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Codes Don't Work

After the anti-sweatshop movement grew on campuses a decade ago, a framework arose for resolving protests and making it possible for colleges to continue to enjoy revenue from licensing their logos for use on clothing and other products.

Colleges would pledge to deal only with companies that agreed to certain ethics codes for foreign factories. Colleges would join groups to monitor both companies and their foreign contractors. In theory, student activists in the United States could feel that they had created a system of checks and balances to prevent abuse of workers at a factory halfway around the world. Also in theory, college administrators could cross this issue off the list of those that might spark sit-ins or hunger strikes on their quads.

Say good-bye to those theories.

The Worker Rights Consortium — whose 158 members include Ivy League institutions, big time athletic schools and the entire University of California system, among others — has been working on revising the code of conduct to which it would hold manufacturers. There has been some attention paid to the efforts to toughen the code, for example, by requiring certain percentages of factories to have unions.

But less noticed has been a dramatic change in the group's philosophy: Its leaders are saying that the entire code approach didn't work — and can't work. Tweaking the code alone isn't enough, they say. They now have 30 colleges on board with a new approach, in which companies would be asked not only to adhere to codes of conduct, but to agree to pay foreign factories enough money to actually comply with those codes.

Groups that represent clothing manufacturers are deadset against this new approach, and are trying to persuade colleges not to go along. They see this approach as contradicting market economics. But student activist groups — many of whom have insisted that their colleges abide by the Worker Rights Consortium guidelines — are planning to organize protests if colleges don't sign on.

"We're planning major efforts around this issue," said Zach Knorr, international campaigns coordinator of Students Against Sweatshops and a recent graduate of the University of California at Riverside. He said that the approach that colleges previously endorsed, and which led student groups to call off protests, amounted to "committing to codes of conduct and then not taking the steps necessary to have them enforced." Students, he said, care about this issue enough that they want "more than a set of abstract principles."

Those principles have been central to the sweatshop issue for years now. The Worker Rights Consortium's principles include bans on child labor and forced labor, the right to overtime pay,

freedom of association, and basic nondiscrimination and health and safety protections. There are also references to wages, although there is no specific minimum worldwide.

While colleges and clothing companies have agreed on such measures, it has become apparent that they alone won't work, said Scott Nova, executive director of the consortium. He said that the problem is that factories in developing nations are desperate for the work. So if an American clothing company with a contract to produce thousands of sweatshirts with a college logo seeks bids, the factories will bid low. Even when that company includes a code of conduct as a requirement, the factories will claim that they will comply, get the contract (at prices that would make it next to impossible to comply with the code) and assume no one will notice. Because the contracts are short-term, he said, even if someone did notice, the contract would be over soon enough.

"The basic underlying supply chain model of jumping from factory to factory, of pushing prices down, is simply incompatible with a reasonable level of worker rights," said Nova.

While the codes adopted by his consortium were supposed to bring factories producing logo clothing into compliance with basic levels of rights, there has been next to no progress in the last five years, he said. Between 2,000 and 3,000 factories outside the United States are involved in producing clothing with college logos, he said, and only about 8 of them are in compliance with the consortium's standards.

Nova said that the solution is to require manufacturers to not only limit themselves to factories that will comply with a code of conduct, but for them to pledge to pay a "reasonable" amount to assure compliance.

The language defining this expanded requirement has been going through various drafts, trying to get as many colleges as possible comfortable with it. A new version is about to be released — and will include both the reasonable pricing requirement and also a requirement for longer terms of contracts between companies that sell clothing and the factories that produce the merchandise.

James Wilkerson, director of trademark licensing and store operations at Duke University, has been coordinating discussions with universities about the new guidelines and said that at least 30 are on board, including many major universities. He said that the evidence was too compelling that the existing system is not having the impact foreseen when the codes were created.

"To tell a factory to comply with a certain labor provision, but not provide it with the income necessary for it to comply, is absolute folly," he said.

He acknowledged that companies that produce college clothing don't like the direction in which the discussions have moved. But he said that there was a critical mass of universities committed to the principle and that he expected their number to grow.

The Fair Labor Association also works on the sweatshop issues, but its members include clothing companies. On the key issue of whether the current system is working, the association agrees with the Worker Rights Consortium. "You can't audit a factory into compliance," said Auret van Heerden, president and CEO of the FLA, echoing the language used by the WRC.

However, van Heerden said that the WRC's estimate that only eight factories are in compliance with codes of conduct was "a gross underestimation." He also said that many factories recognize that if they overwork their employees and don't pay overtime, they may lose money through more worker errors, so their own incentives prompt them to respect worker rights.

Businesses will oppose any attempt to link contracts with colleges to pricing offered to factories, he said. "They are proposing a system that is completely unworkable," he said. "It doesn't take into account the nature of the market. Agree with it or not, it's a market economy."

So if colleges can't be assured that factories producing clothing with their names offer basic rights to workers, and the companies don't like the WRC approach, what should be done? The problem can be fixed by training factory managers on worker rights, van Heerden said. He said that in his travels to factories that produce college items in developing nations, he is struck how few of them have trained human resources professionals.

"Just about every factory I visit doesn't have an HR official in charge of hiring," he said. "Someone isn't trained, so they ask people about trade union affiliation or pregnancy status or something else inappropriate. But she doesn't know any better." If factory officials are trained, he said, they will start following the codes of conduct. "It's worked in lots of places," he said.

— [Scott Jaschik](#)

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