

# Improving companies' performance on labour issues in China

The ETI Conference would not have been complete without at least one session on improving companies' performance on labour issues in China. A large and growing proportion of northern companies relies heavily on China to supply manufactured goods, even though China has proved to be a particular challenge when it comes to applying international labour standards. This chapter brings together the key issues, experience and opportunities discussed at two workshops and one plenary session on this subject. It relates the experiences of Dara O'Rourke (University of California), Han Dong Fang (China Labour Bulletin<sup>5</sup>, Hong Kong), Monina Wong (Hong Kong Christian Industrial Committee<sup>6</sup>) and ETI.

## 7.1 Background

There are many serious and widespread labour problems in China, such as workers' lack of freedom to organise, poor wages and a poor record on health and safety. And there are also substantial and specific institutional, legal and political constraints to improving labour conditions. But looked at another way, China also presents an opportunity for ethical sourcing. Given its gargantuan status as a global supplier, most supplying countries are in direct and fierce competition with China. If sourcing companies can 'get it right' in terms of ethical sourcing in China, this will be an important strategic step in terms of setting standards globally on labour practices.

### 7.1.1 Key labour rights/code violations

Violations of minimum international labour standards are found in many factories in China. Widespread problems include:

- legal and other barriers to freedom of association (see below)
- excessive working hours

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5. The China Labour Bulletin (CLB), based in Hong Kong, is a monthly bulletin published in both Chinese and English and addresses labour issues and trade union rights in China. CLB also runs an on-line resource centre for Chinese workers.

6. The Hong Kong Christian Industrial Committee (HKCIC), part of the Hong Kong Christian Council, was set up in response to widespread suffering of workers in Hong Kong in the 1960s and aims to empower workers to fight for their own rights. HKCIC serves as a watchdog for government policies, provides direct services to workers and their families, and promotes an independent trade union movement.

- poor wages
- poor health and safety standards: there has been a string of industrial tragedies resulting from inadequate safety measures in workplaces
- harassment of workers, including sexual harassment
- child labour.

## 7.2 Challenges to improving labour conditions

### 7.2.1 Legal and institutional issues

**Lack of free trade unions.** Chinese law does not permit the establishment of free trade unions. Workers are allowed to form or join 'trade unions', but any union is legally required to register with and be affiliated to the official state union, the All China Federation of Trade Unions (ACFTU). Once registered, the union's activities are subject to monitoring by ACFTU. In practice, this means union activities are seriously restricted. These legal restrictions pose a serious and fundamental challenge to improving working conditions on a sustainable basis in China.

**Poor enforcement of labour law.** Despite the existence of strong labour legislation covering issues such as working hours and health and safety, enforcement is weak. For example, a coal mine reported unsafe by the government in April 2003 was charged a small fine at the time – a penalty that was insufficient to galvanise management into making any significant changes. An explosion at the mine one month later killed 86 people.

**Flexible/inconsistent interpretation of the law.** For example, businesses can apply for permits allowing them to extend working hours above the legal maximum, albeit on a short-term basis. Local government's inconsistent interpretation of the law results in confusion for workers, factory managers and auditors.

**Close relationships between factory managers and government officials.** It is not uncommon for factory managers to have reciprocal 'helpful' relationships with local government officials, leading to officials turning a blind eye to violations of labour law.

**Employers have little knowledge of or respect for national law.** With many employers having little knowledge of labour legislation, sourcing companies aiming to implement labour codes have to work with suppliers who are poorly informed about labour issues and standards. Where suppliers are aware of legislation, many flout the law and practices such as double book-keeping and keeping falsified payroll records are widespread.

**Permit laws limit worker movement.** Under Chinese law, police have the right to incarcerate any rural resident living in an urban area if they are not in possession of an employment contract from a city factory. This increases worker insecurity and vulnerability.

**Weak presence of civil society organisations/NGOs.** There are few independent NGOs or civil society organisations and many organisations known as 'NGOs' are in fact government-run. This reflects the current and recent political climate. There is a stronger presence of independent NGOs and trade unions in Hong Kong, but they may not be aware of local issues in export manufacturing areas and many factories and government officials perceive Hong Kong-based NGOs and trade unions as a threat to their authority.

