does not equate with having union representation (for example, it does not allow for collective bargain-

35

ing or free and fair elections), they nevertheless see it as a step in the right direction to giving employees a voice and having a more effective workplace.²²

The relation between trade unions and other kinds of worker representation needs to be looked at carefully. Guidance developed by multi-stakeholder initiatives specifically warns auditors to pay attention to this.

Fundamental to the function of worker representatives is that the employer cannot designate or control them. There must be a legal framework independent of the employer in which representatives, for example those in works councils, are selected. When they are elected outside of a trade union structure, the employer must not control the election. Works councils and labor-management councils can be consistent with freedom of association **if workers are also free to join trade unions and to engage in collective bargaining.**

Even when freedom of association is included in the audit process, auditors generally have great difficulty in correctly assessing the meaning of various forms and types of worker representation mechanisms such as welfare committees or works councils. They often consider the existence of such a committee as evidence of compliance on freedom of association, while this is by no means always the case—it depends very much on the legal as well as the practical conditions under which such mechanisms operate.

For instance, in some countries, where freedom of association is restricted by law, these committees are seen as so-called “parallel means of representation”. Code initiatives call on companies to establish parallel means of *independent and free association and bargaining for all workers* to encouraging nascent forms of worker-representation **only** in countries or areas where independent unions are prohibited. If applied correctly it can provide a certain space for worker representation.

Examples of these structures include the establishment of workers' councils, welfare committees, complaints resolution committees, and basic-needs wage committees. Approaches to parallel means are heavily criticized by some, particularly when the concept is misused to undermine the position of trade unions or misinterpreted to justify the employer dominated election of “worker representatives”, or its presence in countries that otherwise violate human rights (which includes the right to organize).

The existence of a union in the factory also does not automatically imply that workers are able to exercise their right to freedom of association. In China, where the formation of independent trade unions is prohibited by law, the existence of a trade union is unlikely to signal any freedom of association:

A plant level trade union is formed but it is largely composed of management. The interviewed workers do not know how the trade union was formed nor do they think the union is representing their interests due to over-representation of management in the union. Research, Factory B, south China, producing for Sixty Eight, No Romeo, Marie Melli, and Onlingerie

Freedom of association and the right to collective bargaining

These are referred to as “enabling rights” because their full implementation provides mechanisms through which workers can ensure that other labour standards are upheld in workplaces. That is to say, in workplaces with a functioning trade union, collective bargaining machinery, and effective dispute and complaints mechanism, workers are able to monitor workplace conditions and protect their own rights. It is here that many argue that codes of conduct can play an important role. By creating a space where industrial relations structures can take shape, they can be most effective in ensuring the implementation of all code standards.

In countries where freedom of association is not restricted by law, non-union structures can be misused as a way to substitute for unions, or as a management technique to prevent more active and effective unions from operating. Local unions in Tirupur commented on the recent tendency of firms to set up welfare committees:

Most of the companies do not promote trade union activities but in the place of trade unions, welfare committees are formed in the factories. The trade unions said that these welfare committee formations have hampered and sabotaged their growth and activities.

In Tirupur researchers found that a consultant, providing factories with tips on how to gain SA8000 accreditation, specifically advised clients to set up welfare committees as an alternative to unions. In Bangladesh, a researcher noted a similar trend when talking to various players involved in the auditing industry:

Retailers do not have strong obligation towards workers’ union although they encourage workers’ welfare associations among the workers.

However, in other cases such structures can provide genuine means for worker-management communication or consultation or even negotiation and in some cases are even obligatory under law. It is quite possible for them to co-exist with trade unions.

The key question is how they are used in practice, just as trade unions can in reality be management-controlled (commonly referred to as “yellow unions”), and not in any way acting in the interest of workers. With such considerations in mind, the mention by managers of “works councils”, comprising worker and management representatives, mentioned by a number of managers in northern India seemed suspicious, given that workers interviewed were unaware of their function or even their existence.

In countries where workers are allowed by law to join and form their own trade unions, as is the case in India and Pakistan, auditors should be careful about treating any clearly undemocratic mechanism as “a step in the right direction”. Many fear that this is becoming a common practice among auditors.

The factory does not have a union but they have a workers’ representative ‘Labour Working Committee’, which is a non-elected body. Research on Factory A, Pakistan, producing for J.D. Williams, La Blanche Porte, Venca, KarstadtQuelle, Neckermann, Mode & Preis, Zeeman, YDG International and Wal-Mart

Checking for the presence of freedom of association is a qualitative assessment to make for an auditor and is easily subject to manipulation. It requires good knowledge of labour law and practice and a working relationship with trade union bodies and other labour-related organisations. Organisation such as the Workers’ Rights Consortium (WRC), for example, have developed sensitive methods to assess key indicators, such as whether representatives are freely elected, when investigating complaints, and rely on good local knowledge of and long experience with labour relations.

Some codes of conduct also stipulate a positive attitude to **collective bargaining** alongside freedom of association. Since collective bargaining is the central tool workers can use to collectively discuss and negotiate improvements in wages and working conditions with employers, auditors are clearly failing if they are not able to detect management’s attitude to this tool. The following demonstrates management’s negative attitude toward collective bargaining:

(There is no collective bargaining agreement) because we are paying the minimum wage. Minimum wage of the workers is also certified by the auditors. Manager, Factory A, north India, producing for BCL, Saki and RCL

In factory E in north India, where no trade union was present and no collective bargaining agreement was in force, workers felt that management would not approve of a trade union. Seven of the workers interviewed said that they would like to form a trade union in order to put their demands and perspective forward.

In absence of a trade union it is very difficult to talk about a wage hike. Many times we mustered courage and tried to put our demands forward but we always reverted back due to the fear of reaction from the management. Worker, Factory E, north India, producing for IKEA, Carrefour, Colby and Wal-Mart

Auditors at an ILO technical meeting held in Ankara at 18 May 2005 acknowledged that no consistent benchmarks exist for auditors on freedom of association and collective bargaining, and they argued that audits should be complemented by training for managers and workers to help explain the potential benefits of respect for these rights. One of the clear benefits is that the ability to exercise freedom of association and collective bargaining helps establish effective worker-management communication, which is key to a good working environment.

38

INSUFFICIENT PROVISION OF MEDICAL CARE AND SICK LEAVE

Provision of medical care and sick leave, two things auditors can check for, often exist on paper only. For example, under Indian law workers have a right to free health care but in practice this comes at a hefty price.

All the workers have ESIC cards. This means that they can go to ESIC hospitals for their treatment free of cost. The workers however expressed practical problems in using this facility. According to them, for a check up in an ESIC hospital it usually takes at least three to four hours. But the factory allows them maximum an hour to see the doctor. So in that time workers can only visit a private clinic for which they have to pay. Going to an ESI hospital would mean losing wage for half a day. Workers from Factory C, north India, producing for KarstadtQuelle, Kingel, Derma Group, Otto, Spiegel and Littlewoods, audited under the BSCI scheme

DISCRIMINATORY HIRING PRACTICES AND SEXUAL HARASSMENT

Discrimination is one of the most difficult labour abuses for auditors to identify, and it has a strong gender dimension. Take, for example, Factory E in north India, producing for IKEA, Carrefour, Colby and Wal-Mart, where the management stated that “there is a provision for maternity leave but presently there is no scope for its implementation among the workers since all the women labourers in the factory are above the age of 45 or are unmarried.” Since the situation described by the manager persists, one must assume that the auditor did not pick this up as an indication as possible discrimination in hiring—an innocent enough sounding statement can easily hide a hiring policy that rejects any candidates who seem likely to become pregnant. By avoiding hiring such people, a discriminatory practice, management can still appear to be following the rules by providing for maternity leave on paper. As one Indian Labour Department officer put it:

Companies do not prefer married women, because there is a possibility that they will take maternity leave and sick leave.

Harassment is a much harder practice to detect, and it is difficult to see how most auditors, given their methods, can uncover instances of it in a short audit visit. The CCC believes that participatory auditing, described in more detail later in this report, address these issues more effectively. Contacts with credible local organisations can help greatly.

Cases of sexual harassment ... seldom come out of interviews or single audits. Also formal complaints are not made. People are afraid or ashamed to talk about it. Single cases are best dealt with in a discrete and confidential way, to avoid negative consequences for the victim. Digging into details may be very embarrassing. Especially young migrant women workers are very vulnerable. Discuss with local organisations how to gather information about possible sexual harassment at the workplace. Fair Wear Foundation Audit Manual, May 2005

39

ABUSES RELATED TO WAGES AND OVERTIME

According to the information gathered for this report, falsification of factory paperwork to hide overtime that exceeds legal limits is widespread. When this is combined with the coaching of workers for interviews, another trail of evidence is easily covered up. The related violation of forced overtime, is even more difficult for auditors to pin down. Workers often cannot refuse overtime, since they know it would endanger their jobs:

Workers say that they are not directly threatened or dismissed but when they refuse to do extra hours they are put on the so-called black list. The consequences of being on this list are the following: the workers start to be given only very low paid jobs, in case of restructuring they are the first on the list, the general attitude of the supervisors/management is very cold and they are very often criticised. According to Romanian researchers, in factory A (producing for ECCE, We, Oliver Grant, Rosner, John Adam, Baker Street, Kenzo, Givenchy, HOAL, La Redoute and Pellestrom)

In factory F in Romania, producing for Lotto, Diadora, Adam Business, Zara, We, John Adam, C&A, KarstadtQuelle, Neckermann, Otto, Etam, Coulange, Dolce and Gabbana, Morobe and Armate de Mare, workers reported that supervisors verbally abuse them to push them to meet their targets. Since the targets cannot realistically be achieved in normal working hours, workers need to work overtime just to earn the minimum wage.

By delaying payment of wages, employers are also able to prevent workers leaving to find better employment elsewhere. Although such practices are not widespread, it remains a practice that places workers in an impossible situation.

“Yes, I can leave my job with one month prior notice, but my 2 months wage and 3 months overtime is due. I am sure, I will not get these if I resign. So how can I leave?” Operator, Factory F, Bangladesh, producing for Kohl B

Frequently, delayed payment of wages is even used as a subtle means of punishment for workers who refuse overtime, as is the case in factory F in Bangladesh. Since this does not show up in the records, auditors usually overlook this.

Very frequently, workers are paid poverty wages—wages so low that often even basic needs cannot be met.

Everyone gets paid either minimum wage or more than that, but even that wage is not sufficient to make ends meet. It is time that buyers determine a living wage and they should ask the producers to pay a living wage instead of minimum wage. They should also shoulder part of the costs of the living wages. Sohnia Ali, secretary of Mutahida Labour Federation, Pakistan

Auditors commonly use the minimum wage as the standard to audit against, even though it is commonly accepted that in many apparel-producing countries the minimum wage is set at a level that is too low to allow workers to meet basic needs. Worse still, once minimum wages have been fixed, according to the ILO, they are not adjusted regularly to take factors such as inflation into account.²³

Can you really measure the living wage?

Only a few codes (including the CCC code) call for the payment of a “living wage”. Many claim it is impossible to come up with a measurable standard for the living wage, or that wage levels should be determined through collective bargaining between trade unions and management. In fact, there are a variety of techniques actually available to make at least a reasonable estimate of the range in which a living wage would fall, for example by using the “poverty line”, the “purchasing power index”, the so-called “market basket” approach, or a combination of these methods. Other benchmarks could include “best practice” negotiated wage levels elsewhere in the sector, or the wage levels called for by unions or labour-related groups active in the area. The point about collective bargaining is certainly valid, but when no union is present in the workplace (which is the case in most garment industry workplaces), buyers should ensure that wage levels allow workers to live. This can of course be adjusted later when a collective bargaining process goes into effect.

Even the “prevailing wage”, understood as the going rate for workers in specific occupations for a particular area or country, and used by some code initiatives as the “next best thing”, often fails to bring workers’ wages above the poverty line. A paper prepared by MIT, argues that “in most of the major apparel exporting countries, prevailing wages are no guarantee that workers can cover living expenses”.²⁴

Expecting workers to live off of a wage that simply cannot be lived off of is unrealistic and seems to contradict any claims of “corporate social responsibility” made by buyers. The challenge of earning a living wage is illustrated in the case of a young woman working in Factory C in Pakistan, producing for KarstadtQuelle, C&A, Disney and Wal-Mart:

Because of the fact that wages are so low and the cost of living so high, she finds it very hard to make ends meet. At 18, she is the only earning member of her family of three. She is an only child and both her parents are jobless. She spends almost 40% of her income on the rent of her one bedroom house. She recently took a loan from her factory to buy a refrigerator, which reduced her earnings considerably as her salary gets deducted to pay back the loan. When asked she said she has no idea what social auditing is. When explained she said that it is good that the working conditions and health and safety measures are checked through the auditing process but they should also see that we get better wages. When told that it is checked that workers should get at least the minimum wage set by the government, which they all do, she said that if they think this wage is enough they should all try to live on this amount for a month and decide if it is ok.

In spite of the evidence, only a few codes call for the payment of a “living wage” and most continue to claim that it is impossible to come up with a measurable standard.

There should be an audit or monitoring on the workers’ welfare, such as whether the wages received by the workers are sufficient to fulfil the workers’ basic daily needs such as the workers do not need to do overtime since the wages have already covered what they need to pay for food, housing, and putting their children to school” Textile, Clothes and Leather Factory Trade Union (SPTSK SPSI), Indonesia, producing for Fila.

DO WORKERS HAVE A REAL SAY?

A key element of successful auditing is the interviewing of workers— it is a logical way of cross-checking the claims made by employers about labour conditions.

The table on the next page shows how, when researched carefully, rather shocking discrepancies regarding working conditions can quite clearly be found. Worker interviews, as they tend to be executed at present, are likely to miss much of this level of detail, because in practice they are done quite superficially. Furthermore, managers, understandably keen to produce a favourable audit result, often tend to manipulate the interview process in a number of ways.

THE REALITY OF WORKER INTERVIEWS

To address weaknesses identified by critics early on, most social audit methodologies now use qualitative as well as quantitative methods (see box on the “circle of evidence” chapter 1), relying on worker interviews as well as walking through workplaces and checking the books. Workers’ interviews are generally seen as an important component of a social audit and therefore they need to be done carefully in an atmosphere that makes a worker feel they can be frank, and have trust in the auditor. In practice, interview methods still leave much to be desired. The credibility of worker interviews is being systematically undermined by employers. Although many social auditors now claim to be able to tell whether workers have been instructed how to answer questions, there is no reason to believe that this is true or that auditors have gotten any better at collecting information through interviews:

- ▷ auditors at the ILO technical meeting said, for instance, that they only tend to ask managers, and not workers, about freedom of association,
- ▷ in none of the seven countries researched did any workers report being asked by auditors about freedom of association
- ▷ the information gathered from around the world for this report repeatedly identified that during interviews which are always short, the questions asked of workers were relatively superficial, and were related nearly exclusively to wages and hours worked,
- ▷ auditors often did not explain who they were, nor what their purpose was, nor that they did not “represent” buyers, and
- ▷ workers are treated as a source of information rather than as the major intended beneficiaries of the process

Researchers in northern India observed:

No worker who had met the social auditor could be identified. According to the information collected...supervisors were interviewed by the social auditors. Factory A, producing for BCL, Saki and RCC

Even in cases where workers are interviewed, the chances of auditors enjoying an honest exchange about working conditions are limited. In many cases, such as at

42

factories in northern India, “the interview of the worker is conducted at the shop floor in the presence of everybody including the management”.

