



# How to Use Codes of Conduct to Help Secure Fundamental Worker Rights

- Objectives
- Materials Needed
- Key Questions

## OBJECTIVES

AT THE END OF THE SESSION, PARTICIPANTS SHALL:

- know the origin and purpose of codes of conduct;
- know how to identify credible and effective codes;
- know how to use effective codes, like SA8000, to help secure fundamental worker rights; and
- have a clear understanding that codes, however good, can never be a substitute for fair national labor legislation, enacted and effectively implemented by governments or for international labor standards enforced around the world or for effective trade unions.

## MATERIALS NEEDED

- The ICFTU Basic Code of Labor Practice
- The Levis Strauss & Co. Global Sourcing and Operating Guidelines
- GAP Inc. Code of Vendor Conduct
- SA8000 Standard
- Appeal and complaints procedure under SA8000 standard

## KEY QUESTIONS

- What is the purpose of codes of conduct?
- How can codes help workers to understand their fundamental rights better?
- How can workers use codes to fight for fair labor legislation and its effective implementation?
- How can workers use codes to strengthen the bargaining position of their trade union?
- Some NGOs fear that codes can retard the growth of trade unions. What do you think?
- Most international trade union organizations think that codes complement the efforts of trade unions to secure the fundamental rights of workers. What do you think?



- Introduction
- Key Elements of a Credible Code
  - 1. Content

## INTRODUCTION

Codes of conduct, as we have seen, have been formulated primarily to ensure that companies respect fundamental worker rights. Mostly, they are based on international standards and they aim at improving working conditions around the world. However, in order to achieve this objective, all parties involved, i.e. consumers, NGOs, trade unions, workers, companies, social accountability auditors, governments etc., must effectively play their respective roles.

In this section, we will examine how we can use codes of conduct, especially SA8000 which is most comprehensive, to help secure our fundamental rights and improve our working conditions.

A reminder, though. Codes of conduct, however good, are no substitute for fair national labor legislation, enacted and effectively implemented by government, nor for international labor standards enforced around the world. Neither can they be a substitute for the right of workers to organize and to bargain collectively with their employers. Nor are they shortcuts to more equitable wages and better working conditions. *At best, codes of conduct are a handle that workers and their representatives can use to help enforce their rights, as part of the mechanisms of normal industrial relations.*

## KEY ELEMENTS OF A CREDIBLE CODE

Experts on codes of conduct say that a credible code has five key elements. They are as follows:

### 1. CONTENT

#### A CREDIBLE CODE SHALL:

- be based on the core conventions of the ILO;
- provide for freedom of association and the right to organize and free collective bargaining;
- prohibit child labor, forced labor and discrimination;
- provide for the payment of a living wage;
- set limitations on the normal hours of work and overtime hours;
- ensure adequate health and safety measures;
- ensure equal pay and benefits for men and women for work of equal value;



- Key Elements of a Credible Code continued
- 2. Implementation
- 3. Monitoring

- prohibit discrimination in any form;
- promote equality of opportunity and treatment;
- prohibit corporal punishment, mental or physical coercion or verbal abuse;
- prohibit sexually coercive, abusive or exploitative behavior; and
- provide job security.

## **2. IMPLEMENTATION**

- Top management shall define the company's policy for social accountability and labor conditions and ensure that it is understood by everyone involved, and implemented throughout the chain of production, including suppliers and sub contractors.
- A top management representative shall be appointed to ensure that the requirements of the standard are met.
- Non-management personnel shall choose a representative, from their ranks, to facilitate communication with senior management on matters related to the standard.
- The company shall ensure that all its employees, from top to bottom, are given adequate training to ensure the successful implementation of the standard.
- Top management shall periodically review the company's policy and management systems and effect amendments where appropriate, with a commitment to continual improvement.

## **3. MONITORING**

- A system of formal internal monitoring, with regular examination of the application of the code, carried out by staff trained and designated for that purpose, shall be put in place.
- All personnel shall undergo training to understand the code and its implication, to ensure its effective application and monitoring.
- The internal monitoring system should cover all products manufactured, supplied or distributed by the company concerned.
- Monitoring methods should be transparent, documented and effectively communicated to management, workforce and stakeholders.