### 7.2.2 Management responses to codes

**'Just-in-time' production.** In response to short lead times and other related purchasing practices of their customers, many factory managers have modified production practices to meet these demands. Managers delay finishing orders in case there are last-minute alterations, compressing production schedules to minimise wastage. For workers, the result is even longer working hours, often at short notice and without choice.

**Falsified records.** In China, factory managers frequently falsify records when they know that they cannot finish an order without violating code provisions. Drilling workers to give false information to auditors, and doctoring records on overtime, child labour and sub-contracting of work to factories with extremely poor labour standards, are only some examples.

**Little interest in long-term change.** Partly as a result of unstable relationships with sourcing companies, many factory managers are only interested in 'passing' audits, rather than implementing changes of real benefit to workers. For example, rather than supporting worker participation, the management of one factory requested that worker education be limited to technical issues such as correct mask application.

*"We ask the workers, 'Does it hurt your back when you have to sit sewing for 14 hours a day?' And usually they will say 'We are accustomed to it already...life in factories is like this.'"*

MONINA WONG, HKCIC

### 7.2.3 Characteristics of the labour force itself

**Fatalism:** NGOs working in China have found that most workers have developed a fatalistic view of working conditions. Faced with job insecurity and precarious conditions, most workers nevertheless feel unable to fight against these, often saying that they "are accustomed to it".

**High worker turnover.** Some workers choose to leave their jobs when circumstances become unbearable; others move from contract to contract. In both cases, the benefits of any training or other efforts to boost worker confidence, develop worker representation or increase workers' knowledge of labour rights, are difficult to sustain. In turn, high worker turnover discourages employers from investing in training the workforce.

## 7.3 Case Study 1: China capacity building project for occupational health and safety

### Case study 1: China capacity building project for occupational health and safety

Health and safety (HS) is one area where companies, working with other stakeholders, have had considerable success in making improvements in China. Many see HS as a good entry point into working on labour issues in China. Sourcing companies feel they have greater experience and a stronger influence over HS issues compared to other code areas, and suppliers are also more likely to see compliance with HS standards as adding value to their business. Moreover, the Chinese government is displaying increased interest in HS issues, not least because accidents have damaged the reputation of Chinese industry.

### Case study 1: continued

The aim of the *China capacity building project for occupational health and safety* was to build capacity for identifying and resolving HS problems in Chinese factories through a joint strategy. The project was co-ordinated by the Labor Occupational Health Program at the University of California at Berkeley, and the Maquiladora Health and Safety Support Network. Participant stakeholders included workers as full active members, supervisors, factory managers, local labour rights groups, international footwear manufacturers and occupational health professionals. A full list of stakeholders is provided below.

#### Participating stakeholders:

**Trade union organisations:** Hong Kong Confederation of Trade Unions

**NGOs:** Asia Monitor Resource Center, Chinese Working Women's Network and Hong Kong Christian Industrial Committee

**International brands:** Adidas, Nike and Reebok

**Guangdong factories:** Yue Yuen, Pegasus, Kong Tai Shoes

**Technical support organisations:** Labor Occupational Health Program – Berkeley, Maquiladora Health and Safety Support Network, Massachusetts Institute of Technology and the Hong Kong University of Science and Technology

**Workers:** in the three factories.

#### Project activities

The project involved organisational meetings, needs assessments, curriculum development, health and safety training, HS committee support and project evaluation.

The training, conducted in Mandarin Chinese and designed specifically for shop-floor workers and supervisors, included role play, educational games and some technical lectures. The objective was to increase worker-management communication and to facilitate their thinking around production process issues.

