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Sweating the International Garment Industy: A Critique of the Presidential Task Force's Workplace Codes of Conduct and Monitoring System

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"Sweating" the International Garment Industry: A Critique of the Presidential Task Force's Workplace Codes of Conduct and Monitoring System

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I. Introduction

The United States is the largest importer of garments in the world.[1] In this role, it has a responsibility to be a socially conscious importer and manufacturer of clothing. International competition, however, has prompted some U.S. garment makers to circumvent labor laws to reduce costs while maintaining proximity to major markets. Even without this competition, the structure of the garment industry renders abuses of labor laws virtually inevitable.[2]

The White House Apparel Industry Task Force (Task Force) recently developed a voluntary set of standards called the "Workplace Code of Conduct" and the "Principles of Monitoring" (collectively Codes).[3] Unfortunately, the Codes fail to accomplish their purported goal of improving working conditions in the U.S. garment industry. This problem is particularly pervasive in U.S. operations overseas where the ability to enforce U.S.-drafted codes is often challenged.[4] Nevertheless, unless the Codes are revised and

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1. U.S. DEP'T OF LABOR, THE APPAREL INDUSTRY AND CODES OF CONDUCT: A SOLUTION TO THE INTERNATIONAL CHILD LABOR PROBLEM? 11 (1996).

2. *See generally id.*

3. *Report of Apparel Industry Partnership* (visited Apr. 7, 1999) <http://www/dol.gov/dol/esa/public/nosweat/partnership/report.htm>.

4. *See generally id.*

imposed on U.S. corporations operating abroad, the efforts of the Task Force will actually perpetuate the human rights violations that persist in the garment industry.

The globalization of the garment industry, a movement instigated in large part by the ever-increasing demand for reasonably priced clothing in the United States, sparked concern from human rights groups regarding the labor conditions under which such clothing is made.[5] The various causes of this concern include the health and safety conditions in garment factories, wage and hour issues, trade union rights and child and forced labor.[6] The structure of the garment industry makes labor law abuses practically inescapable. It also gives rise to sweatshops that do not pay the federal minimum wage and factories that violate building safety and sanitation laws.[7]

The U.S. garment industry has violated international labor standards with impunity for decades.[8] Manufacturers allow their clothing to be produced by contractors who underpay and mistreat workers, undeterred by an international regime that has little enforcement power.[9] In reaction to these concerns, many U.S. garment manufacturers developed codes of conduct requiring factories with which they do business to comply with legal and ethical standards.[10] Various task forces were also created throughout the years to examine sweatshop industries.[11] The Task Force's recent formulation of the Codes is another manifestation of this movement toward garment industry reform.

The Codes set out a maximum work week and require that employers pay at least the minimum or prevailing wage, respect labor rights, dictate safe and healthy working conditions and crack down on

5. *See* U.S. DEP'T OF LABOR, *supra* note 1.

6. *See id.*

7. *See* Lora Jo Foo, Symposium, *The Informal Economy: The Vulnerable and Exploitable Immigrant Workforce and the Need for Strengthening Worker Protective Legislation*, 103 YALE L.J. 2179, 2185 (1994).

8. *See* Dennis Hayashi, *Preventing Human Rights Abuses in the U.S. Garment Industry: A Proposed Amendment to the Fair Labor Standards Act*, 17 YALE L.J. 195 (1992).

9. *See id.* at 195-96.

10. *See* U.S. DEP'T OF LABOR, *supra* note 1, at 12.

11. *See* Foo, *supra* note 7, at 2181 n.13.

child labor.[12] The Codes will be enforced and monitored by independent external monitors who will ensure that companies comply with prescribed obligations.[13] Despite the good intentions on the part of the Task Force, the quality of the Codes is a matter of grave concern to many human rights groups.[14]

According to Sweatshop Watch, an organization dedicated to improving the working conditions of garment workers, the Codes will do little to alleviate the denigration that now threatens garment workers domestically and abroad.[15] While purporting to provide decent and humane working conditions, the rules suggested by the Task Force for detecting human rights violations and enforcing the proposed standards fail to progress beyond the flawed system in existence today.[16] In fact, these executive measures further entrench the insufficient wages, inhumane hours and lack of accountability that pervade the industry by lending approval to the status quo.[17]