■ Key Elements of a Credible Code continued

4. Independent Verification

- The monitoring system should provide feedback into management decisions to ensure a process of continuous improvement.
- Once the system is in place, results should be disclosed to key stakeholders in a way that allows performance to be measured.

**4. INDEPENDENT VERIFICATION**

- Self-assessment, no matter how well applied, will not deliver full credibility.
- Only independent verification will confer legitimacy and credibility.
- In reality, no company can police and judge itself, when it itself is the potential offender.
- The verification system would cover all operations of the company concerned, its contractors and sub-contractors and including home workers.
- Those carrying out the verification would have access to all parts of the production chain and to all company records.
- The verification process would include discussion with management, trade unions and workforce, examination of company data and observation of the plant.
- The verification exercise would involve discussion of local issues with trade unions, NGOs, community groups, etc.
- That discussion would be renewed at the conclusion of the verification exercise.
- The verification process should be transparent, documented and effectively communicated.
- Verification methods including spot-checks, interview and sampling technique and progress reports should be made public, without breaching commercial confidentiality.
- Any certificate granted would be for a limited period and subject to withdrawal for breaches of the code.
- The verification process must incorporate an appeals and complaints procedure, having local access and providing a confidential means for workers, their unions and other interested parties to oppose certification or to lodge complaints against the company concerned.



- Key Elements of a Credible Code continued
- 5. Impact Analysis

- As the whole purpose of codes of conduct is to improve performance, a systematic approach to righting faults needs to be part of the verification process.
- Verification should be carried out by professionals working to clearly defined independent verification standards and trained in skills incorporating factory inspection, accountancy, health and safety, as well as detection.
- Practitioners would cease to be recognized if their work was inadequate or if they were corrupted.
- Probably the best way of promoting effective independent verification is to create a certification agency or foundation with the active participation of business, labor and human rights' groups which would establish independent monitoring standards and accredit suitably qualified certification firms or units.
- The agency, besides coordinating the appeals and complaints procedure, would oversee the performance and review the activities of such firms or agents on a regular basis.
- Trade unions should not be involved in monitoring, unless the code is the subject of a collective agreement, or they have established specialist units for the purpose.
- Neither should NGOs be involved, unless they too have established specialist units for the purpose.
- Both trade unions and NGOs should be actively involved in briefing the verifiers, in monitoring their work and in raising complaints through normal industrial relations practice.

## 5. IMPACT ANALYSIS

- A credible code of conduct will make provisions for periodic impact analysis.
- Such impact analysis will reveal the code's weaknesses and strengths, and pave the way for further improvements in effectiveness.



■ ITGLWF'S  
position on codes

## ITGLWF'S POSITION ON CODES

In a speech on the trade union experience on corporate codes of conduct, in Ottawa in February 1999 Neil Kearney, General Secretary of ITGLWF made the following observations:

- Just as one swallow doesn't make a summer, neither does a code of conduct, on its own guarantee respect for workers' rights.
- Much of the evidence to date suggests that the vast majority of unilaterally adopted codes of conduct are little more than a sham; a corporate fig leaf for exploitation. Most such codes are inadequate in content and scope, lie unimplemented and unmonitored and are not open to independent scrutiny.
- These new corporate codes of conduct are in reality the privatization of the application of international labor standards and the implementation of national labor law. They are a reflection of the failure of governments and the international institutions such as the ILO to protect workers as they seek to earn a living.
- Our trade union experience is that corporate codes of conduct can be no substitute for international and national labor regulations enacted and enforced in every country. However, they may be the catalyst that will force governments to examine new mechanisms for the enforcement of workers' rights, regardless of the location of employment.
- Codes of conduct are no substitute either for the right of workers to organize themselves into trade unions and to bargain collectively. Nor are they a short cut to more equitable wages and better working conditions.
- At best, codes of conduct are a handle that workers and their representatives can use to help enforce their rights as part of the mechanisms of normal industrial relations. Where these mechanisms are lacking, for example, where freedom of association is not permitted codes, however well drafted, will have little impact.
- The international trade union movement believes that credible codes of conduct with effective operating mechanisms, can complement and help drive the international and national regulatory system.