#### Outcomes

The evaluation of the project found increased knowledge, identification and resolution of HS issues. The committees, young but functioning, increased the capacity and knowledge of participants, specifically workers, and also improved dialogue between stakeholders. However, the committees faced many challenges similar to those pinpointed by a separate study conducted by the Hong Kong Christian Industrial Committee. Challenges included:

- Lack of support from fellow workers.
- Working difficulties between management and workers.
- Poor support from management, with insufficient protection for the committees to carry out their responsibilities. This included committee members encountering difficulty operating during peak production time, which was considered a higher priority by management. Management were also slow to change.
- Poor exchange with and support from brands after training was complete.
- Time-consuming work – on average the committees put in 200 hours a month between seven people (6.75 hours a week per person).
- High member turnover rate. Many members left the committees because the hours spent on committee work meant that their pay suffered (they were paid piece rates), and because they felt that the work of the committees was often driven by management.

These challenges raised questions about how to make the HS committees sustainable, how to facilitate broader worker participation and how to scale up this initiative.

## 7.4 Case Study 2: ETI China Project

### Case Study 2: ETI China Project

The ETI China Project is a tripartite forum for ETI members to share experiences of working in China and to work collectively on shared problems. The project builds on lessons learned from the earlier ETI experimental project, which tested different approaches to monitoring labour practices in China.

After compiling a basic guide for companies, based on members' experiences, on how to improve labour conditions in China, the project is now developing a two-phased engagement programme, initially addressing HS issues, but with the intention of moving on to addressing democratic worker representation. Setting up HS committees is seen as an entry point for increasing worker awareness and representation and addressing other labour rights. The draft work plan for this programme is shown below.

**TABLE 7.1 ETI China Project – draft work plan**

	<b>Phase 1</b>	<b>Phase 2</b>
<b>Preliminary work</b> May–Dec 2003 <ul style="list-style-type: none"> <li>Group awareness raising, relationship building in Hong Kong and China</li> </ul>	Jan 2004 onwards <ul style="list-style-type: none"> <li>Health and safety</li> </ul>	Variable following phase 1 <ul style="list-style-type: none"> <li>Democratic worker representation</li> </ul>
<b>Aims</b> <ul style="list-style-type: none"> <li>Improve China/Hong Kong knowledge of ETI and vice versa</li> <li>Develop partnerships</li> </ul>	<b>Aims</b> <ul style="list-style-type: none"> <li>Establish elected worker HS committee and work plan</li> <li>Develop closer relationship with suppliers and workers</li> </ul>	<b>Aims</b> <ul style="list-style-type: none"> <li>Establish elected worker representation in factories</li> <li>Commence industrial relations negotiations towards Base Code/Chinese legal accountability</li> </ul>
<b>Activities</b> <ul style="list-style-type: none"> <li>Meetings at ETI conference</li> <li>Develop detailed draft guidelines for the Base Code in China</li> <li>Seminar with trade associations</li> <li>Benchmarking groups of suppliers to discuss code issues</li> <li>Legal awareness-raising with workers and suppliers</li> <li>Engaging with relevant organisations in China</li> </ul>	<b>Activities</b> <ul style="list-style-type: none"> <li>Worker and management training</li> <li>Monitoring HS incidents</li> <li>Improvement planning and implementation</li> <li>Post improvement monitoring</li> </ul>	<b>Activities</b> <ul style="list-style-type: none"> <li>Train workers in representation and negotiation</li> <li>Train management in modern industrial relations</li> <li>Train both in law and rights</li> <li>Facilitate elections</li> </ul>
<b>Outputs</b> <ul style="list-style-type: none"> <li>Partnerships and increased mutual awareness</li> </ul>	<b>Outputs</b> <ul style="list-style-type: none"> <li>Effective ongoing worker involvement in HS management</li> <li>Measurable improvements in site HS policies and practices</li> <li>Report of learning</li> </ul>	<b>Outputs</b> <ul style="list-style-type: none"> <li>Worker ability to negotiate and self represent in factories</li> <li>Report of learning</li> </ul>

## 7.5 Moving ahead

Speakers and participants identified a wide range of practical measures relevant to code initiatives and sourcing companies engaging in China. These are summarised below.