Throughout the interview of the workers conducted by the social auditor, management kept a strict vigil. I was not comfortable at all while conversing with the auditors. I was so scared by the management’s presence that under pressure I even gave wrong answers. Worker, Factory B, north India, producing for Wal-Mart

The same tends to happen elsewhere:

The employees (between eight and 10 employees in every case, the factory’s manager said) are interviewed inside the factory, with the company manager present” Research on Factory A, Romania, producing for ECCE, We, Oliver Grant, Rosner, John Adam, Baker Street, Kenzo, Givenchy, HOAL, La Redoute and Pellestrom

The level of sophistication of factory managers in undermining worker interviews during audits in China is impressive:

Although they couldn’t tell which buyer did which audit, workers felt that there was difference in terms of auditing quality. The management would coach them more before some buyers’ audits and award workers with RMB100 for giving the “right” answers to the auditors. For other buyers and auditors that are less stringent, the factory would have relatively relaxed coaching and there is no reward for “good behaviour” either. Research on Factory C, southern China, producing for Warner Bros, Hatland and the Beijing Olympic Committee

The interviewed workers say they can all memorize the standard answers and would not tell the truth to the auditors. Research on Factory B, south China, producing for SixtyEight, No Romeo, Marie Melli and Onlingerie

Auditors are clearly also to blame at times for not encouraging a confidential exchange. In almost all factories, workers reported that people came to ask them questions, but they hardly ever knew on whose behalf these auditors had come, what type of audit was being carried out, or what the objective of the exercise was.

Romanian workers in factory F remembered being asked questions by people they assumed were buyers, but were likely to have been auditors or monitors of some kind. If auditors do not explain why they are there, it is hard to see how they can establish the necessary rapport to have a frank exchange with a worker. This is particularly troubling considering buyers use these worker interviews as the main tool for getting worker input on workplace conditions.

Most (workers) didn’t realise that they were being interviewed by an auditor and what kind of impact an audit can make. Research from Factory A, Pakistan, producing for J.D. Williams, La Blanche Porte, Venca, KarstadtQuelle, Neckermann, Mode & Preis, Zee-man, YDG International and Wal-Mart

43

When asked if they felt secure when they were interviewed by the auditors in the factory, they said that they didn’t know who was talking to them; neither did they know anything about the compliance issue for which they were being interviewed. Research from factory B, Pakistan, producing for KarstadtQuelle

The auditors never told the workers... their identity.... Nor did the auditors inform the interviewed workers about how the information they conveyed would be protected and

Table 2

In Factories A & B, north India, producing for BCL, Saki, RCC and Wal-Mart...

...managers said...	...workers said...
<ul style="list-style-type: none"> ▷ We have first aid boxes in all departments. For regular check-up of the workers we have a contract with a local hospital. Two trained persons are always present in the factory for first aid and for cases of emergency. Employer pays only for the first aid and regular check-up. 	<ul style="list-style-type: none"> ▷ Medical facilities in this factory are limited to a first aid box that has an old and inadequate collection of medicines. No nurse or doctor ever visits the factory. Workers do not have access to medical facilities in any other form. They are not allowed to take rest when they are ill. If they do it their salary is deducted. Only staff from some departments, like the salaries department (i.e.. higher skilled permanent workers) are entitled to visit a private hospital nearby—they have a deal with the factory. But when workers go, they have to pay for themselves.
<ul style="list-style-type: none"> ▷ Workers are given training on how to escape a fire. Maps have been fixed for the fire exits indicating the gate from which they should escape. 	<ul style="list-style-type: none"> ▷ All workers confirmed that there had never been any fire drills. There is one emergency exit in the factory which is locked.
<ul style="list-style-type: none"> ▷ Workers get all the holidays as per government rules, i.e. more than 20 in a year 	<ul style="list-style-type: none"> ▷ According to the workers they get an off only on Sundays. Beyond that workers are not allowed off for any government holiday.
<ul style="list-style-type: none"> ▷ Workers are provided with clean drinking water 	<ul style="list-style-type: none"> ▷ There is one tap for 350 workers, on the other hand managers get mineral water. ▷ Water is very dirty. The tank is never cleaned. (Workers reported instances where frogs were jumping in the tank during rainy season. Also one worker reported that a dead rat was found in the tank.) ▷ The water is very hot. There is a fridge but it does not work hence we have to drink water from tank.

44

how the workers could complain in case of retaliation or reporting of code violation. Workers at an SA8000-accredited factory, China, producing for DKNY, Just Perfect and Michael Kors

Although auditors, when talking about their work, tend to refer to efforts they make to establish a friendly rapport with the workers interviewed, it obviously does not always succeed. Under conditions of distrust, it is not surprising that workers would feel uncomfortable reporting social audit fraud to auditors.

Workers are “informed” by the supervisors during the coaching that the minimum wage in Dongguan city is RMB450.... The management requires all workers to tell the auditors that they would have at least RMB600 a month.... The management had two sets of wage records—one to be delivered to workers and the other is a fraud to show to the auditors. The fraudulent wage records show that workers in general receive RMB800-900 a month whereas in reality, the skilled workers are receiving more than RMB1000 and the less skilled ones get only RMB600-700 a month in the peak season. While almost all workers know that the management is using fraudulent wage records for auditing, none of the interviewed workers have reported or heard anybody reporting that to the auditors. Research on Factory A, southern China, producing for DKNY, Just Perfect and Michael Kors

Even the best efforts to keep audits unrehearsed are likely to be flawed. For instance, even when workers are selected randomly by auditors, it is hard, if the interviews take place in the workplace, to hide the identity of those being interviewed:

According to the management it does not have any prior knowledge of the workers to be interviewed by the social auditors. However when the auditing is taking place auditors ask the management to send the specified workers to the conference room. It is only during the process of social auditing that management comes to know of the names of workers being interviewed by the social auditors. Research on Factory C, north India, producing for KarstadtQuelle, Kingel, Derma Group, Otto, Spiegel and Littlewoods

It is generally agreed that interviews are more likely to be open if they take place in confidence outside the workplace, particularly if the interviewer takes certain steps to build trust with workers beforehand.

Conduct interviews in a location that makes the worker feel comfortable and which does not raise the possibility that the employer will subject the worker to retaliation. Always conduct the interview outside the presence of factory managers. This does not, and is not intended to, preclude asking routine questions of workers at the factory floor however. A range of locations can be used. Common sense should be used to determine specific sites that afford the greatest opportunity for productive, confidential discussions. Onsite interviews may include informal conversations in the production area of the factory floor, the cafeteria/dining area at meal and rest breaks, the area just outside the factory as shifts end, other common areas and locations on site that allow for workers to be interviewed without observation by factory management. Interviews conducted off site should be conducted in such a way that factory managers do not gain information about which workers have been interviewed. The monitor should use discre-

45

tion in selecting the location where such interviews take place. Consult local organisations which are trusted by workers to determine where interviews can take place. Fair Wear Foundation Audit Manual, Version May 2005

The reality is sadly often far from this good practice. Workers in north India told researchers that “usually auditors interview only the supervisors. If there are workers, they are those who are senior and close to the management.” In cases where the selection for interviews is clearly “stage-managed”, workers in India even recall “times when workers have tried to walk up to the auditors and talk to them but they have been stopped”.

One of the workers complained to the social auditor about the low wages given by the export house. After they left he was rebuked by the management and was made to feel guilty as the buyer cancelled few orders of this export house. He is thus afraid of repercussions if the management comes to know that workers revealed working practices to social auditors. They are not supposed to reveal anything apart from what is told to them by the management. Worker, Factory E, north India, producing for IKEA, Carrefour, Colby and Wal-Mart

Managers often tell workers that the next order from a client depends on them misleading auditors during interviews.

Like many other workers I find it very difficult to participate in the audits. You always have to lie for the sake of helping the company get the orders otherwise if we were to tell the truth we would never have any orders and that would mean the end of our jobs. We would rather lie and receive the orders than to tell the truth and lose our jobs.... Worker, Factory B, Kenya, producing for Wal-Mart

Putting such pressure on workers is not only unethical and unfair, but undermines an audit—the process that is supposed to be designed to lead to improved conditions for workers. Social auditing’s main aim should not be to check on whether an order should be placed or cancelled. In any case, auditors doing their job properly should make it clear to workers they interview that their job and the future of the factory does not depend on the answers they provide. By telling auditors the “wrong” thing however workers and their colleagues feel the repercussions from management.

There are cases where if the management realises that someone from a certain department told the auditors the truth the whole department is given a very high target. If they identify the person who spoke the truth they victimize them on other pretexts.... Worker, Factory C, Kenya, producing for Wal-Mart

The women workers were afraid and don’t want to be interviewed for the auditing because they fear loss of job. Research on Factory D, Pakistan, producing for Springfield, Lindex and C&A

Even those involved in research for this report noted the fear instilled in workers when they speak with outsiders. Researchers in Bangladesh noted workers out of work following the collapse of Spectrum Sweater were more forthcoming about bad work-

46

ing conditions at the former workplace then were workers interviewed who were still employed elsewhere (though it was unlikely that conditions at these other workplaces were much better than at Spectrum).

Workers' identities in relation to the information they disclose to auditors should be kept confidential from management. The Kenyan Human Rights Commission, carrying out the research in Kenya, noted that employer efforts to influence the interview process have the result of putting even greater pressure on workers:

The management is usually concerned about the workers chosen by the auditors for interviews. Their efforts to have their preferred candidates interviewed are sometimes frustrated by auditors who pick workers at random for the interviews. This notwithstanding workers are always afraid of the interviews due to the expectations of the management. Factory C, Kenya, producing for Wal-Mart

Workers who tell the auditors about the failures in the company are always targeted for expulsion. Workers say that the management is quite concerned about workers who spoil the name of the company during the audit and will do all that is possible to get rid of such persons. This has made most workers afraid of the interviews. Factory E, Kenya, producing for Wal-Mart.

In an audit carried out as part of the AVE-BSCI programme in Romania, when a manager learned of a remark made by an employee in an interview, he said:

Who said this? I will fire him!

Auditors seem, in some cases, to be sensitive to the possibility of recriminations. In Factory C in Kenya, producing for Wal-Mart, it was reported that auditors make follow-up visits with the express purpose of ensuring that those interviewed are not victimised as a result of what they have reported to auditors. The researcher in Kenya believes this improved behaviour is a result of earlier public campaigning exposing labour abuses in Kenya in factories where auditors were operating. Unfortunately, this practice is currently not widely followed by social auditors, nor replicated by Wal-Mart in other countries.

Research by Fondation des droits de L'Homme au travail that critically assessed 19 audit teams from the private sector, NGOs and brands' internal auditors in 14 countries found that some workers are penalized when they do not reach the production target when they pause just 10-20 minutes from their work in order to be interviewed.²⁵ The research also found that non-profit labour inspection organisations tend to conduct more interviews off-site, while commercial auditors tend to interview only on-site. An auditor for the non-profit organisation COVERCO in Guatemala argues that it takes six or seven conversations before they can ask a worker deeply personal questions.²⁶

47

TAKING INTO ACCOUNT VIEWS OF OTHER LOCAL PLAYERS

In addition to failing to gather sufficient information from workers, researchers found that most social auditors also did not gather input from relevant local organizations with knowledge of workplace conditions.

There is hardly any contact between audit firms or buyers and civil society groups in Bangladesh. There are a number of NGOs and trade unions involved in the movement to ensure the rights of garment workers. Practically it is almost impossible for the civil society groups to get in touch with the audit firms or buyers. General comment from the researchers in Bangladesh

Observers are increasingly concluding that social auditing is not effective if some form of engagement with credible local organisations does not accompany it.

Our work has shown that code implementation is most successful when it is backed up by local trade unions and other local organisations. ETI Annual Report 2002/2003

There should be a move away from the current top to bottom pattern, led by international buyers and commercial verification bodies, to a bottom to top pattern of monitoring, with the involvement of local interest groups and workers. Institute of Contemporary Observation, China, 2003

It should be noted that in the few cases researched for this report where trade unions were operating in the workplaces, researchers noted that auditors can and do tend to informally cross-check the information they have gathered with local trade unions, as is the case with those auditing Factory D in Kenya, producing for GV and Wal-Mart.

Overall, though, researchers found very few examples of local stakeholders, such as trade unions or credible local labour-related NGOs, being involved or even minimally consulted in social audits. There is clearly a connection between the extent to which most auditors fail to detect labour rights abuses in workplaces using the traditional "circle of evidence" (factory documentation—physical observation—management and worker interviews), and their failure to gather information from these other relevant local sources.

Generally, guidelines for code implementation, such as those for SA8000-accredited auditors, advise that auditors seek guidance in their work from local stakeholders. Final audit reports, however, are the property of the client, and local organisations will not see it. Given that they will not be allowed to see the report, there is little incentive for local organisations to work with auditors. In fact, many local labour rights groups, particularly in Asia, complain that they are just being used or co-opted by commercial social auditors, and treat the latter with extreme caution. An additional concern is that commercial auditors tend to apply a different set of standards for different clients. Such a lack of consistency can imply a certain lack of ethics in the eyes of local organisations.

48

Some companies have noted the value of gathering information from relevant local sources. Apparel company Gap, for example, has recognised their “ability to discover violations (of Freedom of Association) increases when we conduct in-depth interviews with workers and engage unions and other organizations that are reliable sources in a factory”.²⁷

WORKERS NOT BEING INFORMED ABOUT THEIR LABOUR RIGHTS

Despite the growing number of companies implementing codes and the number of audits conducted each year, very few workers are aware that codes exist, even in workplaces where employers are making significant efforts to put them into practice. ETI Annual Report 2002/2003

While codes of conduct may indeed stipulate that codes be displayed on the walls of the factory in order to ensure workers are aware of their rights, this doesn't seem to be having much of an effect.

The researcher who visited the factory and the sub-contracted units did not see any codes of conduct displayed in the sections visited. In the... human resource department, checking and finishing and cutting department... (and) the sub-contracted units the researcher did not notice any codes of conduct displayed... eighteen out of twenty-one workers interviewed were not aware of codes of conduct pasted in the factory. Only three out of twenty one noticed codes of conduct displayed in the factory. Even these three... had not read them. Research on Factory A, north India, producing for BCL, Saki and RCC

In SA8000-accredited factory A in Pakistan, producing for J.D. Williams, La Blanche Porte, Venca, KarstadtQuelle, Neckermann, Mode & Preis, Zeeman, YDG International and Wal-Mart, the SA8000 code was not displayed because no Urdu translation was available!

In the same factory, workers claimed that any awareness of their labour rights came as a result of the memory of a trade union in the factory, ousted by the managers in 2000.

All the twenty-one workers interviewed in the factory and sub-contracted units were aware of their labour rights and knew how to file complaints... since (the president of a local trade union) had tried to organise the workers in this factory.