Several prominent human rights and labor groups expressed their disappointment with what they saw as major flaws in the Task Force's Codes.[18] Groups like the Asian Immigrant Women Advocates, California Women's Law Center, Equal Rights Advocates and the San Francisco Human Rights Commission felt that, although the Task Force was a coalition of industry, human rights and labor representatives, the industry representatives failed to formulate an agreement that promised meaningful change.[19] Rather, these organizations felt that the good faith efforts of the human rights and labor groups were not matched by the efforts of the apparel industry representatives.[20]

This Note outlines what the Task Force's Codes purport to accomplish and how these measures exacerbate rather than

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12. *President Clinton Announces Apparel Industry Partnership Agreement* (last modified Apr. 14, 1997) <http://dol.gov/dol/esa/public/nosweat/partnership/announcement.htm> [hereinafter *Clinton*].

13. *See generally* Sweatshop Watch, *Sweatshop Watch's Response to the White House Apparel Industry Task Force Agreement*, Asian Law Caucus (May 19, 1997) (on file with author) [hereinafter *Sweatshop*].

14. *See id.*

15. *See id.*

16. *See id.* at 2.

17. *See id.*

18. *See id.*

19. *See id.*

20. *See id.*

ameliorate the problem of sweatshops. In so doing, this Note exposes the fundamental flaws in these executive initiatives and proposes alternative standards that will have a marked difference on the working conditions of the garment industry. In addition, this Note charts the courses taken by other official codes of conduct aimed at regulating working conditions abroad. This Note also addresses the issue of whether American courts have jurisdiction to prescribe their codes of conduct on U.S. business' foreign operations. Finally, on the basis of legislative paths taken by previous codes of conduct, this Note makes suggestions for the codification of the revised Workplace Codes of Conduct and Principles of Monitoring.

II. Workplace Codes of Conduct: An Overview

Workplace codes of conduct have a history of arising out of good intentions only to be criticized as ineffective. In general, corporate codes of conduct are policy statements that define ethical standards for companies.[21] They operate by "harnessing the power of capitalism to serve socially responsible ends."[22] Most codes require business partners to comply with applicable local laws regarding wages, hours and benefits, and state that the manufacturer/retailer will not do business with contractors who use child, prison or forced labor, or who use mental or physical coercion and do not share a commitment to the environment.[23] Multinational corporations (MNCs), with the help of nongovernmental organizations (NGOs),[24] voluntarily developed such codes to inform consumers about the principles they follow in the production of their goods and services.[25] Corporate codes of conduct usually address workplace issues such as child labor and are seen as part of a broader movement toward corporate social responsibility.[26]

Codes of conduct originated in the early 1970s when MNCs were

21. *See* U.S. DEP'T OF LABOR, *supra* note 1, at 12.

22. Robert J. Liubicic, *Corporate Codes of Conduct and Product Labeling Schemes: The Limits and Possibilities of Promoting International Labor Rights Through Private Initiatives*, 30 L. & POL'Y IN INT'L BUS. 111, 116 (1998).

23. Laura Ho et al., *(Dis)assembling Rights of Women Workers Along the Global Assembly Line: Human Rights and the Garment Industry*, 31 HARV. C.R.-C.L. L. REV. 383, 401 (1996).

24. *See* U.S. DEP'T OF LABOR, *supra* note 1, at 12.

25. *See id.*

26. *See id.*

widely criticized for their behavior in developing countries.[27] Host governments as well as labor organizations often commented that MNCs did not operate in harmony with local economic, social and political objectives.[28] Corporations initially responded to this criticism with the fact that they did not have a social purpose in pursuing their overseas activities.[29]

The perspective of the corporations is beginning to shift. Codes of conduct for international business operations are proliferating as an increasing number of investors, companies and governments are faced with demands to respect human and labor rights.[30] In response to mounting pressure from developing countries and human rights groups, several international organizations developed ethics guidelines to address the conduct of MNCs.[31] Examples of these codes of conduct include the draft U.N. Code of Conduct for Multinational Corporations, the Organization for Economic Cooperation and Development Guidelines for Multinational Enterprises and the International Labour Organisation Tripartite Declaration on Principles Concerning Multinational Enterprises and Social Policy. The multilateral codes of conduct drafted as a result of this movement covered MNC behavior on a range of topics, including labor standards.[32]