■ ITGLWF'S  
position on codes  
continued

- Any code, to be credible and effective, must be based on the core Conventions of the ILO, permit freedom of association and the right to bargain collectively and outlaw prison or slave labor, child labor and discrimination. In addition, it must provide for the payment of a living wage, security of employment and for working conditions that are healthy and safe, set limitations on hours of work and prohibit disciplinary procedures involving physical or psychological abuse.

In another speech at SAI's conference in Brussels in December 1999, Neil, who is also a member of the SAI Advisory Board, made the following observations:

- There is broad trade union support for SA8000, but this support is not without questions.
- SA8000 is highly dependent on social auditors for its success. This is a relatively new profession and the results to date have been somewhat mixed. We need to maintain vigilance to see how such auditors assess issues like freedom of association, the question of the living wage and the situation in China.
- Some claim that SA8000 is too demanding and that companies cannot even aspire to meet its requirements. A standard should not be set at a level every company has already reached; rather it should be aspirational.
- However, on balance, SA8000 is the best of the bunch of multilateral corporate codes of conduct now in existence. It deserves support.

## EXERCISE

What is your union's stand on corporate codes of conduct?

If your union hasn't got an official position on codes, what is your suggestion?





- How to use codes to help secure workers' fundamental rights

## HOW TO USE CODES TO HELP SECURE WORKERS' FUNDAMENTAL RIGHTS

Keeping in mind that workers' demands and grievances are best taken up by well-organized and strong trade unions, workers and their representatives can use codes as a handle to help secure their rights. Here are some recommendations:

- Find out whether your company subscribes to a code of conduct.
- If so, get hold of a copy of the code and examine it to see whether it is a credible one. (Remember the key elements of a credible code?)
- Determine whether the code would ensure workers their fundamental rights and improve their working conditions, if properly implemented. Unless the code is credible and offers workers benefits, similar to or better than those provided for in the national labor legislation and international standards, it is not worthwhile fighting for its implementation.
- Look out for any breach of the code, on the part of management. Here is what happened in a garment factory in Indonesia (next page):



- Example: Indonesia
- Exercise

## EXAMPLE: INDONESIA

Some garment workers in Indonesia found out that their company was supposed to respect a code which banned forced overtime. They told management that they knew of the code and threatened industrial action. The company backed off and forced overtime did come to an end. This success helped the workers show other workers the value of organizing together.

SOURCE : WOMEN WORKING WORLDWIDE

## EXERCISE

What are the reasons for the success of the Indonesian garment workers?

In case the workers had failed in their initial attempt to get rid of forced overtime, what would you suggest that they do to continue with their campaign?



*The Indonesian experience shows us that workers need to have a thorough knowledge of the company's code of conduct. It would help tremendously if workers also understand the provisions of their national labor laws and international standards. Forming study groups and learning about codes of conduct, national labor legislation and international standards, etc. is one way to empower workers to take charge of their situation.*



- National And International Links
- Example: Nicaragua
- Exercise

## NATIONAL AND INTERNATIONAL LINKS

**F**orging national and international links with trade unions, NGOs and consumer campaigns which are active on worker rights, will send a powerful message to governments and companies and compel them to say yes when they actually want to say no to workers' legitimate concerns. Here is what a group of women workers did in Nicaragua:

### EXAMPLE: NICARAGUA

**S**andra Ramos works with the women workers in the assembly factories ('maquiladoras') in the free trade zones of Nicaragua. She explains how the women workers developed a Code of Ethics as part of their campaign for workers' rights. Unlike many other codes, its demands reflect women workers' own concerns.