Also in Romania, representatives of the GTZ AVE project noted that workers only tend to know about the labour standards that brands and retailers ask for in their codes when trade unions are active in the factories.

The coaching which the workers in the Indian factory received to ensure that they answer the interview questions of social auditors “correctly” has been having a educational effect, presumably contrary to the intentions of the managers:

49

Orientation given by the management to the workers for social auditing process are important, though limited instances of their education on labour rights. Research on north India, Factory A

By learning from managers the “correct” answers to questions from auditors, workers can identify their entitlements for themselves, as well as how management is both failing its employees and flouting the standards demanded by buyers.

Benefiting ironically from the propaganda the factory has launched in the SA8000 process and the management coaching on labour law before the factory audit, workers in general are aware of the basic legal requirement on the number of working hours, the minimum wage and the overtime compensation rate in China. The question is whether the workers would talk about or take action about the gap between the labour law and the actual working conditions. Research on Factory A, southern China

Similarly, a worker in the dyeing and bleaching unit of a south India factory may learn about the necessity of wearing protective clothing when his managers need to put on a show for visitors:

In the dyeing and bleaching unit they are supposed to use gloves, masks, goggles, etc. On enquiry he said he uses them sometimes and sometimes he forgets to use them. He said “most of us do not care much about using these security measures such as the gloves, masks and goggles. The supervisors and the management do not insist on us to use them regularly except on certain days when we have some outsider visiting the unit— most of them are foreigners and government officers”.

COMPLAINT MECHANISMS AS A MEANS OF REDRESS

While there is much talk about complaints mechanisms as part of the “toolbox” system of checks and balances to accompany social auditing, researchers found almost no recorded instances of auditors informing workers that there was a means to bring complaints after the audit. This means buyers or MSIs either had no complaint mechanisms which auditors could recommend to workers, or if they did auditors were simply failing to pass on that information, either because they were not instructed to or did not see this as part of their job. It is beyond most auditors' mandates to explain to workers how they can file complaints or get help from third parties in the event of labour rights violations. This means auditors miss an opportunity to obtain information that workers might not be comfortable to give during a face to face interview. Maquila Solidarity Network observes that:

Unless workers have the ability to tell their stories without the threat or perceived threat of management or government retaliation for doing so, it will continue to be difficult for even well-trained auditors to document real labour practices, as opposed to those that appear in company records.²⁸

50

Quote

The ideal monitor would be a “labor-lawyer-accountant-sociologist-investigative-reporter-health and safety specialist under thirty”

COVERCO

Grievance and complaints mechanisms

The term “complaint” is often used interchangeably with “grievance.” However, in the context of codes of conduct, the term “grievance” is usually used with regard to grievance procedures at the level of the workplace, while the term “complaint” is used with regard to code of conduct complaints mechanisms at the international level. Workplace-level grievance systems should deal with all forms of worker issues— whether code violations or other issues that do not relate to code standards (e.g. disagreements between workers, issues with management style, etc.). On the other hand, complaints filed with code of conduct complaints mechanisms are limited to alleged violations of the relevant code. All issues (whether referred to as complaints, grievances or otherwise) should be resolved at as local a level as possible.

If workers know that their comments are going to make it into audit reports and taken seriously as items that need improvement they would be more forthcoming, they might feel more confident about bringing complaints or requesting that improvements be made. But in the research carried out for this report, it was rare to find any examples of an auditors’ report being shared with workers or their representatives.

In most systems in which auditing currently takes place audit reports are shared with management only and it is left up to them to share the report with workers (and also relevant local NGOs and trade unions. Disclosing the findings with any stakeholders others than management is not part of the majority of the existing systems.

Out of over 40 factories, only auditors from DNV at one workplace in south India are said to “have left their official and personal contact numbers with workers for further contact”. When asked by researchers, a typical response from managers would state that “there is no mechanism by which a worker can contact an auditor or the buyer once the auditing process is completed. The worker however can write to the management about the working conditions or any other problem related to factory. For this purpose the company has placed suggestion boxes at various places.”²⁹

There is nothing wrong with placing suggestion boxes in the factory as part of an internal grievance mechanism, but such a system is not the same as a mechanism to allow workers to bring complaints to the attention of international buyers, when internal grievance systems fail them.

LACK OF SKILL AND EXPERIENCE OF AUDITING STAFF

While companies claim that their inspectors are very qualified, there is much evidence that social auditors have little relevant work experience and are sent to factories with hardly any training at all.³⁰

- ▷ In 2000 Dara O’Rourke pointed out that PwC social auditors were in fact trained financial auditors who were given a short course in social issues.
- ▷ Labor Rights in China (LARIC) criticized a training seminar for SA 8000 monitors (LARIC 1999) because neither the trainer nor the trainees had experience in labour or human

51

rights although this did not prevent them from being certified as capable of verifying working conditions.

After conducting interviews with five compliance firms, Jill Esbenshade (2004) found that monitoring field investigators often have minimal qualifications and are chosen on the basis of language skills and overseas experience.

- ▷ Esbenshade noted that the staff of accounting firms are “highly trained in calculation and bookkeeping, which may facilitate addressing wage and hour issues. They claim to look beyond surface appearances at systems of operation (i.e. what procedures a company has in place). However, they have no professional training in other areas such as health and safety, labor law, worker interviews or human rights issues. Moreover, most of their business involves **helping large corporations best manage their resources and maximize profit**. It could be argued that their operating principles do not prioritize the needs of workers and are often antithetical to them”.³¹

The Fair Wear Foundation and the Fair Labor Association have come to similar conclusions. As a result, the FWF set out to create teams of individuals with a variety of backgrounds, experiences and skills, while the FLA is shifting the balance of its accredited “independent monitors” away from global firms either to more specialized firms or to non-profit social auditing organisations, albeit at a very slow pace. One of these organisations, COVERCO has noted that social audit teams should incorporate a wide range of different abilities, including knowledge of legal, labour and health and safety issues, as well as having legal, accountancy, sociology, and investigative skills.³² Failing that (which is very likely!), COVERCO hires teams of monitors who are from the same social sphere as apparel industry workers, yet have acquired accounting or other professional skills. In general, to have better social auditing or monitoring, organisations are turning to credible local organisations, most frequently civil society-based. Such a solution not only implies better quality, but also encourages the promotion of teams made up of local organisations and individuals, which, would seem to be a step in the right direction in building local capacity to address labour issues.

While it is clear that a number of organisations are developing higher levels of technical competence there is currently not enough existing capacity among these organisations to satisfy the social auditing needs of the industry. This is usually cited as the key reason for using, in spite of their inadequacies, the larger quality control or financial auditing firms. This suggests a need to put greater resources into promoting monitoring carried out by or with credible civil society-based groups or local labour and other specialists. One former social auditor describes how he got hired:

*Twelve hours ago I was in the southern California offices of an independent monitoring company that inspects factories for safety violations and human rights abuses throughout the world. I had been hired over the phone a few days before. My sole qualification for the job? I speak Chinese and have a friend already working for the company. I assumed that there would be some sort of lengthy training process to teach me how to be a human rights inspector. There wasn’t.*³³

While the above example may not be typical, all the research points to frequent failures of social auditors to identify clear instances of exploitation and abuse of workers. Lack of adequate training seems to be a part of the reason for this problem.

Gender, language and cultural factors also seem to play a role.

An ETI project for example found that “women workers were only willing to share their experiences of sexual harassment in the workplace if they were talked to in confidence, in their own language and with someone they could relate to and trust”.³⁴

COVERCO also came to the conclusion that the “monitor’s social class, gender, and age, are crucial to the success of interview-based monitoring”.³⁵

Observations made by the manager of a Chinese factory that, with around 20 clients, faces a social audit every month, seem to support this view:

The managers said that factory always sails through the checks because most of the inspection personnel are from Hong Kong, and it is easy to get them to bend the rules a little. When European teams do come in person, they never understand any Chinese, and it is short work to “sort out” the translation and fix the problem. Institute of Contemporary Observation, China, 2003, factory producing for Debenhams

The same researcher said that the conscientiousness of social auditors is not necessarily in question, for the most part, but that “the majority have not received training in specialised legal knowledge and skills or techniques for interviewing workers”. There is sense among some observers that the commercial orientation of most auditors is part of the problem.

Increased competition for contracts among social auditing firms has recently been observed. Commercial audits costing as little as 350 euros are a new phenomenon, and suggest that younger, less experienced staff are being taken on to do the job. This clearly has negative implications for the overall quality of audits, and should be monitored carefully.

It is sometimes argued that the ILO should play a key role with regard to the training of social auditors. In this context, the Better Factories Cambodia project, run by the ILO, is generally regarded, including by the international trade union movement, as having used monitoring to address the full range of international labour standards, including the more difficult issue of freedom of association.



04

**The social
audit industry
Not transparent
and
unaccountable**



How labour inspection has failed workers in Swaziland and Madagascar

In 2002, the CCC reported on the failure of the government to protect workers in Swaziland. Employers at that time were boasting to workers that they could easily bribe labour inspectors. In 2001, the Swaziland industrial court had a waiting list of between two and five years. And the labour ministry said it was concerned not to “push investors too hard”.

In Madagascar, resources don't exist for factories to be inspected once a year, though this is required by law. Instead, as a minimum, inspectors respond to complaints. But even when inspectors file complaints, they can be delayed for years. One unusually zealous inspector filed 52 cases with the labour court in 1997, and by late 2001, when interviewed, none had come to court!

De Haan and Phillips (2002)

ORIGIN OF THE SOCIAL AUDITING INDUSTRY

During the 1990s social auditing turned into a booming business. With consumers increasingly voicing concern over sweatshop revelations and faced with ineffective state labour inspection in developing countries many companies, laid the foundations for what is now a sizeable industry. Auditing firms provide services not only to numerous companies that have adopted ethical standards, but they also play a central role in a number of broader initiatives developing codes, such as BSCI, WRAP or SA8000 (discussed in chapter 5). Even though the involvement of for-profit auditing firms has provoked criticism from some corners, there is no comprehensive overview available of companies involved in social auditing. Given the role these firms play, it is strange that there have been so few studies or evaluations carried out on their methods, effectiveness and transparency.

There are four kinds of organisation involved in social auditing:

- 1 **Global financial auditing firms such as PricewaterhouseCoopers.** Involved early on in social auditing they are now however moving out of this area These are for-profit firms.
- 2 **Quality control firms** (specialised in testing, inspecting and certification). These are for-profit firms often operating globally.
- 3 **Specialised, for-profit social audit firms** or consultancies. Some operate globally, some operate only in the locality where they are based.
- 4 **Not-for-profit social audit organisations.** Most operate only in the locality where they are based. Some, but not all, are closely linked to civil society organisations.

GLOBAL FINANCIAL AUDITING FIRMS

Financial accounting firms, “with their recognized standards and codes of ethics... well positioned to be trusted judges of company performance”³⁶ started to offer additional social auditing services in the mid-1990s. They moved into the field because of their long-established relationships with clients seeking social auditing services and also because they were seeking to diversify at a time when financial auditing was experiencing low growth rates.³⁷ Additionally, these companies, including PricewaterhouseCoopers (PwC), KPMG, and Ernst and Young, were already operating on a

global basis and, thus, often already present in many of the apparel-sourcing countries.

Today, however, the role of financial auditors has decreased significantly. Ernst and Young and KPMG seem to have minimized their activities in this area, while two of PricewaterhouseCoopers' partners started Global Social Compliance in May 2001, which still plays an important role within the social auditing business. Not coincidentally, this happened after PricewaterhouseCoopers' auditing practices were heavily criticised by Dara O'Rourke in his 2002 article, “Monitoring the monitors: a critique of corporate third-party labour monitoring,”³⁸ which focused particularly on the inadequacies of PwC. While not providing actual social auditing services, many of these firms continue to provide clients with advice on corporate social responsibility.

QUALITY CONTROL FIRMS

Quality control firms (known also as testing, inspecting or certification firms) are also active in social auditing. These companies provide services on a global basis regarding manufacturing, design and sourcing.

Interaction with government labour inspectorates

Some say there is no need for private companies to be carrying out social auditing, since it is pretty similar to the work of labour inspectorates, which are responsible for ensuring national labour law is implemented properly. While ideally, this is a fair comment, in reality, labour inspectorates are failing to protect workers in many of the countries where garments are being produced because:

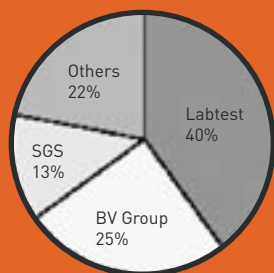
- ▷ there is little incentive for governments to effectively implement international labour standards and they often seem to believe (often wrongly) that multinationals prefer it if a blind eye is turned to labour rights violations in apparel factories,
- ▷ often workers tend to be employed in such a way that national labour laws do not cover them as fully as they might—many factories prevent workers from receiving a permanent contract, for instance, by laying off workers for a short period and rehiring them to avoid obligations arising

from employing someone over a long period, they tend to be under-resourced—stories abound of the travel costs of labour inspectors being covered by employers because they could not cover their own costs, and they are reported to be corrupt in some cases, taking bribes, for instance, in exchange for turning a blind eye to labour violations.

The ILO recently found that little or no cooperation exists between national governmental inspections and social auditors. In recent years, some attempts have been made to address this issue. The Gap is sponsoring the training of government labour inspectors in Cambodia. Less convincing initiatives have included TLS8001, a partnership between SGS and the Thai Labour Ministry, and The “Humane Production” programme involving Intertek and the Philippine Department of Trade and Industry.

General Market positions of quality control firms

TEXTILE INDUSTRY



source: Keusch et al., 2002

The largest three global companies in this business are Intertek (which owns Labtest), Société Générale de Surveillance (SGS) and Bureau Veritas. Each of these employs tens of thousands of people and operates offices and labs all over the world. These kinds of companies inspect the production processes of suppliers in order to check whether they meet specifications concerning quantity and quality of deliveries, labelling and packaging, as well as whether products comply with specific safety standards, regulations or quality and performance criteria set either by the buyers or the legal safety requirements of the markets in which the products are sold. Increasingly, these firms now offer social auditing services.

Providing certification of ISO and other international quality or safety standards has become a significant global business in itself. SGS is the biggest player with over 50,000 customers and 70,000 certificates issued worldwide. With a market share of about 11%, SGS is ahead of Bureau Veritas with 11% and Lloyds with 10%.³⁹

Prior to entering the social auditing field they were already involved in providing services related to quality certification standards such as ISO 9000 and environmental standards like ISO 14000.

The certification business provides companies that offer these services with recurring revenues since the companies receiving certifications are subject to regular “re-audits” (every two-to-three years). It was recently noted that the operating margins of Labtest’s code of conduct business are higher than the company’s average margins.⁴⁰ SGS writes that they continue to develop new services in the field of corporate social responsibility that will allow the company to enter “new higher value markets”.⁴¹

Other large companies operating in this sector are Det Norske Veritas (DNV), which claims to be the number one in SA8000 certification, and Bureau Veritas Quality International (BVQI).