The most pressing problem with codes of conduct is enforcement.[33] Generally, the effectiveness of the codes is limited because they usually lack mechanisms of enforcement or provisions regarding the monitoring of business partners.[34] Even if the codes contained such provisions, most would be unenforceable because compliance is voluntary and the codes' standards are not legally binding.[35] However, they do serve as examples of efforts by private groups and corporations to develop codes of conduct.[36]

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27. *See id.*
28. *See id.*
29. *See id.*
30. Ryan P. Toftoy, *Now Playing: Corporate Codes of Conduct in the Global Theater—Is Nike Just Doing It?*, 15 ARIZ. J. INT'L & COMP. L. 905, 912-13 (1998).
31. *See* U.S. DEP'T OF LABOR, *supra* note 1, at 12.
32. *See id.*
33. *See* Toftoy, *supra* note 30, at 907.
34. Ho et al., *supra* note 23, at 402.
35. *See* U.S. DEP'T OF LABOR, *supra* note 1, at 12.
36. *See generally id.*

The rationale for the adoption of U.S. corporate codes of conduct ranges from a sense of social responsibility to pressure from competition, labor unions, the media, consumer groups, shareholders, workers' rights advocates and the U.S. government.[37] Companies may develop codes of conduct to avoid further criticism after negative publicity that they import products from countries that engage in child labor or abusive working conditions.[38] Companies that invest heavily in advertising and whose sales depend on brand image and consumer goodwill are particularly responsive to allegations that their operations exploit children or violate other countries' labor standards.[39] Pressure from the media and consumers led to a proactive approach by some MNCs to protect the rights of their foreign workers.[40] Corporate response is attributable to the threat of loss of market share and profits due to negative exposure.

The motivation for some corporations to adopt codes of conduct is that, as dominant global institutions, they have a responsibility to address those social and environmental problems that affect humankind.[41] Other corporations adopt codes of conduct to demonstrate that they are good corporate citizens or to earn the label of a "socially responsible" company.[42] Whatever the incentive for the decision to adopt codes of conduct, by incorporating the concept of social responsibility into their normal business dealings, companies may develop corporate philosophies that combine "'altruism and enlightened self interest.'"[43]

In recent decades, changes in the garment industry have increased the necessity of codes of conduct.[44] Once concentrated in the United States and other industrialized countries, the garment industry gradually spread in successive waves to countries with lower production costs and became a worldwide industry with a constantly changing geographical distribution.[45] Among the factors believed to

37. *See id.* at 13.
38. *Id.*
39. *Id.*
40. *See* Toftoy, *supra* note 30, at 917.
41. *Id.* at 907.
42. *See* U.S. DEP'T OF LABOR, *supra* note 1, at 14.
43. *Id.* (quoting Dominic Bencivenga, *Human Rights Agenda*, N.Y. L.J., July 13, 1995, at 5).
44. *See id.* at 16.
45. *See generally id.*

be responsible for the existence of sweatshops are the following: the presence of a vulnerable and exploitable immigrant workforce, the labor intensiveness and low profit margins of the garment industry and the rapid growth of subcontracting in the garment industry.[45] Certain enforcement-related factors, such as insufficient inspection staff, inadequate penalties for violations, weak labor laws and limited coordination among enforcement agencies are also reasons for the continued existence of sweatshops.[47]

Several additional factors contributed to the globalization of the garment industry and increase in sweatshops. Many developing countries base their industrialization on labor-intensive export sectors, particularly the apparel sector.[48] Developing countries have almost doubled their share of world clothing exports since the early 1970s to account for more than sixty percent of exports today.[49] At the same time, companies in the United States and other industrialized countries have adopted strategies to relocate certain labor-intensive activities, such as clothing assembly, to low wage countries through direct investment or outsourcing.[50] Thus, according to the International Labour Organisation, industrialized countries have "'promoted the expansion of the clothing industry in the developing countries and participated actively in the growing globalization of the sector.'"[51]