*"In 1993 we started a campaign around the rights of women workers in the free trade zones. We knew that they had little protection for their rights and that it was important to organize the women themselves in order to claim those rights.*

*A lot of women had lost their jobs. A lot of women found it difficult to make use of their rights. We decided to organize at the level of Central America and we formed the Central American Network in Solidarity with Women Workers in the 'Maquilas'.*

*In 1997 we initiated a systematic campaign. It included press and radio. We collected 30,000 signatures from the public. We worked with the national parliament. We also held a mass meeting where women workers developed a Code of Ethics to include their main demands.*

*But the central aspects were the training courses for the women leaders and the massive information campaign so that the workers would be aware of these demands and use them as instruments to press for their rights.*

*OUR CAMPAIGN WAS CALLED 'EMPLOYMENT YES, BUT WITH DIGNITY'.*

*As a result of all the hard work, on 1 February 1998, in front of an assembly of 500 women workers, the Minister of Labour of Nicaragua signed the Code of Ethics. The next day the owners of all the 23 factories in the zone agreed to comply."*

SOURCE : WOMEN WORKING WORLDWIDE

## EXERCISE

**What have you learned from the experience of the women workers in Nicaragua?**



- Companies Without Codes of Conduct
- Exercise

## COMPANIES WITHOUT CODES OF CONDUCT

What if your company doesn't subscribe to a code of conduct? Can you still use a code to enforce your fundamental rights? The answer is "yes"! This is what you may do, especially if your company is dependent on foreign markets, and there are strong consumer groups concerned with workers' rights in those countries;

- Through your union, bring a copy of SA8000 or a similar credible code to the attention of your company. Emphasize that by getting certified to the code, the company will be assured of uninterrupted market share for their products, as consumers will have no qualms in buying the products, having been assured that they were produced by workers who enjoy fundamental rights.
- If the company doesn't buy the argument, and working conditions are really bad, tell it that your union has enough influence to publicize the situation in the importing countries, with the assistance of consumer campaigns based there, and your ITS. (You may forge links with consumer campaigns in the importing countries with the assistance of your ITS). The company may dare you to proceed with your threat, telling that the workers will lose their jobs, as the company's business volume shrinks.

## EXERCISE

*Most governments of the exporting countries say that consumer campaigns in the importing countries are camouflaged protectionists measures which will harm workers, in the form of jobs loss, in the exporting countries. What do you think?*



- Companies Producing for the Domestic Market
- Exercise

## COMPANIES PRODUCING FOR THE DOMESTIC MARKET

Can workers in companies that only produce for the domestic market, use codes to enforce their fundamental rights? Yes! This is what they may do.

- Publicize the credible codes of conduct, locally and nationally. This can be done by the trade unions. It can't be denied that most people, including workers, don't have much knowledge about codes. Unless people know the contents of codes, they are not going to support them.
- Lobby political parties and politicians. They need to be reminded that credible codes of conduct call for nothing more than the full implementation of international instruments which governments have a moral obligation to uphold. If such activities are carried out intensely and continuously, they may even lead to the passage of legislation incorporating the rights and freedoms enshrined in the international instruments.
- Explain to employers the benefits that they stand to gain when they do business by respecting their workers' fundamental rights and paying them a living wage.

## EXERCISE

**Discuss the following statement:**

***"A code of conduct, however good it is, can never be a substitute for a well organized and powerful trade union".***



- Complaints and appeals mechanisms in SA8000

## COMPLAINTS AND APPEALS MECHANISMS IN SA8000

If a company is certified to SA8000, any **concerned third party** — that is anybody: an individual, an NGO, a Trade Union — can file a **complaint** or **appeal**.

A **complaint** is a formal (usually written) expression of dissatisfaction with some matter related to a certification body (i.e. auditors), an accreditation body (in this case, SAI), or a certified workplace (i.e. a factory).

An appeal is a formal (usually written) expression of dissatisfaction with a *decision* of an accreditation body (in this case SAI) that relates to the certification or accreditation.

Any person can make a complaint to SAI. It can be filed confidentially (without naming the person making the complaint, to protect their privacy), but it should be backed up with **objective evidence** that the workplace is not meeting a particular requirement. An example of this kind of evidence could be the testimony of a worker or workers that they are forced to work overtime with no extra pay, and the corresponding pay stub and punch card that can prove this.

## EXERCISE

### BREAK INTO GROUPS.

Each group identifies a situation at the workplace that violates one of the elements of SA8000.

What evidence would you collect in order to file a complaint?



# Credits

## GLOBALIZATION, WORKERS' RIGHTS & CODES OF CONDUCT How Workers can use codes to further their rights

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