SPECIALISED SOCIAL AUDIT FIRMS

A number of companies have sprung up specifically to provide services related to code of conduct compliance and social auditing. These include Cal-Safety Compliance Corporation (CSCC) in the United States, which started carrying

out social responsibility compliance inspections within the apparel industry in 1991. Another example is A & L Group Inc., a labour inspection firm based in New York with FLA accreditation. Both companies operate globally.

Esbenshade notes that “(c)onsulting firms have sprung up in Bangladesh, India and Vietnam to do labor monitoring specifically in those countries and this trend can be expected to continue” (2004). These include LIFT-Standards in Bangladesh, T-Group Solutions in India, Global Standards/Toan Tin in Vietnam, and WethicA in Europe.

NOT-FOR-PROFIT SOCIAL AUDIT ORGANISATIONS

Non-profit or not-for-profit organisations are supposed to support some issue for non-commercial purposes, but even though they don’t operate to make a profit they do generate revenues to finance their activities. Usually the organisation has to qualify for this status, though this varies per country. There are a number of non-profit organisations that provide social audit services. The biggest one is Verité, a US-based organisation that started in 1995 with the mission “to ensure that people worldwide work under safe, fair and legal conditions”.⁴² It has done 1,300 factory audits in over 60 countries. However, as Esbenshade (2004:142) notes, “Verité in many respects (...) actually operates as any other commercial firm. Verité charges standard fees, maintains the confidentiality of reports for clients, and conducts one-time or short-term audits, often temporarily hiring local employees or bringing in staff from the United

Fair Wear Foundation Audit Teams

Audit team members should be:

- ▷ knowledgeable of local labour relations,
- ▷ knowledgeable of local law and regulations in his/her field of expertise. The auditor must assess the labour situation against the FWF labour standards but also against local law and regulations, since the audited companies must abide both,
- ▷ have the social skills to easily relate with the different parties involved: management, workers, unions, NGOs and local authorities and to have a balanced view of the interests that are at stake,
- ▷ able to understand the views of workers and management. Especially, the auditor who performs worker interviews should have previous experience in relating with workers,
- ▷ committed to improve the situation for workers,
- ▷ able to communicate in English preferably in order to make communications easier. The writer of the audit report must be able to write in English,
- ▷ reliable persons and respect the confidentiality of the facts and data to which they will have access. They may under no circumstances disseminate any piece of information otherwise than through the reporting prescribed in the FWF manual, and
- ▷ a conflict of roles must be prevented, thus inspectors should not have any other formal or informal relation with the factory that they inspect.

The hype from social audit firms

Intertek: "Our business philosophy is simple; we go where our clients require us to go and use our extensive resources and expertise to ensure that their needs are fulfilled."

Cal-Safety Compliance Corporation emphasizes it has experience in "dealing with" NGOs, "will coordinate alerts and breaking information on NGO activity" and "assist clients and interface with the NGOs"

A&L Group claims to "provide a confidential, personalized service and protect our clients' interests by evaluating the social accountability of their partners."

WethicA (Worldwide Ethic Alliance) claims to be dedicated to achieving "total Customer Satisfaction", and to represent "an international network of skills concerned with participating in the generalization of 'decent' work, easing the access of small and medium sized businesses to this action, encouraging local initiatives by concomitant actions on quality and production, and respecting main regional balances". Services offered include a "social audit express service within 24/48 hours, even at night if permitted by local regulations for working hours."

Verité, works "to ensure that people worldwide work under safe, fair and legal conditions".

States. While advertising itself as the only non-profit with a global monitoring program, Verité actually straddles the line between commercial firm and local NGO."

Other non-profit organisations carrying out labour inspections and monitoring include GMIES, in El Salvador, and the previously mentioned COVERCO, based in Guatemala but also operating internationally. They differ from Verite in that they both have far stronger roots in civil society movements in their home countries and work intensively with local civil society organizations through trainings and collaborative initiatives.⁴³ The Fair Wear Foundation also seeks to ensure that the members of their audit teams have a strong linkage with local civil society groups.

SIZE AND GROWTH: HOW MANY SOCIAL AUDITS ARE TAKING PLACE?

No comprehensive figure is available on the number of social audits taking place each year. One specialist estimates around 30,000.⁴⁴ Though commercial audit firms generally do not disclose the number of social audits they carry out in the garment industry per year, it is clear that the number has increased dramatically during the last few years. As demonstrated by the following summary of what is known of recent social auditing activity or plans for future auditing activity, the number of audits in this field could easily run into tens of thousands of audits.⁴⁵

- ▷ Commercial social audit firm CSCC claims to conduct over 11,000 inspections annually for a variety of industries.⁴⁶
- ▷ Gertie Knox, the chief operating officer of Global Social Compliance (formerly part of PricewaterhouseCoopers), claimed they undertook 25,000 audits between 1996 and 2001.⁴⁷
- ▷ PwC performed 6000 factory audits in 2000 in 60 countries in 2000.⁴⁸
- ▷ Verité claims that since its founding in 1995, it has conducted approximately 1,300 audits in 65 countries.⁴⁹
- ▷ In 2003, FLA monitors conducted 110 independent monitoring visits in twenty countries. An even bigger number of FLA related audits took place internally, e.g.: Nike did 860 internal audits, Reebok 274 and Adidas 257.⁵⁰
- ▷ As of March 2005 Social Accountability International (SAI) has certified 655 facilities in 44 countries and 50 different industries. It is not known how many factories were audited but failed to achieve SA8000 certification.

- ▷ 775 factories in over 85 countries have been certified to be in compliance with WRAP 12 standards. In the last two months of 2004, 12 factories were de-certified because they failed unannounced follow-up evaluations. It is not clear how many factories failed WRAP certification.⁵¹
- ▷ In 2002, ETI member companies reported a total of 7,731 "evaluations".
- ▷ Within the Fair Wear Foundation, member companies have to audit labour conditions themselves, while the FWF audits a portion of member's suppliers. The factories for external verification are selected randomly. Every three years the FWF will conduct audits at 10% of each member company's supplier facilities.⁵²
- ▷ Initiative Clause Sociale announced the completion of 715 social audits.

While this seems like quite a lot of activity it still remains likely that most garment production workplaces have not been audited. Using the above incomplete information as a base, one could make a rough estimate that out of a possible total of 200,000-300,000 clothing workplaces in the world today, around 10% are audited each year. It is also unlikely that in auditing that 10% that the worst of the rights violations taking place in the industry are coming under scrutiny. In its 2002-2003 annual report the ETI noted "companies prioritise the auditing of first tier suppliers. Our experience shows that serious labour problems are more likely in the further reaches of the supply chain".

But even though only a fraction of the total workplaces are being audited, manufacturers have complained that the multitude of "audits divert management time and resources, disrupt workflow, and challenge planning processes".⁵³ Though these problems are no doubt real enough for the manager, from a worker perspective, the intended beneficiaries of this process, having multiple audits is not an issue of concern. The bottom line is whether audits lead to improvements.

A major concern for the CCC is that the garment industry is tempted to improve efficiency by minimizing the number of audits, regardless of their effectiveness, rather than aiming to be more efficient and effective in improving the implementation of their codes of conduct. The trend that currently emerging is for industry to develop a single compliance model that is weaker than existing standards and relies heavily on global audit firms—this is the case with the BSCI and WRAP initiatives, which are discussed in more detail in chapter 5.

SERIOUS CREDIBILITY PROBLEMS

For-profit monitors have a built-in credibility problem in those systems in which they are selected, contracted and paid by the factories they inspect. - Sandra Polaski, a former US State Department official responsible for international labour affairs.⁵⁴

There is a built-in bias in mainstream social auditing that many companies appear to be ignoring at their peril. The very parties who already acknowledge responsibility for abusing and exploiting workers over the years are also commissioning the vast majority of auditing. It is being done either by sourcing companies themselves, or by auditors hired either by the sourcing companies or the suppliers. Therefore, in addition

Dialogue

“A corporation that thinks that it is meaningfully engaging workers by indulging in dialogue with itself, even if this is disguised by bringing ‘hired guns’ into the process, is either fooling itself, seeking to fool others, or both. Neither the use of professional CSR enterprises nor a process of creating rather than recognizing interlocutors is a viable alternative to engagement with workers and their organizations.” Guy Ryder, general secretary, International Confederation of Free Trade Unions

Independence?

The independence of a social auditor can be questioned if:

- ▷ they are directly paid by the company whose facilities or suppliers are being audited, and/or
- ▷ they provide (or seek to provide) other commercial services to the same company.

to being unqualified and untrained to carry out an assignment that is often improperly designed (too short and too incomplete) as has been shown in chapter 2 and chapter 3, they cannot be seen as fully independent.

This is one of the reasons the more responsive brand name companies are unlikely to hold up an audit report as evidence to consumers that their supply chains are clean. And this is why merely having a factory audited or certified by one standard or another is not, on its own, going to protect workers, and it is not going to protect a sourcing company from the risk that exploitation and abuse will be uncovered at some stage in its supply chains.

Verification of audit results by an independent party, not paid by the buyer or supplier, is one way in which the credibility of auditing can be improved. Verification is usually done under the auspices of a multi-stakeholder initiative. For instance, the Fair Labor Association and the Fair Wear Foundation commission unannounced audits for their member companies, as part of the verification process.

The Fair Wear Foundation has decided not to work with commercial audit firms but to train its own audit teams as a means to get closer to the workers than has been achieved by other auditing approaches.

A number of well-known brand companies using their own compliance staff, have started to develop better relations with local groups. For example, as a result of the Play Fair at the Olympics campaign several sportswear companies have set up meetings with trade unions and NGOs in Indonesia, Turkey, Bulgaria and Cambodia.

By contrast, the trend, particularly among retailers, towards participation in weaker less-demanding initiatives like the BSCI, which overemphasises the role of audits and weakens standards in the process (see chapter 5), may mislead buyers into a false sense of security and undermine the progress being made in the context of other initiatives.

DIFFICULTIES OF OVERSEEING A SECRETIVE INDUSTRY

Stories of corrupt social auditing and superficial audits, referred to in chapters 2 and 3, bring back memories of the complicity of the financial auditing industry in the financial scandals of the last few years, such as at Enron and WorldCom. It is clearly wrong to tell consumers and shareholders that international labour standards in supply chains are met with the help of auditors, while the latter, assumed to be the independent arbiters of rules compliance, have been connected with corruption scandals. Given the scale of the industry, and the doubts being raised in this report and elsewhere about credibility and effectiveness, it seems fair that the industry be subjected to closer scrutiny. Though there is general consensus about which standards should be universally respected by employers in supply chains (with the exception of the living wage—see chapter 3), there are currently no norms or standards set for how social auditors should test for compliance with these standards. This is in contrast to well-developed norms for financial accounting.

However, given the current lack of transparency that characterises the social auditing industry a comprehensive review of its functioning would be a difficult undertaking. Companies active in this field claim that both audit methodology and results must remain confidential.

As noted in Chapter 3, in the research carried out for this report it was rare to find any examples of an auditors’ report being shared with workers or their representatives. This lack of transparency makes a detailed understanding of social auditing methods difficult. This note from the Bangladeshi researchers is typical of the challenges faced by all researchers in trying to probe the auditing industry:

The research team tried to contact several audit firms and the compliance section of the companies but apart from a few individual informal discussions the team failed to have formal interviews with most of them. ... Being a vital stakeholder in the ready-made garments sector, the unwillingness of audit firms to share their views on social auditing practices reflects their lack of transparency and accountability to consumers.

GTZ AVE programme staff in Romania, when quizzed about the detail of audits, for instance the checklist that is used during factory visits, revealed very little, saying that “these details are confidential—every company has to respect the confidentiality concerning some procedures”.

The ILO held a technical meeting for auditors in May 2005, and auditors there referred to “sensitive” methodologies that they would not share with outsiders, since these “may tip factory managers on how to pass social audits”. While this may be partly justifiable, it does not explain the apparently vast numbers of suppliers who are apparently already fooling auditors and passing audits using the various fraudulent techniques described in chapters 2 and 3. The secrecy in which the industry is shrouded seems instead to be hiding the weakness of current auditing methodologies and prevent the critical review that is seriously needed to improve quality and oversight.

One of the few researches evaluating the practice of social auditing lists the following findings:

- ▷ inconsistencies between second and third party audits within a same facility,
- ▷ third party auditors find less non-compliance than own compliance staff
- ▷ freedom of association is interpreted differently according to auditors and MNEs are suspicious of definition given by NGOs, and
- ▷ auditors describe problems encountered within facilities but do not try to identify causes.⁵⁵

One OECD report⁵⁶ has argued that these problems could be addressed by developing institutional supports similar to those in financial auditing but that this would require that standards and methodologies achieve widespread acceptance by the different constituencies driving the code of conduct debate. While there are different code compliance initiatives that provide oversight, acceptance of one standard and method is as yet non-existent.

While the OECD report is right that there is no consensus with regard to the institutional structures that define the steps and statements of a social audit when compared with financial audits, critics argue that social auditing should be compared with financial audits in the first place. The assumption of the OECD that data about social relations (or industrial relations) can be collected and interpreted in a similar way as financial data is overlooking important methodological questions concerning the quality and nature of this data—such as the notion that there would be “objective evidence” to be interpreted by an “objective auditor”—should be challenged.⁵⁷ This report also shows that problems like the violation of freedom of association and discrimination is far from being objectively measurable.

Transparency is an important tool to improve the quality of auditing, and some initiatives have demonstrated that more transparency is possible. The Workers' Rights Consortium for example makes its investigation reports public (see chapter 6 for more information on MSIs). The FLA produces public tracking charts with the findings of audits⁵⁸ and the names of the auditors.⁵⁹ Sadly, EU-based initiatives are currently lagging behind in this area.



05

**Dumbing down:
the trend towards
excessive
reliance on
audits**



64

WHO IS RELYING PRIMARILY ON SOCIAL AUDITING?

This chapter focuses particularly on the worrying trend in the growth of retailer-dominated initiatives that rely heavily on social auditing. This development is taking place in spite of intensified criticism of these models in recent years from labour advocates, some of the more experienced clothing brands and some suppliers. Three examples of such initiatives in the garment industry are the BSCI, WRAP and ICS, discussed below.

BSCI: IS THE RETAIL INDUSTRY LOOKING FOR A QUICK FIX?

In the last year, efforts have been made by the Foreign Trade Association, a trade association which lobbies for freer trade rules to benefit European retailers, to set up a new initiative aimed at retailers, building upon the AVE/GTZ audit project. This initiative known as the Business Social Compliance Initiative (BSCI), relies primarily on social auditing carried out using a weakened version of the SA8000 auditing standard (discussed earlier in this report). The BSCI initiative already has approximately 40 member companies.

The BSCI chose to rely predominantly on social audits executed by global quality control firms. Social audits are also used in other models of code compliance, including multi-stakeholder initiatives, but rarely so exclusively as in this case. The previous chapters in this report have laid out the dangers of over-reliance on social auditing, listing a range of concerns regarding quality and exclusion of workers from the process.