III. The Impetus for the "Workplace Codes of Conduct" and the "Principles of Monitoring"

U.S. retailers and manufacturers have always scoured the globe for the cheapest and most easily manipulated labor: predominantly female, low-skilled and disempowered persons.[52] The U.S. government is a target of public pressure to impose social responsibility on American corporate operations abroad because half of the apparel sold in the United States today is made in domestic and overseas factories that routinely violate laws or do not pay a livable

46. *See* Foo, *supra* note 7, at 2182.
47. *See id.*
48. U.S. DEP'T OF LABOR, *supra* note 1, at 15.
49. *See id.*
50. *See id.*
51. *Id.* at 7 (quoting *Recent Developments in the Clothing Industry* (Geneva: International Labour Organisation 1995)).
52. *See* Ho et al., *supra* note 23, at 386.

wage.[53] Over a quarter of a million people work in sweatshop conditions in the United States alone, and at least 250 million of the world's children are employed in unsupervised garment factories.[54] The National Consumers League maintains that there are tens of thousands of sweatshops around the world.[55] Charles Kernaghan, director of the National Labor Committee, a New York-based human rights advocacy group, says that his organization has "encountered products from almost every single company that were made in a sweatshop."[56]

The exploitation of workers—many of them children—escalated with the global economy. In the name of profit, apparel workers in Bangladesh earn twenty cents an hour; under-age agricultural workers earn even less, and bonded laborers in Asia are losing their health, freedom and access to education.[57] Several commentators point out that these trends are common in the new global economy where profits are paramount and poverty is rising.[58] In the competition for global markets, international companies have primarily reduced costs by eliminating jobs and decreasing wages and benefits.[59] Cutting labor costs has become even more important in recent years, since overhead costs are increasing without corresponding increases in contract prices.[60] This global competitive drive propels children back into the factories and perpetuates labor abuses.[61]

Besides the financial wage-related hardships garment workers must endure, there are physical ordeals as well.[62] The General Accounting Office reported that safety and health hazards include overcrowding, unsanitary bathrooms and workers' proximity to

53. *See generally* Rosemary J. Brown, *The Shirts Off Their Backs*, CO-OP AM. Q., Summer 1997, at 14.

54. *See id.*

55. *See id.*

56. *Id.*

57. *See id.*

58. *See id.*

59. *See id.*

60. *See* Hayashi, *supra* note 8, at 204.

61. *See* Brown, *supra* note 53, at 14.

62. *See* Leo L. Lam, *Designer Duty: Extending Liability to Manufacturers for Violations of Labor Standards in Garment Industry Sweatshops*, 141 U. PA. L. REV. 623, 634 (1992).

dangerous machines.[63]

Polls show that American consumers do not want to subsidize abusive and inhumane working conditions with their purchases, yet some of the most popular U.S. apparel manufacturers are responsible for workers' rights violations.[64] For example, Walt Disney Corporation is one of the major culprits in the global marketplace of sweatshops.[65] Haitian workers making Disney licensed products earn thirty cents an hour.[66] For every $11.97 pair of Pocahantas pajamas sold, Haitian workers receive seven cents.[67] The National Labor Committee found that more than half of the approximately fifty assembly firms operating in Haiti and producing Disney clothing are violating the country's minimum wage law.[68] The National Labor Committee also reported that supervisors verbally abuse their workers and sexual harassment is common.[69] In addition, supervisors shortchange workers on pay and force pregnant women to quit to avoid paying maternity benefits.[70] Employers also routinely fire those workers who speak up about the miserable conditions.[71]

IV. A Recent Example

On January 13, 1999, Sweatshop Watch was a party to a series of billion dollar class action lawsuits on behalf of thousands of Asian women who are forced to work under slavery-like conditions on the U.S. commonwealth island of Saipan, making clothing that reaps huge profits for garment retailers.[72] The inhumane conditions on the island include long work hours at sub-minimum wages, poor ventilation in factories, forced abortions and concentration camp-like living conditions.[73]

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63. *See id.*

64. *See* Brown, *supra* note 53.