### 7.5.1 Health and safety initiatives

Participants highlighted the need for the following:

- **Promoting greater autonomy for HS committees**, so that they are in a stronger position to raise issues with management.
- **Supporting increased worker involvement** in tackling 'technical issues'. Although many workers will not have sophisticated technical expertise, experience shows that workers are often able to spot difficulties overlooked by management, auditors or 'experts', and are able to identify appropriate solutions.
- **Increasing commitment**, especially from sourcing companies, to put pressure on the Chinese government and factories to improve HS monitoring.
- **Involving all stakeholders** in identifying goals and processes.
- **Continued support for programmes that build local capacity**, use action-based training, support NGO involvement and place worker participation at the centre of the process.

### 7.5.2 Supporting workers

A recurring theme was that workers need to be viewed as agents of their own change, and therefore the role of sourcing companies and other external players should be to **support workers to help themselves**. This means avoiding well-intentioned 'paternalism' that strips workers of their autonomy.

Continued work with the government, sourcing companies and suppliers was seen as vital. However, participants felt it was important to redress the disproportionately low distribution of resources allocated for worker support. It was recognised that a worker-driven model would take time, but that this was the direction in which efforts needed to be directed. Steps involved include:

- **Providing a means for workers to organise**: efforts to engage workers should provide a means whereby workers can develop the necessary confidence and gain access to information about their rights.
- **Developing worker education**: to include information on their rights as workers, and on how to interpret relevant laws and use them to their benefit. Education should also include training workers to be able to prioritise and present labour issues.
- **Encouraging worker engagement with the Labour Bureau**: the Labour Bureau, the government department responsible for enforcing labour legislation, can provide assistance to workers on various labour issues, in particular on health and safety.
- **Supporting workers before and after elections of worker representatives**: this is a large task that requires further research and continued support.

### 7.5.3 Engaging with factory management

Participants felt that the following need to be addressed when engaging with factory management:

- **introducing incentives** for factory managers to improve labour conditions;
- **building the capacity of management** to improve their confidence at effecting change, and to improve their ability to develop more effective labour management systems;
- **presenting the business case** for addressing workers' rights, in order to encourage improved conditions and production planning;
- **encouraging longer-term worker contracts.** This will reduce mobility, increase worker confidence and their ability to act on their rights.

#### 7.5.4 Engaging with government

Government structures in China are complex, with considerable differences in priorities between different levels and departments. Foreign companies seeking to effect change must develop a sound understanding of these differences and engage strategically with different parts of the government structure. Specific channels of engagement suggested by participants included:

- **Develop closer links with national policy makers** in order to address labour rights issues and facilitate changed views. Support the percolation of this work down to middle government officials who have a direct impact on factory management.
- **Support recent labour rights legal reforms** and continue work to encourage the strengthening of enforcement and a process which advances good governance. Recent legislation includes working hour maxima and the right to resign from dangerous work.
- **Facilitate effective government inspectorate:** build on the fact that government inspectorates don't like to fail as it reflects badly on their work. There is a need to work with the government to change its top-down structure of enforcement and to engage lower levels of government.
- **Identify incentives** which facilitate local government interest in labour standards.

#### 7.5.5 General/other suggestions

- Ultimately, sourcing companies need to find ways of addressing purchasing practices that are damaging to workers, and in particular need to explore how longer-term commitment can be given to suppliers.
- Develop clear understanding and communication of relevant trade laws.
- Explore and develop drivers to convince suppliers to comply with codes.
- Explore problems with audit checklists and 'compliance only' approaches to auditing;
- Set realistic expectations of what is achievable.
- Plan for continuity.
- Continue researching and disseminating the business case for improving workplace practices.
- Establish relationships with other sourcing companies buying from the same factory, aiming to develop a joint approach with consistent priorities and strategies.
- Draw on experience of multinationals investing in China and the alliances they have set up to address issues such as counterfeiting.

### Further information

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**Presentation slides** from Dara O'Rourke and ETI are available from the ETI Secretariat

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Szudy, B, O'Rourke, D, and Brown, G (2003) 'Developing an action-based health and safety training project in southern China'. In *International Journal of Occupational and Environmental Health*.

**This article describes and assesses the activities of the *China capacity building project for occupational health and safety*.**