A credible approach towards code compliance would require that quality in-house monitoring is accompanied by and complemented with an (independent) verification system. In such a system, stakeholders would be represented throughout its main bodies. The BSCI does not meet these requirements. It has developed a weak monitoring system based on social audits. The BSCI does not require its members to have an actual programme of work with a clear target with respect to audits, remediation, or consultation activities, even though it does mention all these elements. It marginalises the role of stakeholders that are invited to participate in a weak council with only an advisory role. By comparison, within the Ethical Trading Initiative, member companies are obliged to carry out a series of steps in a multi-stakeholder way, through pilot projects, and they have to report on what they do to the MSI board. Both the Fair Wear Foundation and Fair Labor Association agree on a work plan with their members and then verify whether the work plan has been implemented. Since the BSCI has marginalised the role of stakeholders, it should be seen as a weak and unverified form of internal company monitoring.

In addition to over-reliance on social audits, the Clean Clothes Campaign has identified a number of additional weaknesses of the BSCI:⁶⁰

Minimum (not best!) practice: In the BSCI model, at the level of the labour standards themselves, there is a distinction made between “Social Requirements” and “Best

65

practice” (based on social auditing standard SA8000). While the BSCI Code includes all of the important provisions, it is up to individual members to decide if they want to demand compliance on all of these standards. While the BSCI argues that its code represents a first step towards SA8000 certification, it is more likely that this set of minimum standards will become the dominant level that suppliers have to meet. However, this is not how it is presented by BSCI promotional materials, which constantly refer to SA8000. In the view of the CCC, it is actually more like “SA8000 lite”.

That the BSCI model implies the minimum necessary to get by is shown in the case of Factory C in Pakistan, producing for KarstadtQuelle, C&A, Disney and Wal-Mart. It was audited under the GTZ/AVE scheme, and the factory manager noted that while they have two premises in the same industrial area of Karachi, only one was audited. When asked why only one unit was audited, the management responded that they produce for buyers who wanted them to get AVE qualification only in that one unit (KarstadtQuelle and C&A are both members of BSCI). Not only would this make it easy for the supplier to subcontract work from the “model” unit to the unaudited unit, but it also implies that the buyer was more interested in avoiding risk, than in sourcing in a genuinely responsible way. Researchers for this report in Pakistan noted that among all factories audited under the AVE scheme, factory managers all denied using subcontractors, and that the entire issue seemed to be ignored during the audits (see chapter 2 for more information on why subcontracting is an important issue in code compliance).

Lack of transparency: The BSCI does not disclose information on factory locations or social audits. The results of an audit are sent exclusively to the audited supplier and the BSCI member firm. Even Advisory Council members do not receive audit reports. Unlike other initiatives, the BSCI does not publish an annual report, there is no aggregate reporting from its members, and there is no information about the activities of member companies, such as the countries where suppliers are located, how many suppliers they have, how many of them have been or will be audited. It is therefore impossible for interested parties to compare and/or evaluate what a BSCI member company is doing. No public information is available on the results of the audits, their length and their scope.⁶¹ And importantly, workers do not have access to the results of an audit. According to GTZ AVE project representatives in Romania, the BSCI model stipulates that managers have the responsibility to share the results of an audit with workers, but they said “that depends on the factory’s management”.

Offloading the cost of compliance onto suppliers: BSCI’s policy regarding the sharing of costs related to social audits is a cause for concern—the BSCI states that costs related to audits, and resultant remediation actions (known in BSCI parlance as “qualification”) will be negotiated between BSCI members and their suppliers. The unequal power relation between buyers and suppliers will in practice mean that suppliers are likely to put up the overwhelming share of the costs related to the monitoring of compliance. Labour advocates have long argued that suppliers must be adequately compensated for the costs involved in meeting compliance.

The cost issue, moreover, seems to be a big reason for many retailers to join the BSCI. With the BSCI retailers make a smaller in-house financial and human investment

66

in code implementation and compliance than with other initiatives. Although officially the cost of getting a supplier qualified according to the BSCI model is to be shared between buyer and supplier, the reality, according to various sources, is that in virtually every case, suppliers are made to bear the cost of getting audited, and remediating any problems found in the audits.

MISLEADING CLAIMS

Officially, the BSCI claims that it is not meant to replace any of the established independent multi-stakeholder verification systems, however at the same time, the BSCI presents itself to companies as if it were a multi-stakeholder initiative, and some companies have picked up on this message. For example, the Dutch Vereniging of Grootwinkel Bedrijven (VGT) decided not to participate in the Fair Wear Foundation, in favour of the BSCI. By assigning functions related to complaints handling to the BSCI advisory council, and by suggesting that auditors hired by member companies will “carry out verification” the suggestion is that this model does, in fact, perform such functions. In reality, the advisory council is too under-resourced to act as a complaints body, meeting only twice a year (and so far, though the BSCI has 40 members it has not yet met even once). The GTZ AVE project representatives in Romania were asked whether there was any mechanism to contact the auditor or buyer with complaints after an audit. The answer was “Yes, but we cannot give any details”. To date, it seems that there is no mechanism of redress for workers producing for any of the BSCI retailers. The BSCI also lacks credibility: given its status as a business-controlled initiative, it does not have the independence to be able to engage in any process of verification of company compliance claims.

WEAK MULTI-STAKEHOLDER ROUNDTABLES

The BSCI monitoring system has plans to establish local multi-stakeholder roundtable discussions to involve local stakeholders and inform suppliers. Such meetings were organized during the AVE project, by the German Ministry of Development Co-operation (GTZ) in about 10 countries (usually one or two annually). Reports from local NGOs and unions have tended to indicate that the meetings were little more than information-exchange exercises, whose participation and agenda were set unilaterally by the industry side. While such meetings may be useful, they are not, in themselves, a sign of credible multi-stakeholder involvement in a monitoring and verification process.

For these reasons, the public will have good reason to doubt whether the BSCI, as it claims on its website, either “optimises working conditions” or is delivering “higher satisfaction for workers and consumers” and “more efficient implementation procedures than other monitoring systems”.

67

WRAP: ANOTHER ATTEMPT TO LOWER THE BAR?

The Worldwide Responsible Apparel Production (WRAP) initiative certifies individual workplace facilities. It was officially launched in 2000. The organisation describes itself as “an independent, non-profit corporation dedicated to the promotion and certification of lawful, human and ethical manufacturing throughout the world”.⁶² According to WRAP, over 700 international manufacturers with more than 1,500 factories participate in the program, while 775 factories in over 85 countries have been certified. WRAP also claims that “the WRAP certification is recognized by retailers and manufacturers all over the world as the most reliable and economically efficient factory-based compliance system within the sewn-product industry.” However, the initiative has received heavy criticism by unions and NGOs from the early beginning, who argue that WRAP was “set up as an industry-dominated project to avoid outside, legitimate monitoring.”⁶³ It has accredited most of the global operating audit firms mentioned in this report, including Intertek, Bureau Veritas, SGS, CSCC, and A & L. This example of a WRAP-certified factory (see box) in the Philippines shows how this approach has played out in the field

In the WRAP model:

- ▷ the factory bears all costs association with certification.
- ▷ there is no public disclosure of any information which would allow outside bodies or consumers to independently evaluate the effectiveness of the auditor’s findings.

Auditors unwrapped in the Philippines

Intertek Testing Services Philippines was involved in a joint project with the Philippines Department of Trade and Industry represented by the Garments & Textile Board (DTI-GTEB), in its “Humane Production Program”. This program, linked to WRAP sought to demonstrate the industry’s social commitment. Garment factories had to participate in order to receive certain export quotas.

Intertek was one of the monitoring bodies to carry out the GTEB Re-Accreditation Program for the Garment Manufacturers and Exporters (GME) (Labtest News, Vol. 53 Jan 2001). A World Bank report concluded that it has not been possible to assess the impact of the initiative (as a number of high-profiled cases of non-compliance amongst participating companies suggest that the impact has been less than hoped for.

One of the cases the World Bank seems to refer to is Anvil Ensembles Inc., a garment company audited by a team composed of authorized auditors and representatives from SGV, Intertek Testing Services and GTEB, and issued a certificate of compliance.

A newspaper report in July 2003, however, revealed that workers were being coached to on how to reply during inspection interviews and that the company manipulated records on minimum wages and withholding remittances of their Social Security System (SSS) to satisfy periodic audit requirements. In reality, most employees were paid below the minimum wage. In addition, the company had been overworking its employees to the point of giving them prescription pills to keep them awake for 72 hours at a time. Anvil’s accreditation was (temporarily) revoked.

68

- ▷ The audits are pre-arranged.
- ▷ Auditors are not required to consult with local workers, trade unions, advocacy groups, NGOs, religious organisations or human rights organisations.
- ▷ There is no possibility to register complaints to the WRAP “Independent Certification Board”.

ICS - FRENCH RETAILERS BAND TOGETHER

Launched in France, in 1998, Initiative Clause Sociale (ICS) is a collaborative effort among leading French retailers coordinated by the main federation of retailers, the members of the FCD Fédération des entreprises du Commerce et de la Distribution in France and other large retailers. It is intended to lead to a common system for managing and sharing social audit information.

Each of the member companies uses its own audit system but companies share a common framework—“référenciel”—and agree to share information on the results of the audits conducted among its suppliers.

The majority of large retailers in France (with the exception of Intermarché) are members of the ICS: Auchan, Camif, Carrefour, Casino, Cora, Galeries Lafayette, Leclerc, Monoprix, Okaïdi, Groupe PPR –Conforama, Fnac, Printemps, Redcats, Rexel, and Système U.

In 2004, ICS announced the completion of 715 social audits (586 initial audits and 129 follow-up audits) in the following countries: Bangladesh, Brazil, Cambodia, China, Korea, Egypt, India, Indonesia, Israel, Morocco, Maurice, Laos, Malaysia, Mexico, Pakistan, Philippines, Romania, Sri Lanka, Taiwan, Thailand, Turkey, and Vietnam. The following sectors were covered: garments, hi-fi equipment; bags, home, Christmas decorations, garden, household, office stationary, leather goods, shoes, furniture, sporting goods, stationary, toys, and groceries.

Typically for schemes heavily reliant on social auditing, there is only a limited amount of up-to-date and specific information available regarding the audits conducted by ICS member companies. As a result, this monitoring scheme is excluded from the scope of this report. It appears, however, that a number of the social audits performed for these companies are conducted by the same commercial auditing firms covered by our research.

IMPRESSING CONSUMERS WITH CLAIMS OF COMPLIANCE

While initiatives that are overly reliant on social auditing are clearly found to be insufficient in meeting the task they set out to do, companies that are members of these initiatives continue to incorrectly see participation in such schemes as examples of their commitment to ensuring good standards in the workplace.

69

German BSCI member Peek & Cloppenburg gives a very reassuring message to its consumers:

It is extremely important to us to offer our customers only goods that have been produced under humane conditions.... As a retail company that procures goods internationally, we are familiar with the problematic working conditions in some production countries. We live up to our responsibility, trying to be partners in the joint effort to ensure good working conditions. That is why, as early as 1997, P&C created its own supervision programme, where specialists control the working conditions and make recommendations for improvement, where necessary. Wanting to assume even more responsibility, we participate in a programme of the Export Trade Association of the German Retail Trade (AVE, Cologne) company website

Finnish retailer and BSCI member Kesko also paints a responsible picture:

The supplier can prove that it fulfils Kesko's ethical requirements by obtaining a neutral social certification for its operations.... Kesko wants to cooperate with its suppliers and their subcontractors on a systematic, long-term basis to ensure the ethical quality of their products. Deviations from Kesko's ethical principles are handled similarly to deviations from other quality requirements.... The most reliable way for a supplier of proving that it fulfils Kesko's ethical requirements is to acquire an SA 8000 certificate from an independent certification body or another corresponding audit approved by Kesko. Kesko company website

KarstadtQuelle, one of Europe's biggest retailer, and one of the founders of BSCI, reassures its customers on its website that what it sells is made ethically:

We conduct cooperative partnerships with our suppliers that require them to meet quality benchmarks and social standards in their production activities... with purchasing offices in 26 countries, we too must help ensure equilibrium between economic and social progress. Accordingly, the topic of minimum social standards is also a major factor in our sustainability policy.⁶⁴

Consumers might be surprised, then, to learn that KarstadtQuelle was one of the companies sourcing from the Spectrum factory, which broke nearly every rule in KarstadtQuelle's book. In addition to a badly constructed without proper permits, resulting in a collapse which claimed 64 lives and left many severely injured (see box for the full story), management at Spectrum paid a poverty wage (even below the national minimum wage), denied workers the right to organise, sexually abused female staff, forced workers to do more than 100 hours of overtime each month, and

What if buyers just make the supplier pay for the audit and for the corrective measures that need to be taken as a result? An audit itself is likely to cost anything between 350-3500 euros,⁶⁵ but corrective action can cost a lot more, particularly if it involves wage increases or new construction. Ultimately this is not a decision for auditors, but for the buying or sourcing companies who hire them. As noted elsewhere in this report, some auditors have observed that those who hire them lack do not always want to really detect violations or solve them. The managing director of PwC Investigations Asia has also been reported saying that companies did not invest enough money for social audits to realistically uncover problems and begin to solve them.

The questions are: Does the client want to do this? Is there a budget? Does the auditor really have the ability to do it?⁶⁶

It is clear that for some buyers the cost of compliance, reflected in the increased price they must pay a supplier to implement reforms and respect labour standards, is too high, and they decide to place their orders elsewhere, while officially claiming to source only from the “model supplier”:

The management of (Factory B) is concerned that some buyers are placing orders with factories which are less socially compliant, and passing off what they produce as coming from (Factory B). The management, in an attempt to maintain good relations with its clients, does not raise the issue. Factory B, Morocco, producing for George, Dunnes, Zara, Naf Naf, Marks and Spencer and Prenatal.

Labour advocates have long argued that suppliers and buyers have a shared responsibility for the costs of compliance—if they start sourcing from a factory that is not compliant with a code, then the buyer should bear some of the costs of bringing the supplier into compliance. Initiatives such as WRAP and BSCI, however, tend to shift audit costs to the supplier.

And as has been seen, suppliers tend to do the minimum possible in the process, particularly when a buyer is not prepared to contribute to the costs. In such a process, it is the worker who bears the cost, through poverty wages, lack of health care, long working hours and other forms of exploitation.

If they are serious, companies must invest in compliance. Different sources have indicated⁶⁷ that, apart from the more responsive companies who have made some investments in this area, the reality is quite the opposite – companies are tending to try to spend less and less on social compliance, both by engaging with less stringent auditing programmes, and by transferring the cost of compliance with standards, to their suppliers. For instance nearly every AVE/BSCI-related audit has had to be paid for by suppliers, and not by the buyers, although officially the AVE/BSCI promotes a negotiated sharing of audit and remediation costs between supplier and buyer. Romanian suppliers are reported to have shown little enthusiasm for investing their own money in the AVE auditing scheme since it is not taken seriously by many buyers, many of whom have more rigorous social compliance policies and hold them to a higher standard.

Spectrum disaster a worst case scenario

When the system fails, it can fail disastrously. All that is known about auditing at the Spectrum factory in Bangladesh is that the French retailer, Carrefour, carried out at least one social audit, and that KarstadtQuelle carried out one quality audit, reportedly using the firm SGS. According to workers interviewed for this report, buyers had indeed inspected the factory, and the coaching they seem to have received indicates some kind of social audit took place.