65. *See* Rafael Salomon, *Disney's World of Worker Exploitation,* CO-OP AM. Q., Summer 1997, at 15.

66. *See id.*

67. *See id.*

68. *See id.*

69. *See id.*

70. *See id.*

71. *See id.*

72. *See* William Carlsen, *Sweatshop Conditions Alleged on U.S. Island: Retailers Sued for Selling 'Made in USA' Garments,* S.F. CHRON., Jan. 14, 1999, at A1.

73. *See id.*

Similar to a lawsuit brought in the early 1990s on behalf of garment workers in El Monte, California, this lawsuit is significant because it gives workers access to the legal system, which is too often closed to them.[74] The lawsuit itself is wrought with tension between the immediate needs of particular workers and the larger, social justice ends to which garment worker advocates are committed.[75]

By February 15, 1999, parties in the Saipan lawsuits pressured the U.S. apparel industry to adopt codes of conduct barring labor and environmental abuses.[76] Last December, the Saipan garment makers adopted a voluntary set of rules to prevent labor abuses modeled after a White House-sponsored code of conduct signed in 1997.[77] However, these reforms came too late and were ineffective. The problem with a revised code of conduct is that there is no agreement over what it should cover or how it should be enforced.[78] Sweatshop Watch is hopeful that its suggestions for revising the White House's Code will promote solidarity among legislators on how to proceed with implementing a code of conduct that would improve working conditions in Saipan and elsewhere.

V. The "Workplace Codes of Conduct" and "Principles of Monitoring"

The Clinton Administration recently addressed the trend toward the increasing globalization of the apparel industry and the accompanying workers' rights abuses. On April 14, 1997, the President welcomed the members of the Apparel Industry Partnership (AIP) to the White House to announce a new agreement reached by leaders from the footwear and apparel industry, labor unions, NGOs and consumer groups.[79] Members of AIP voluntarily entered into an industry-wide agreement aimed at prohibiting forced labor and child labor, requiring minimum wages, allowing free association and collective bargaining, as well as freedom from

74. *See* Julie A. Su, *Making the Invisible Visible: The Garment Industry's Dirty Laundry*, 1 J. GENDER RACE & JUST. 405, 409 (1998).

75. *See id.* at 415.

76. *See* Robert Collier, *Pressure Mounts on U.S. Apparel Industry: Saipan Lawsuits Boost Drive for Conduct Code*, S.F. CHRON., Feb. 15, 1999, at A1.

77. *See id.* at A6.

78. *See id.*

79. *See Clinton, supra* note 12.

physical, sexual, psychological and verbal abuse or harassment.[80] The AIP found common ground, agreeing to a Code of Conduct and independent monitoring systems that will assure Americans that the apparel and shoes they purchase are made under decent and humane working conditions.[81] The AIP also agreed to recruit others in the industry and develop an independent association to assure compliance and inform consumers about the Code and company compliance.[82]

The AIP's agreement is a workplace Code of Conduct that companies voluntarily adopt and require their contractors to adopt. It includes, among other things: prohibitions against child labor, worker abuse or harassment and discrimination; recognition of workers' rights of freedom of association and collective bargaining; a minimum, prevailing industry wage; a cap on mandatory overtime at twelve hours per week; and a safe and healthy working environment.[83]

The AIP's agreement also includes Principles of Monitoring, which require independent external monitors to conduct reviews of company policies and practices, and to verify that the company is in compliance with its obligations and commitments under the Code of Conduct.[84] Companies will also maintain an internal monitoring system that outlines the obligations each company must undertake to ensure the Code is enforced in its facilities and its contractors' facilities both domestically and abroad.[85]

In addition, the AIP's agreement imposes upon corporations a commitment to form an association over the six months dating from the adoption of the agreement that will (1) recruit new member companies that will abide by the Code and implement independent monitoring; (2) develop a reliable, independent means to provide for public confidence that the above obligations are being met; and (3) develop a mechanism or seal of approval to inform consumers which companies abide by the Code.[86]