Workers did not have much idea about audits. Sometimes buyers’ representatives visited the factory but they inspected only the quality. The inspection was announced earlier and the workers were told to go to the factory well dressed. They were also directed not to tell the truth about working hours, wages, overtime, leave and other issues. The child workers were given leave while buyers were visiting the factory.

Not only was the factory a health and safety hazard lacking planning permission and waiting to collapse—prior to the disaster it was also the site of severe exploitation and abuse of workers.

- ▷ Overtime was mandatory for the workers. A worker had to do more than 100 hours overtime in a month.
- ▷ There were no holidays for the workers if production ran on; they did not have any leave facilities.
- ▷ Sexual harassment was common in the factory. Workers stated that one of the directors was involved in sexual abuse of female workers. The director had a well-decorated special room for doing this. If any woman protested she would be dismissed and those who submitted received special privileges.
- ▷ There was no maternity leave though women workers could get a chance to continue work after leaving the factory for a pregnancy.
- ▷ There was no union in the factory. The management did not allow it.
- ▷ Workers were “terrorized” by the management and staff. This included beating by the security officer.
- ▷ The minimum wage of the factory was less than the minimum wage fixed by the government, which in turn falls far short of a living wage. A helper’s monthly wage was 700 taka. With overtime they could hardly earn more than 1300 taka a month.
- ▷ There was a night shift in the factory from 10 p.m. to 7 a.m. According to Bangladesh law, women workers cannot work the night shift though Spectrum regularly violated this law. Two women workers, Montaz and Alea, died in the April 11th collapse. Alea was seven months pregnant.
- ▷ Workers were not allowed to leave the premises even if they were sick.
- ▷ There were no health and safety systems or medical facilities in the factories. There was no medical leave for the workers. . Even for very simple problems they had to go to a doctor or hospital. Workers were the only ones to help any sick fellow worker, including those hurt in workplace accidents.
- ▷ Three months before the collapse, a woman worker, Latifa, was injured by an electric shock from an 11 KV line which was adjacent to an exit door. She was under treatment at a clinic in Dhaka. The company did not take any initiative to arrange or support her treatment.
- ▷ Dyeing section worker Mohan died from burns obtained from a leaking hot water boiler. The company did not pay any compensation to his family. Workers donated some money to his family
- ▷ Worker-management communications were dysfunctional. For example, five days before the factory collapsed, a store worker informed an engineer in the factory that there were cracks in the wall. He was told he didn’t understand and should go back to work and not talk about this with other colleagues. Before it collapsed, the factory was producing clothes being sold by Zara-Inditex, KarstadtQuelle, Steillman, Cotton Group, Wal-Mart and Carrefour. All these companies rely on various auditing programmes, either in-house or via the BSCI. Failures of all of these systems

to identify and remediate the extreme problems faced by the workers at Spectrum show graphically why there is no quick fix to the issue of ethical sourcing. To date, both Carrefour and KarstadtQuelle have refused to share their

audit reports with the relatives of the disaster victims, or to others, including the CCC, campaigning for compensation for those who died, were injured, or who lost their jobs as a result of the factory collapse.

Another cost factor is the in-house staff. There is a wide variety in the investment that companies make in their social compliance department. Nike and Gap employ close to a hundred staff, smaller companies like adidas and H&M employ dozens, but KarstadtQuelle, one of Europe's largest retailers, employs only six, which seems to be common among multiple retailers who have invested far less so far into this area.

ARE WE FORGETTING THE LESSONS LEARNED?

By increasing reliance on third party auditors, buyers have less and less connection with their suppliers and their employees. Perhaps the single most important conclusion from the above is that companies using initiatives such as WRAP and BSCI are placing an ever-greater distance between the buyer and the workers producing their products. By cutting workers out of the process in this model, they risk turning back the clock on valuable progress that has been made elsewhere.

At a point in time when there is so much energy to improve the lives of workers in supply chains, others are missing the chance to help build a sustainable model of code compliance. Instead, they risk supporting a model that fools consumers and achieves only limited risk management. It is particularly striking that this is happening in 2005, when so many companies learned their lessons on this issue three or four years ago.



74

SOCIAL AUDITING CAN BE EFFECTIVE: THE TOOLBOX APPROACH

Since the “cat and mouse” game between auditors and factory managers is likely to go on indefinitely, with growing levels of sophistication on both sides, the quest for a perfect audit methodology is unrealistic. In spite of the thousands and thousands of audits which are taking place year upon year, the patterns of exploitation and abuse of workers is continuing.

Given the amount of resources and thinking devoted to tackling the difficulties faced by workers in supply chains over the last decade and a half, the lack of progress to date is scandalous. The cases mentioned in this report are merely examples of a what is a systemic problem.

Currently, many social audits are being over-relied upon by company or company-led initiatives— for the most part not only are they failing to provide an accurate and comprehensive picture of working conditions, but they are frequently being used out of context, particularly in the cases of BSCI and WRAP. An audit, used alone, can never produce change—it can only produce a “shopping list” of items to be remedied. To produce change, a more comprehensive approach is clearly needed.

Until audits are used intelligently, as part of a broader more comprehensive approach, they will achieve little more than superficial change for workers. And until workers, the intended beneficiaries in the process, are placed at the centre of efforts to improve workplace conditions—from conception to implementation of those efforts—they will continue to be the losers.

WHY WE NEED MORE THAN AUDITING

Auditing is a critical first step towards trading ethically, but we also need to look beyond audits for their own sake. Sourcing companies need to remind themselves that auditing is only a means to an end, and that it is only one piece in the jigsaw of ethical sourcing. A supplier's perspective, ETI Annual Report, 2002-2003

The challenge facing the clothing industry is not to show demonstrate to labour rights advocates such as the CCC that they are carrying out more audits, but that workers' lives are improving.

As has been shown by the research in this report, the current emphasis of buyers, particularly retailers, on social audits comes at the expense of other tools or mechanisms that would help to achieve compliance with ethical standards. One impact of this is that workers and their representatives remain peripheral to processes meant to ensure their rights. The Hong Kong Christian Industrial Committee (HKCIC) questions the usefulness of audits in general, if they are not part of a broader and more long-term program. They express serious concerns about the proportion of time spent on auditing versus worker-oriented programs such as health and safety or worker rights training. According to the HKCIC, auditing should not be viewed as an end in itself. Confirmation of violations revealed during workers' interviews should only be the be-

75

ginning of the process that leads to workplace improvements and worker empowerment.

Worse still, as has been shown in chapter 3, social auditing can actually transfer power away from workers. With the setting up of unrepresentative “worker committees” in order to please auditors, proper industrial relation systems based on collective bargaining and freedom of association can easily be undermined.

The evidence shows that credible efforts to implement codes of conduct cannot rely on social auditing alone, important though it is. Quality social auditing should be combined with other tools to address and remediate violations of workers rights, including:

- ▷ partnership with local organisations,
- ▷ grievance and complaints mechanisms,
- ▷ education and training,
- ▷ a pro-active approach to freedom of association,
- ▷ addressing existing business or purchasing practices,
- ▷ effective remediation, and
- ▷ transparency.

This more comprehensive “**toolbox**” approach must be adopted by sourcing companies if they want to make a credible effort to face up to their responsibilities to workers in their supply chains.

This vision, however, is a far cry from the continuing tendency of many companies to rely heavily on audits to identify non-compliance, which might even result in an order being cancelled. An ILO report argues that the threat of order cancellation “cuts to the core of the whole practice of auditing: If there are no sanctions for non-compliance, then auditing has little real meaning or material impact. However, if orders are cut to a non-compliant factory, the factory may be forced to shut down, and the now unemployed workers are likely to be worse off than before”.⁶⁸

However, referring to initiatives by some of the more responsive companies, the same ILO report adds that today it is increasingly recognized that buyers and auditors have to put more emphasis on remediation and dialogue than on “policing”.

Auditing is still seen as a test, but one which increasingly highlights opportunities for improvement, rather than grounds for the termination of orders.

PARTNERSHIP WITH LOCAL ORGANISATIONS

I propose that if social organizations, like yours, trade unions and the inspectors of the buyers audit together, things for the workers may change. But my fear is that when and if that happens, at the time of the inspection the employers will lock their units and proper auditing will be made impossible. The system needs to be changed. Md Ateeq, President, Delhi Leather Karigar Sangathan Trade Union, India

76

Code initiatives need to expand the space for dialogue with Southern stakeholders. Moreover, if local unions and NGOs are to participate effectively in code implementation, for example, in providing worker education, code initiatives need to support them with appropriate training. Report on the ETI Biennial Conference 2003

The experiences of workers around the world point to a clear weakness in the current approaches to social auditing—they simply are not delivering the quality needed to identify most code compliance problems. There is a growing realisation, in some quarters, that unions and NGOs need not only to be involved in all phases of the code implementation, but they should be better consulted on **how best to organise the entire process.**

Labour-related NGOs and trade unions have to be involved in preparing and following up audits at the production level if good quality monitoring and credible verification is to take place. The precise role that these groups should play in monitoring and verification systems is still something that needs considerable attention, as the varied contexts found throughout the global garment industry mean that what works or is appropriate in some situations might not be feasible in others.

The only effective way of monitoring the implementation of codes of conduct is by workers themselves through their trade unions, which of course requires strong industrial relations. Gap Inc. is trying such an approach. They have arranged for a shop steward in one of their sourcing factories in Kenya to report weekly to Gap on conditions in the factory. Such an approach is not only sustainable, it should also empower the trade union concerned and provide a clear channel for workers to voice their concerns over working conditions. ETI Annual Report 2003/2004

Under the auspices of a number of multi-stakeholder initiatives, and some unilateral steps taken by larger firms such as Nike, adidas, Reebok and Gap, some significant improvements have been seen in terms of efforts to build partnerships with local trade unions and NGOs.

Only in the case of the H&M auditing team did we find that they'd contacted the trade union in the factory during audits. For the rest of the companies, trade unions are informed about the clients' codes of conduct in the company, and that is all. There are no contacts with NGOs. General comment from researchers in Romania

A standard part of the practice of the Fair Wear Foundation is to involve local organisations in each country in:

- ▷ training of audit teams,
- ▷ advising on how the process is conducted, and
- ▷ priorities for remediation.

77

GRIEVANCE AND COMPLAINT MECHANISMS

Labour advocates have long emphasised the importance of a mechanism to handle complaints in code monitoring and verification systems.⁶⁹ A complaints mechanism would create an opportunity for workers to bring workplace concerns to the attention of the MSI or sourcing company. Such a mechanism is not only a way to ensure direct input at any time from workers and their organisations in the monitoring/verification process, it might also balance and supplement the limitations of “snapshot auditing” which only allows workers to voice their grievances once every three years, or whenever the auditor sees fit to come by. Setting up a complaints mechanism must be done carefully because workers must have safe and sound means to register complaints, with absolutely no fear of retaliation for doing so.

Apart from one exception, on the part of DNV in south India, it proved impossible to find any evidence of social auditors providing workers with any means of making complaints to auditors or buyers, let alone informing workers of any complaints mechanisms.

Eventually, two components must be in place:

- ▷ a proper worker/employer grievance handling system must be in place at the level of the supplier, and
- ▷ a means must exist by which workers or their representatives can take a complaint up to the level of the buyer, if it is not solved by the supplier.

Regarding the first point, companies need to create the infrastructure to deal with complaints by recognising trade unions and providing paid time off for trade union representatives to be trained in resolving disputes over employment rights, and developing confidential and accessible means for workers to report exploitation and abuse.

Regarding the second point, MSIs like ETI, FWF and FLA in theory require from their members that they establish such a mechanism, and also provide an option for filing complaints to the initiative itself. Although experiences with handling complaints within MSIs have garnered some results, they have also shown that this requires huge amounts of resources and professional handling. The Worker Rights Consortium (WRC) is one of the best developed complaints-based systems, that starts to function when workers, or organisations representing workers, “pull the fire alarm”.

EDUCATION AND TRAINING

Codes cannot be effective when workers are not aware that they exist, nor of the rights enshrined in them, nor of the means available to exercise these rights. “Awareness of codes is crucial for workers to have faith and fully participate in audits, and for the benefits of code implementation to be sustainable. Appropriate education will not only increase workers understanding of the issue, but will also build workers’ confidence to address them.”⁷⁰

78

First attempts to ensure this largely consisted of translating the codes and pasting them to the wall, and/or handing out leaflets or cards with the code standards to workers. When realizing that in and of itself this does not create an informed workplace, more responsive companies have engaged with trade unions and NGOs in developing more in-depth education and training programmes and pilot projects. Though the scale of these remains far too small, it is striking that many of the companies named in this report that have codes do not seem to have taken even the elementary first steps in informing workers.

Experiences thus far point to the importance of ensuring that workers are provided with the time necessary to participate in such programmes, and re-assurance that they will not lose their jobs if they get involved. It is also crucial to provide education on workers rights in the context of national labour law, not just on codes of conduct.

It is also important to distinguishing between education and training: education is a process whereby people learn about something in order to draw their own conclusions. Training, by contrast, provides information and skills for a particular purpose.

Providing for education and training is especially important to ensure freedom of association, as was also argued by auditors at the ILO Technical Meeting in Turkey this year, where participants called for managers as well as workers to be offered training on workers' rights.

A real issue of concern among labour rights groups is the extent to which worker education and training programmes are conducted independent from management influence, and the terms should not be developed or set by the buyers. Concerns are already being expressed that worker education may be seen as another potential growth industry, and some firms presently involved in social auditing are already positioning themselves to offer services in this area. Obviously this raised concerns for quality and credibility. It has also been found that it is extremely important what kind of organisation gives the training and how it is delivered—workers tend to trust education delivered by their own peer group.

ADDRESS PURCHASING PRACTICES

The management always finds itself between a rock and a hard place—right now it can't see the results of social audits. The changes which need to be made as a result are expensive, and the prices paid by the buyers don't cover these costs. Factory B, Morocco, producing for George, Dunnes, Zara, Naf Naf, Marks and Spencer and Prenatal.

Companies need to address the conflicting logic of simultaneously pursuing lower prices and shorter delivery times whilst at the same time pursuing compliance with labour standards.⁷¹ In practice, companies often run parallel and often uncoordinated systems: one to assure the maximizing of profits and one to assure compliance with ethical standards.⁷² Current purchasing practices on the part of buyers tend to undermine the capacity of the supplier to comply with labour standards. And when buyers make the ethically questionable choice to source from countries that outlaw or restrict

79

freedom of association, such as China or Vietnam, it is even more likely that workers and their organisations will be marginalised or excluded from the mechanisms set up to implement, monitor or verify code compliance. While no boycott of such countries is being proposed, the choice to move production to these places does have serious implications, since the ability to join and form unions of their choice is after all a fundamental workers' right and in the end, without the ability for workers' to exercise such a right code compliance programmes cannot be sustainable in the long term. Auditors at the ILO technical meeting noted that in order to tackle compliance problems related to excessive or forced overtime, buyers would need to work with suppliers to fix the problem by giving more lead time on orders, and that third party auditors may be ill-equipped to address the important issue of the good relationship between buyer and supplier. It seems that by fully relying on third parties (instead of on their own compliance staff) to carry out the social audits and organize the remediation or corrective action as well, buyers are failing to build the very relationship with suppliers that will help improve compliance.