Hailing the agreement as the first of its kind and the beginning of a new era of corporate social consciousness, President Clinton stated:

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80. *See* Toftoy, *supra* note 30, at 913.
81. *See Clinton*, *supra* note 12.
82. *See id.*
83. *See id.*
84. *See id.*
85. *See id.*
86. *See id.*

> The announcement we make today will improve the lives of millions of garment workers around the world . . . . [T]his new partnership will create more opportunity for working families. It will demand more responsibility for working conditions. It will build a stronger community here in America and bind us to the community of people all around the world who believe in the value of work, but who also believe in the importance of its dignity and sanctity.[87]

Unfortunately, the Codes have weaknesses that threaten their effectiveness at every level.[88] While it is a step in the right direction, the AIP must revise the provisions of its agreement to ensure they meet their goal of eliminating sweatshops.

VI. Specific Criticisms of the Workplace Code of Conduct

A. Freedom of Association and Collective Bargaining

Although the entire Workplace Code of Conduct lacks the linguistic muscle needed to improve working conditions in the garment industry, Sweatshop Watch has identified specific provisions as being particularly ineffective to accomplish the intended goal. An example is the freedom of association and collective bargaining provision that states employers shall recognize and respect the employees' right to freedom of association and collective bargaining.[89] As it is, garment workers have limited power to bargain directly with their employers.[90] According to a congressional report, the apparel industry primarily employs under-educated women and minorities who have minimal labor alternatives.[91] Whereas recognition of association and collective bargaining rights is certainly a positive step, many U.S. companies choose to operate in countries or free trade zones where independent organizing is illegal and where workers who

87. *Remarks by the President at Apparel Industry Partnership Event* (visited Apr. 7, 1999) <http://www/dol.gov/dol/esa/public/nosweat/partnership/remarks.htm> [hereinafter *Remarks*].

88. *See* Toftoy, *supra* note 30, at 913.

89. *See Report of Apparel Industry Partnership* (visited Apr. 7, 1999) <http://www/dol.gov/dol/esa/public/nosweat/partnership/report.htm>.

90. *See* Hayashi, *supra* note 8, at 200.

91. *See id.* (quoting OFFICE OF TECHNOLOGY ASSESSMENT, U.S. CONGRESS, THE U.S. SERVICE AND APPAREL INDUSTRY: A REVOLUTION IN PROGRESS—SPECIAL REPORT 33 (1987)).

stand up for their rights are severely repressed.[92] Sweatshop Watch suggests that a more effective means to compel recognition of workers' rights is to force U.S. companies to pressure local governments to allow workers the freedom to organize, call for the release of all those jailed for their organizing efforts and rehire workers in their factories who were fired for organizing unions.[93]

B. Wages and Benefits

Sweatshop Watch cites the wages and benefits provision as another example of an ineffective provision.[94] This provision requires employers to recognize wages as essential to meeting employees' basic needs.[95] Sweatshop Watch believes that employers should pay employees at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and should provide legally mandated benefits.[96] Sweatshop Watch further believes that the wages and benefits provision fails to mandate a living wage; there is no guarantee that the minimum of the prevailing industry wage is sufficient to live on. Under the Code, workers who labor long hours will still be unable to rise above poverty and starvation.[97]

The provision on wages was the most controversial of the Code's provisions at the time it was drafted because the NGOs demanded a requirement that businesses pay workers a living wage, or enough to meet basic needs.[98] Companies opposed this idea, fearing that increased wages would cause inflation in developing countries or drive other businesses away.[99] Minimum wages throughout much of the Pacific Rim are below even local standards of poverty.[100] The Indonesian government even admitted that a family could not subsist on the country's minimum wage of $2.50 per day.[101] In Haiti, the minimum wage is twenty-eight cents an hour, also below Haiti's

92. *See Sweatshop*, *supra* note 13.
93. *See id.*
94. *See id.*
95. *See id.*
96. *See Report of Apparel Industry Partnership*, *supra* note 89.
97. *See Sweatshop*, *supra* note 13.
98. *See* Paul Jaskunas, *The Sweatshop Dilemma*, CORP. COUNSEL MAG., Aug. 1997, at 38.
99. *See id.*
100. *See Sweatshop*, *supra* note 13.
101. *See id.*

subsistence norms.[102] Nonetheless, the Code provision was a compromise that only required U.S. firms operating in foreign factories to pay the "local minimum or industry mandated wages."[103] The problem is that companies flock to countries that deliberately set the minimum wage below subsistence to attract foreign investment.[104] Clearly, it is inappropriate for workers in Haiti, Indonesia and other countries to work long hours making clothing for profitable firms at wages that do not allow them to have basic shelter or feed and clothe their families.[105]

For workers to rise above poverty, U.S. firms must provide wages that are sufficient to meet workers' basic needs.[106] Moreover, these subsistence wages must be high enough that workers can support their families by working decent hours.[107] Workers should not have to work sixty to seventy hours to afford food and clothing for themselves.[108] For example, in Vietnam, Nike pays twenty cents an hour; in Haiti, Disney pays thirty cents an hour.[109] Sweatshop Watch points out that these wages, while the legal minimum, are not enough to cover three meals a day, let alone transportation, housing, clothing and health care. Sweatshop Watch contends that U.S. companies should swiftly and publicly commit themselves to paying at least double the legal minimum in their overseas factories, and agree to pay restitution to workers who have been denied their past wages.[110]

A living wage is essential to any effort aimed at eliminating sweatshop conditions.[111] If the wage standard is anything less than a living wage, even the strictest monitoring program will not eliminate sweatshops. Companies are loathe to address this issue.[112] They claim it is impossible to quantify the living wage for each country.[113]

The AIP gives Sweatshop Watch mixed messages regarding how

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102. *See id.*
103. *See id.*
104. *See id.*
105. *See id.*
106. *See id.*
107. *See id.*
108. *See id.*
109. *See id.*
110. *See id.*
111. *See id.*
112. *See id.*
113. *See* Sweatshop Watch, *Summary of Key Issues Regarding the AIP*, Aug. 25, 1997, at 1.

assurance of a living wage can be achieved. One AIP member said it is not possible to re-open the issue of a living wage because pushing such a change would open up the entire Code and undo the work already done.[114] Another member said that providing a living wage is a matter between workers and their employers; if the workers' right to organize is protected (which it is in the Code of Conduct), then the workers can demand a living wage.[115] The same member also said that there is an agreement among the AIP members to research how to identify the living wage in various countries; however, they are unclear as to who will take action on this agreement.[116] Studies about what is required financially for companies to meet the basic needs of workers would put the AIP in a better position to add a living wage to the Code.[117]

C. Hours of Work

A third provision that misses the mark for improving garment workers' standard of living, according to Sweatshop Watch, is the hours of work provision.[118] This provision requires that, except in extraordinary business circumstances, employees (i) not be required to work more than the lesser of (a) forty-eight hours per week and twelve hours overtime, or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture, or where the laws of such country do not limit the hours of work, the regular work week in such country plus twelve hours overtime; and (ii) be entitled to at least one rest day in every seven day period.[119]

Sweatshop Watch believes that this provision results in inhumane hours and child labor.[120] According to the Code, where local laws permit, U.S. firms operating abroad can force seamstresses (as young as fourteen) to work sixty hours a week at the regular hourly rate and force overtime when employers decide that business dictates increased labor.[121] Again, rather than improve working conditions,

114. *See id.*
115. *See id.*
116. *See id.*
117. *See id.*
118. *See id.*
119. *See Report of Apparel Industry Partnership*, *supra* note 89.
120. *See id.*
121. *See id.*

the Code institutionalizes a floor on inhumane hours.[122]

In the United States, an eight-hour day and forty-hour week with two days off are the accepted norm.[123] Because excessively long work hours were found to endanger the health of workers and to contribute to unemployment, laws requiring overtime pay were adopted over half a century ago to discourage overtime work.[124] Despite these considerations and the standards set accordingly at home, in poorer countries, where U.S. firms produce apparel and footwear, the Code accepts sixty hours as the norm and anything above that as justifiable based on corporate needs.[125] This double standard suggests that the lives of people of Third World countries are less valuable than those of people in industrialized countries and that workers there are not entitled to as much time away from work and with their children as are workers in the United States.[126]

Neither the White House nor the MNCs can hide behind the notions that local customs allow long hours or that people in developing countries want to work such long hours.[127] It is precisely because MNCs pay wages that necessitate excessive hours for workers, and governments allow them to exploit these workers, that women and children are forced to work as long and hard as they do.[128] Moreover, children should not be forced to work such long hours that they cannot complete their education. Again, the lives of children in Third World countries need to be valued on par with the lives of children in the United States; only with an education can they move away from poverty.