Echoing the assertions of Oxfam's 2004 publication, Trading Away Our Rights, this same group of auditors observed that there is much that a buyer can do to address the root cause of compliance failure internally, by improving purchasing practices:

Close cooperation between the buying and selling firm may also help in the practical implementation of the codes of conduct. A common example that was cited is that it is hard to comply to overtime rules when lead times given by multinationals are so short. Increased lead time in this case would reduce the pressure on overtime worked to fill the order, but this requires close cooperation between the selling firm and the people at the multinationals who are familiar with the buying process and also the procurement process. A closer integration of the two departments at the level of the multinational (buying/procurement and compliance/CSR) is therefore recommended to achieve the objective of code of conduct implementation. ILO, 2005

While buyers need to make their future business with suppliers and sub-contractors conditional based on their compliance record, they should avoid terminating these business relationships in order to avoid their commitments under their own codes.

A PRO-ACTIVE APPROACH TO FREEDOM OF ASSOCIATION

Lacking a true channel of representation of workers' problems, external auditing conducted by the buyers becomes a management issue between the suppliers and the buyers only. In all the facilities researched, workers are not informed or involved in any sense. They are treated as objects to be inspected and questioned during the audit. General comment from researchers in China.

This report shows once again workers and their representatives remain peripheral to processes meant to ensure their rights, despite the fact that from an efficiency point of view alone this makes no sense. It has been pointed out many times that the best auditors are the workers themselves since they are continually present at the production site.

80

Where workers can form independent trade unions and bargain, there may be little need for a code of conduct. Neil Kearney, ITGLWF and Dwight Justice, ICFTU (2003)

This observation does not come only from the side of the labour movement: a World Bank consultation among 194 individuals representing a variety of stakeholders, such as buyers, suppliers, NGOs, unions, and workers, resulted in the observation that currently, one of the main barriers to effective code implementation is the “absence of a comprehensive and accountable means of engaging workers as well as their unions.”⁷³

Another important element of the toolbox therefore is a policy of promoting freedom of association, the right of workers to join and form trade unions and to engage in collective bargaining. To do this, companies need to undertake concrete activities to promote freedom of association, collective bargaining and credible worker presentation. Such positive measures are particularly important in situations where workers are faced with oppression and can include:

- ▷ provision of clear and country specific guidance on what is expected from suppliers concerning compliance with the standards on freedom of association and collective bargaining, and what constitutes appropriate consultative and representative mechanisms. Such guidance shall be consistent with the meaning of freedom of association developed through ILO procedures,
- ▷ open communication of this policy to national governments,
- ▷ support for and facilitation of training of management, workers and workers’ representatives (separately and jointly) in freedom of association, collective bargaining and labour-management relations. Such training should take into account the gendered nature of the workforce in the industry. Buyers should ensure the full commitment of suppliers in these initiatives,
- ▷ review supplier policies and procedures (hiring, promotions, termination, disciplinary, and grievance),
- ▷ consult with external sources in order to ascertain anti-union behaviour, the history of labor relations in the area, government policy, and union history in the factory, and
- ▷ encourage or set up programs to open and improve channels of communication between workers and management.

Some of the more responsive brands have started to undertake or stimulate programmes at suppliers to improve worker-management communication. Usually these involve some type of training, and/or establishing mechanisms for workers representation or bodies for worker-management dialogue. Though such programmes might lead to increased space for workers to represent their own interests via organisations that they own and control, this is by no means certain. They can also have the exact opposite effect. Once more, a key issue is who designs and delivers these programmes,

81

and whether they follow the ILO jurisprudence and standard-setting on this topic, for example regarding the need for worker representatives to be freely elected. The other key issue is the legal context in which they take place.

REMEDICATION

As the previous chapters have revealed, for the most part social auditing is presently confined to developing a shopping list of problems. Auditors lack the right skills, and workers are largely excluded from the process, which makes the shopping list incomplete. But even a quality audit in and of itself can never produce change. For this to happen, a remediation (also known as corrective action) process needs to be developed, agreed upon and implemented. This means first and foremost to analyse what causes the violations, and not confine the audit to listing what went wrong. To remediate something, one needs to understand why it went wrong. This makes it even more crucial to improve the quality and capacity of the auditors.

Presently, identifying what remediation or corrective action is necessary is largely left to the auditors, and acting upon it is left to the supplier. Management will be informed where they fail to “pass” a requirement in the exit meeting, which may be combined with a few suggestions related to occupational health and safety improvements, but there is no feedback to the workers, no consultation of workers organizations on what would constitute effective remediation and often no negotiation with the buyers on this. It shouldn’t be surprising that the effect is limited. Leaving out the workers means that the solutions are top-down, unlikely to be effective and difficult to sustain. As the section on purchasing practices shows, leaving out the buyer means that the costs of compliance are left fully to the supplier, and no incentives are set. Expecting results becomes even more unrealistic.

This report shows that, with a few exceptions, workers do not see real improvements in their situation even when regular auditing takes place. Unfortunately it has been impossible for the researchers and for CCC to obtain access to remediation or corrective action plans developed post-audit, so an analysis of the audit findings, the follow-up corrective action suggested and the reality could not be made.

The majority of the audit firms described in this report seem to lack not only the skills but also the legitimacy and the mandate to develop and organise appropriate corrective action or remediation programmes. Even more disturbing, the evidence seems to indicate that after producing an audit report, the process effectively stops.

Remediation plans should be developed based on an analysis of the root cause of rights violations and their impact, in a process that involves workers, management and buyers. Implementing remediation plans, is a joint responsibility of suppliers and buyers. Buyers have a responsibility to create an enabling environment for remediation to take place (ex. commitment to long-term relationship and not cut and run, cost sharing when necessary, and to consider their purchasing practices so that improvements can be implemented and sustained).

82

NEED FOR TRANSPARENCY

Both the garment industry and the auditing industry deeply lack transparency when it comes to where, how, by whom and for how much they make their products. There often seems to be no real reason for the extremely high levels of secrecy: why shouldn't workers and their organisations have access to audit reports, or remediation plans? Why can't brands or retailers publish whom they hire to audit which factory? Or who pays for the audit? Why shouldn't audit firms put up a list of their clients, and report on what methods they use and how they train their staff? Transparency is crucial to build credibility among stakeholders and the public at large, to improve the quality and effectiveness of auditing, to make complaints mechanisms work, to minimize the inefficient use of resources and in general to improve the compliance mechanisms presently under development.

Garment companies should be taking steps to increase transparency regarding the composition and conditions of their supply chains. Several brands have recently begun to publish more in-depth social responsibility annual reports, and even details of the composition of their supply chains. In its recent corporate responsibility report Nike argues that disclosure of supply chains is key to unlocking greater collaboration among brands and creating the incentives necessary for factories.

Companies should also provide more in-depth and detailed information about code implementation activities: the procedures they have adopted and the activities they have undertaken, including audits, to implement the code. They should provide details of non-compliance and of remedial action undertaken, as well as of complaints and how these complaints were addressed.

Ensuring feedback to the workers themselves should be a priority. The information provided should be verified.

Audit firms should disclose all information necessary so that their methods and effectiveness can be assessed.

DON'T GO IT ALONE!

It is increasingly clear that some companies are making some progress by learning from their peer group and building on the lessons learned by others. The lessons tend to revolve around the need to engage the primary beneficiaries of the process—workers—in the design and implementation of programmes to ensure international labour standards are respected in supply chains.

The rise of multi-stakeholder initiatives, which allow companies to learn from each other at the same time as to listen to representatives of workers, is a sign that companies are trying to improve, although most still have a long way to go.

Corporations need to cooperate at a sectoral level on code compliance issues. In the end, companies cannot unilaterally address the problems that are faced industry-wide,

83

particularly since most suppliers are servicing more than one buyer at a time. Systematic problems at both the point of production and the point of consumption can only be successfully addressed through a multilateral, sector-wide approach.

As Doug Cahn, Reebok's vice president for human rights, argues, "we may be only 20% of a particular supplier's business and thus have little influence, but when we can combine with two other companies that each have 20%, we can leverage our influence over that factory operator".⁷⁴

To avoid the dumbing down identified in chapter 5 in relation to the retail industry, such a sector-wide approach can only be successful if it is based on the highest common denominator and current best practice. Business-dominated CSR programs tend to be examples of "lowest common denominator" collaboration. These include the BSCI, discussed in chapter 5, and the CSR activities in recent years of the World Federation of the Sporting Goods Industry (WFSGI).⁷⁵

BUILDING CREDIBILITY: WORKING IN MSIS

Playing an active role in credible multi-stakeholder initiatives can also be a valuable step for companies to take in improving their code compliance work. In the apparel and (athletic) footwear industries the most important MSIs are the Fair Labor Associa-

What do multi-stakeholder initiatives do?

Soon after companies started to adopt codes of conduct it became clear that there was a need for an overarching system for evaluating company claims about compliance with labour standards. This stimulated the creation of a number of MSIs, which involve a variety of companies, NGOs and/or trade unions trying to develop (more) systematic approaches to code implementation, monitoring and verification, as well as developing structures for accountability to civil society.

These initiatives have the following in common. They:

- ▷ bring a wider range of actors into decision-making procedures,
- ▷ agree upon a standardized code of conduct generally informed by ILO standards, and
- ▷ concur upon follow-up activities designed to put labour standards into effect.

To a varying degree they might also:

- ▷ use social audits as a mechanism for monitoring/verifying codes of conduct,
- ▷ authorise or accredit organisations to conduct the verification process,
- ▷ certify workplaces or branded companies,
- ▷ promote social dialogue and learning between different stakeholders,
- ▷ facilitate the processing of complaints from workers, trade unions or NGOs as part of the monitoring/verification process,
- ▷ stimulate stakeholder participation in code verification at points of production, and
- ▷ get financial or facilitative support from governments.

These initiatives have provided new forms of social dialogue where different stakeholders regularly meet, exchange views or devise joint projects.

Merk, 2005b

tion, the Worker Rights Consortium, the Ethical Trading Initiative, Social Accountability International and the Fair Wear Foundation.

None of these initiatives should be seen as the definitive answer to a company's code compliance problems; and there are varying and serious concerns related to their programmes and activities. Member companies of the FLA and ETI, to a varying extent, make use of the global audit firms described above, most of whom have actually been accredited by SAI. FWF and WRC thus far are the only ones to consistently advocate a different approach. Having said that, they have proven to be useful as a means of "raising the bar" of companies, by providing members with a chance to listen to the experiences of their peers and to advice from trade unions and NGOs.

Participation in an MSI can help get a company with little experience or existing capacity on code compliance onto the right track, since membership of an MSI usually stipulates that a company must take certain first steps.

The MSIs mentioned above have also come together in the "Joint Initiative on Corporate Accountability and Workers Rights" which aims to evaluate and test the different approaches towards code implementation thus far, and hopes to contribute towards more collaborative work. The CCC also participates in the steering committee of the project, which will test the various approaches in trials in Turkey.⁷⁶

MSIs can also provide a form of independent oversight or verification of code implementation. This has long been a key demand made by labour rights advocates, including the CCC. Because the essence of verification is credibility, it must be performed by organisations or individuals that are independent of the enterprises or organisations whose claims are being verified (for instance the claims of sourcing companies, suppliers, trade or industry associations, etc.). This is where the potential role for those MSIs who have NGO and trade union representation in their boards, comes into play.

Verification can involve the same or similar activities that may have been used to implement a code—inspections, interviews, complaints, social audits, factory audits, etc. or it may involve the re-examination of evidence acquired from these activities. Transparency is commonly considered key to effective verification.

Verification can be carried out in relation to a specific situation at a workplace or it could concern an examination of management systems and other evidence that will indicate whether an enterprise or organisation (a sourcing company for instance) has assumed the responsibilities that it claims.



07

Abbreviations



AMRF	Alternative Movement for Resources and Freedom Society
ANSRU	National Association of Human Resources Specialists
AVE	Export Trade Association of the German Retail Trade
BSCI	Business Social Compliance Initiative
CCC	Clean Clothes Campaign
CEC	Centre for Education and Communication
COVERCO	Commission for the Verification of Codes of Conduct
CSCC	Cal-Safety Compliance Corporation
CSR	Corporate Social Responsibility
DTI-GTEB	Philippines Department of Trade and Industry represented by the Garments & Textile Board
ETI	Ethical Trading Initiative
FDI	Foreign Direct Investment
EU	European Union
FCD	Fédération des entreprises du Commerce
FFC	Fair Factory Clearinghouse
FLA	Fair Labor Association
FTA	Foreign Trade Association
FWF	Fair Wear Foundation
GMIES	Grupo de Monitoreo Independiente de El Salvador.
GTZ	German Ministry of Development Co-operation
HKCIC	Hong Kong Christian Industrial Committee
ICFTU	International Confederation of Free Trade Unions
ICS	Initiative Clause Sociale
ILO	International Labour Organisation
ISO	International Standardisation for Organisation
ITGLWF	International Textile, Garment, Leather Workers Federation
JOIN	Joint Initiative on Corporate Accountability and Workers' Right
LARIC	Labor Rights in China
MNE	Multinational Enterprises
MSI	Multi-stakeholder initiative
MSN	Maquila Solidarity Network
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
PILER	Pakistan Institute of Labour Education and Research
PwC	PricewaterhouseCoopers
SA8000	Social Accountability 8000
SAI	Social Accountability International
SAVE	Social Awareness and Voluntary Education
SEA	Social Environmental Affairs
SEDEX	Social Ethical Data Exchange
SGS	Société Générale de Surveillance
SPTSK	Textile, Clothes and Leather Factory Trade Union
UCM	Urban Community Mission
VGT	Vereniging of Grootwinkel Bedrijven
WFSGI	World Federation of the Sporting Goods Industries
WRAP	Worldwide Responsible Apparel Production
WRC	Worker Rights Consortium



08

Bibliography



88

Adam, Corine, François Beaujolin, and Martine Combermale (2005), *Codes of Conduct Implementation and Monitoring in the Garment Industry Supply Chain; Summary Evaluation of the Field at the 10-year Mark*, Fondation des droits de L'Homme au travail, Geneva.

Adidas-Salomon (2005), Social and environmental report 2004.

Ascoly, Nina (2003) *Pricing in the Global Garment Industry*, report on CCC/IRENE seminar 20-21 February, Dusseldorf, Germany.

Ascoly, Nina and Ineke Zeldenrust (2001), *Discussing key elements of monitoring and verification*, SOMO, Amsterdam, available at <http://www.somo.nl/monitoring/reports.htm>.

Ascoly, Nina and Ineke Zeldenrust (2003), *Challenges in China: Experiences from two CCC pilot projects on monitoring and verification of code compliance*, SOMO, Amsterdam, available at <http://www.cleanclothes.org/codes/03-10-china.htm>.

Auret, Diana and Stephanie Barrientos (2004), *Participatory social auditing: a practical guide to developing a gender-sensitive approach*, IDS Working Paper 237, December, Institute of Development Studies, Brighton, available at <http://www.eldis.org/static/DOC17232.htm>.

Bendell, Jem (2001), *Towards Participatory Workplace Appraisal: Report from a Focus Group of Women Banana Worker*, September, New Academy of Business, available at: <http://www.new-academy.ac.uk/publications/keypublications/documents/workplace-appraisal.pdf>.

Brown, Joshua S., (2001) *Confessions Of A Sweatshop Inspector*, Monitor, September 1, available at <http://www.monitor.net/monitor/0108a/sweatshopinspect.html>.

CCC (2005) *Primer on Freedom of Association*. Clean Clothes Campaign, Global Unions, Oxfam (2004) *Play Fair at the Olympics*, March 4, available at: <http://www.cleanclothes.org/publications/04-olymp-report.htm>.

De Haan, Esther and Gary Phillips (2002) *Made in Southern Africa*, Clean Clothes Campaign, Amsterdam, available at <http://www.cleanclothes.org/publications/02-12-southern-africa.htm>.

De Haan, Esther, Michael Koen and Ntokozo Mthembu (2003) *Garment Production in Malawi*, SOMO, Amsterdam and Workers College, Durban, available at <http://www.cleanclothes.org/publications/03-09-malawi.htm>.

De Haan, Esther and Joris Oldenziel (2003) *Labour Conditions in IKEA's supply chain. Case Studies in India, Bulgaria and Vietnam*, SOMO, Amsterdam, available at <http://www.somo.nl/>.

89

Esbenshade, Jill (2004) *Monitoring Sweatshops, Workers, Consumers, and the Global Apparel Industry*, Temple University Press, Philadelphia.

Ethical Trading Initiative (2004) *Putting Ethics to Work*, ETI Annual Report 2003/2004, available at: <http://www.ethicaltrade.org/Z/lib/annrep/2004/en/index.shtml>.

Fair Wear Foundation (2002) *The Fair Wear Foundation: Principles and Policies*, May, FWF, Amsterdam, available at <http://en.fairwear.nl/?p=280>.

Far East Economic Review, (2001) *Sweating It Out: As consumers in the United States cry foul, an international effort to improve factory conditions stumbles in China*, May 10.

Financial Times (2005) *Laying a false trail*, April 21.

Hilton, Isabel (2005) *Made in China*, Granta, London.

ILO (2004) *Organizing for Social Justice: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Right at Work*, International Labor Conference, 92nd Session 2004, Report I (B), Geneva.

ILO (2005) *Social Auditing in Bulgaria, Romania and Turkey; Results from survey and case study research*, June, International Labour Office, Ankara.

Kearney, Neil and Dwight Justice (2003) *The New Codes of Conduct; Some questions and answers for trade unionists*, in Wick, Ingeborg (2003), *Workers' Tool or PR Ploy? A guide to codes of international labour practice*, Friedrich Ebert Stiftung, Bonn.

Keusch, Michel, Frederic Gajdos and Andrea Von Schilling (2002), *Intertek Testing Services*, July 16, Credit Suisse.

LARIC(1999), *No Illusions, Against the Global Cosmetic SA8000*, China Labour Bulletin, June.

Liu, Kai-ming (2003) *Global Purchasing Practices & Chinese Women Workers*, Institute of Contemporary Observation, Shenzhen, September.

Mamic, Ivanka (2004), *Implementing Codes of Conduct: How Business Manage Social Performance in Global Supply Chains*, Management and Corporate Citizenship Programme, International Labour Office, Geneva. MSN (2001) Codes Memo Update, August, no. 8.

MSN (2002) Codes Memo Update, November, no.12.

MSN (2002/2003) Codes Memo Update, No. 13.

90

MSN (2004) Codes Memo Update, July, available at, <http://www.maquilasolidarity.org/resources/codes/memo17.htm#E>.

Merk, Jeroen (2005a) *"Fair Purchasing Practices: Some Issues for Discussion"*, Clean Clothes Campaign, Amsterdam, available at: http://www.cleanclothes.org/publications/05-05-purchasing_practices.htm.

Merk, Jeroen (2005b) *"The Private Regulation of Labour Standards: The case of the apparel and footwear industries"*, paper prepared for workshop on Private Governance (#23) at ECPR Joint Sessions, Granada, Spain, 14-19 April.

Merk, Jeroen and Ineke Zeldenrust (2005) *"The Business Social Compliance Initiative; A Critical Perspective"* May, Clean Clothes Campaign, Amsterdam, available at: <http://www.cleanclothes.org/codes/05-05-bsci-report.htm>.

New York Times (2003) *"Ruse in toyland: Chinese workers' hidden woe"* December 7.

Nike (2005) Corporate Responsibility Report FY 2004, available at www.nikeresponsibility.com

OECD (2001) **"Making Codes of Corporate Conduct Work: Management Control Systems and Corporate Responsibility"**, Directorate for Financial, Fiscal and Enterprise Affairs, Working Papers on International Investment, No. 2001/3, available at <http://www.oecd.org/dataoecd/45/29/1922806.pdf>.

Oldenziel, Joris (2001) *"The reality behind the code: Working conditions in garment factories producing for Vendex KBB"*, June, SOMO, Amsterdam, available at <http://www.cleanclothes.org/news/newsletter15-12.htm>.

O'Rourke, Dara (1997) *"Smoke from a Hired Gun: A Critique of Nike's Labor and Environmental Auditing in Vietnam as Performed by Ernst & Young"*, November, report published by the Transnational Resource and Action Center, San Francisco, available on the Internet at: www.corpwatch.org/trac/nike/ernst/.

O'Rourke, Dara (2000) *"Monitor the monitors: A Critique of PricewaterhouseCoopers (PwC) Labor Monitoring"*, available at <http://nature.berkeley.edu/orourke/PDF/pwc.pdf>.

O'Rourke, Dara (2001) *"Lessons in Monitoring Apparel Production Around the World"*, Dollars & Sense, Issue #237, September-October.

O'Rourke, Dara (2002) *"Monitoring the monitors: a critique of corporate third-party labour monitoring"*, pp. 196 – 208, in Jenkins, Rhys, Ruth Pearson and Gill Seyfang (eds) (2002) *Corporate Responsibility & Labour Rights, Codes of Conduct in the Global Economy*, Earthscan, London.

O'Rourke, Dara (2003) *"Outsourcing Regulation: Analyzing Non-Governmental Systems of Labor Standards and Monitoring"*, Policy Studies Journal, Nov., Vol. 31, No. 1.

91

Philippine Daily Inquirer (2003) *"Sweatshops really do exist here"*, July 11.

Saget, Catherine (2001) *"Is the Minimum Wage an Effective Tool to Promote Decent Work and Reduce Poverty? The Experience of Selected Developing Countries"*, International Labour Organisation, Geneva.

Santoro, Micheal A. (2003) *"Beyond Codes of Conduct and Monitoring: An Organization Integrity Approach to Global Labor Practices"*, Human Rights Quarterly, 25.2, pgs. 407-424.

Setrini, Gustavo (2005) *"Wages In The Apparel Industry; What Constitutes A Decent Standard?"* Background paper prepared for the Jo-In/MIT meeting on Exploring Common Approaches to Corporate Accountability and Workers Rights, July 10-11, Massachusetts Institute of Technology, Cambridge.

SGS (2005) *"SGS Group Results 2004, Presentation to Financial Community"*, January 14, on file.

Stern, Katherine (2002) *"Techniques of Independent Monitoring in Guatemala and El Salvador Training Methods and Practical Advice from the Commission for the Verification of Corporate Codes of Conduct (COVERCO) & the Grupo de Monitoreo Independiente de El Salvador (GMIES)"* paper written for the Workers Rights Program of the Lawyers Committee for Human Rights, New York, NY, available at: <http://www.coverco.org/eng/media/Approved-Public-Report.pdf>.

World Bank (2003) *"Strengthening Implementation of Corporate Social Responsibility in Global Supply Chains"*, available at: http://siteresources.worldbank.org/INTPSD/Resources/CSR/Strengthening_Implementatio.pdf





09

Endnotes



- 1 Workplace with substandard working conditions
- 2 Global Purchasing Practices & Chinese Women Workers (2003)
- 3 Critical articles on the quality of social auditing include: O'Rourke (1997, 2000, 2002); Bendell (2001); *Far East Economic Review* (2001); Ascoly and Zeldenrust (2003); Oldenziel (2001); de Haan and Oldenziel (2003); Philippine Daily Inquirer, (2003); Maquila Solidarity Network (2004); Auret and Barrientos (2004); *Financial Times* (2005); Esbenshade (2004), Hilton (2005).
- 4 According to the workers there are up to three levels of subcontracting within the factory. Workers working under subcontractors are free to get three to four or even more workers to work with them and help them meet the target. The subcontractor pays the main worker, who in turn pays a part of his salary to the other workers working under him.
- 5 Such as when a supplier itself hires an auditor to carry out an audit as part of the preparation for some kind of certification
- 6 North India research (Factory A Information on Social Auditing—General on Audit and Auditors)
- 7 North India research (Factory A Information on Social Auditing—General on Audit and Auditors)
- 8 *Stern*, 2002: 11
- 9 *Stern*, 2002: 35
- 10 Ascoly and Zeldenrust, 2003: 30
- 11 Hilton, 2005: 44; *New York Times*, 2003
- 12 *Financial Times* (2005)
- 13 O'Rourke 2002
- 14 Bendell, 2001: 23
- 15 http://www.cleanclothes.org/ftp/05-05Obsci_paper.pdf
- 16 Garment Production in Malawi, 2003, SOMO and Workers' College
- 17 *ETI Annual Report 2002/2003*
- 18 *MSN*, July 2004
- 19 Nike, 2005: 39
- 20 The AVE Sector Model Social Responsibility is a CSR initiative that is supported by German retail companies like Karstadt Quelle, Otto, Metro, Deichmann and Peek & Cloppenburg. In a Public-Private-Partnership Project set up by the Society for Technical Co-operation (GTZ) and supported and co-financed by the German Ministry of Economic Co-operation and Development (BMZ) the functioning of the AVE Sector Model will be evaluated in 15 countries during a three-year period (2002-2005). During this time, 2,500 suppliers of German clothes, shoe, and toys merchants will be audited in 15 countries in Eastern Europe and Asia.
- 21 ILO 2005
- 22 Jo-In Project: "Technical meeting of social auditors operating in Turkey" (May 2005)
- 23 Saget 2001
- 24 Setrini, Gustavo (2005) "Wages In The Apparel Industry; What Constitutes A Decent Standard?" Background paper prepared for the Jo-In/MIT meeting on Exploring Common Approaches to Corporate Accountability and Workers Rights, July 10-11, Massachusetts Institute of Technology, Cambridge.
- 25 Adam et al. 2005: 7
- 26 *Stern*, 2002: 16
- 27 *MSN*, 2004

- 28 *MSN* 2001.
- 29 North India research (Factory C – Information on Social Auditing – Complaint mechanism)
- 30 Laric, 1999; Brown, 2001; O'Rourke, 2001; Esbenshade, 2004: 90-2
- 31 Esbenshade, 2004: 90-1
- 32 *Stern*, 2003: 3
- 33 Brown, 2001
- 34 Ascoly et al. 2001
- 35 *Stern*, 2002: 4
- 36 Esbenshade, 2004
- 37 OECD, 2001: 9
- 38 O'Rourke, Dara, 2002
- 39 Deutsche Bank, 22 October 2004
- 40 Keusch et al, 2002
- 41 SGS, 2005: 36
- 52 Verité website: <http://www.verite.org/>
- 43 For more information on GMIES see: <http://www.gmies.org.sv/gmies/quees.htm>. For more information on COVERCO see http://www.coverco.org/eng/about_us/#What.
- 44 Personal conversation with Francois Beaujolin
- 45 It is not clear, however, how many of these audits are taking place inside the garment industry.
- 46 Company website, http://www.csc-online.com/faqs/container_faqs.shtml#
- 47 Esbenshade, 2004
- 48 O'Rourke, 2002: 196
- 49 <http://www.verite.org/services/description.htm>
- 50 FLA Annual Public Report 2003, FLA website
- 51 WRAP newsletter, January 2005
- 52 FWF, 2002
- 53 World Bank, 2003: 18
- 54 *MSN* 2002/2003
- 55 Adam et al., 2005: 4
- 56 OECD, 2001: 10
- 57 For example, a "neutral test" might fail to notice the various subtle forms of discrimination, including auto-discrimination (Bendell, 2001: 25).
- 58 It is worth noting that some auditing firms find transparency requirements hard to accept. Verité, the first organisation accredited to monitor for the FLA, has recently pulled out, reportedly due to new requirements to publicly publish reports that conflict with their commitment to client confidentiality.
- 59 The names of the suppliers are removed
- 60 For a full discussion of the BSCI see Merk and Zeldenrust, 2005
- 61 This in comparison to MSIs: Social Accountability International publicises the names and addresses of certified factories on its website, the B SCI keeps the information on the results of monitoring internal. The Fair Labor Association provides the following information:
 - ▷ name of the FLA member company whose supply factory is being audited;
 - ▷ nature, size, and country/region of the facility;
 - ▷ identity of the external monitoring organisation;
 - ▷ date and length of the external monitoring visit;

- ▷ summaries of areas of compliance and non-compliance with the FLA code; and
- ▷ summaries of the remediation instituted and the status of the remediation (MSN, 2000, Codes Memo Update, 11).

- 62 <http://www.wrapapparel.org>
- 63 Terry Collingsworth cited in MSN, 2002
- 64 KarstadtQuelle website (18/8/2005)
- 65 Informal interviews with members of certification schemes and auditing industry
- 66 *South China Morning Post* (2000) December 18
- 67 The sources preferred not to be named
- 68 Mamic, 2004: 205
- 69 Ascoly and Zeldenrust, 2003: 4
- 70 ETI conference report 2003
- 71 see CCC et al., 2005; Merk 2005a
- 72 Simon Zadek (AccountAbility) cited in Ascoly, Nina (2003).
- 73 World Bank, 2003: 2-3
- 74 Santoro, 2003: 423
- 75 The WFSGI has, in the last year, made some moves to improve its performance in terms of promoting a sectoral approach across the sportswear industry, partly in response to the Play Fair at the Olympics campaign. It is too soon to say, at this juncture, however, whether it is in a position to deliver much in this area.
- 76 For more information on this project, see www.jo-in.org

“I have been working [here] for more than a year. Auditors visit the factory but there is no visible change in our working conditions [...] I have been having a constant leg pain since I joined. I have complained to the supervisors but have not got time off to see the doctor.” Worker, factory D, north India, producing for Wal-Mart, Kellwood and Sears

“[Supervisor’s name] is present at the time of the interview so we get to know who was interviewed and what was asked. We hold meetings with the workers, train them, before the audit. We tell them what may be asked and what should be answered.” Manager, Factory A, north India, producing for BCL, Saki and RCC

“No worker who had met the social auditor could be identified. According to the information collected...supervisors were interviewed by the social auditors.” Factory A, producing for BCL, Saki and RCC

“I propose that if social organizations, like yours, trade unions and the inspectors of the buyers audit together, things for the workers may change. But my fear is that when and if that happens, at the time of the inspection the employers will lock their units and proper auditing will be made impossible. The system needs to be changed.” Md Ateeq, President, Delhi Leather Karigar Sangathan Trade Union, India