While the large majority of garment workers in the United States and around the world are non-Caucasian and female, the Task Force does not reflect this composition. Moreover, with the exception of Union of Needletrades, Industrial and Textile Employees (UNITE), no one on the Task Force even purports to represent the very people whose lives are at stake—garment workers themselves. Sweatshop Watch asserts that if garment workers were asked how the Code

122. *See Sweatshop*, *supra* note 13.
123. *See id.*
124. *See id.*
125. *See id.*
126. *See id.*
127. *See id.*
128. *See id.*

should be drafted, it would look very different indeed.[129]

In addition to accepting the sixty-hour work week as the norm—which violates domestic standards of acceptable working conditions—the agreement provides no guidelines whatsoever on what constitutes "extraordinary circumstances."[130] It only addresses "mandatory" overtime.[131] Already, apparel factory workers put in endless hours of supposedly "voluntary" overtime. Sweatshop Watch contends that there should be *no* mandatory overtime, and if workers were paid a living wage for an eight-hour day, excessive "voluntary" overtime would cease.[132]

D. Overtime Compensation

A fourth provision deserving of revisionary attention is the overtime compensation provision.[133] This provision states that in addition to compensation for regular working hours, employees must be compensated for overtime hours at the overtime hourly rate required by local law or, in those countries where such laws do not exist, at a rate at least equal to the regular hourly compensation rate.[134]

Unfortunately, the Code institutionalizes the practice of no overtime pay by allowing an unlimited number of additional work hours at straight time pay. In the United States, overtime hours are paid at 1.5 times the normal rate of pay.[135] Sweatshop Watch argues that the Code should mandate that all overtime hours be performed voluntarily and compensated by at least 1.5 times the regular rate.[136] Factories should meet seasonal increases in production requirements by increasing the numbers in their workforce instead of extending the workday; after all, high levels of unemployment are not a global problem.[137]

Finally, the Code provides neither accountability nor

129. *See id.*
130. *See id.*
131. *See id.*
132. *See id.*
133. *See id.*
134. *See Report of Apparel Industry Partnership*, *supra* note 89.
135. *See Sweatshop*, *supra* note 13.
136. *See id.*
137. *See id.*

enforceability.[138] In many areas, the Code simply restates the existing law without providing any way to ensure that it is enforced. Prohibitions on harassment and abuse, the requirement that companies provide a healthy and safe work environment, and recognition of the right to free association mean nothing if workers cannot redress violations and proactively pursue the benefits intended to be offered.

VII. Criticisms of the "Principles of Monitoring"

The framers of the Principles of Monitoring envisioned highly credible, local monitors who would visit factories on a regular basis and set up off-site meetings to discuss problems with workers or management.[139] Companies are to "consult regularly with human rights, labor, religious, or other leading local institutions that are likely to have the trust of workers and knowledge of local conditions."[140] Sweatshop Watch believes that the Principles of Monitoring fail, however, to provide effective monitoring practices and offer little hope for increased compliance.[141] Consultation essentially follows rules presently imposed on our country's largest garment firms, under legal consent agreements imposed by the U.S. Department of Labor.[142] These firms already agreed to use independent monitors from "for-profit" auditing firms or send inspectors into contract factories to audit the payroll records of their contractors.[143] It is certainly unrealistic to allow companies to rely on their own staff or independent monitors to monitor working conditions because there is no neutral party to blow the whistle on human rights violations.[144] There are also no safeguards in place to ensure that independent monitors will avoid corporate influence on their inspection reports.

The Principles of Monitoring appear to ignore the reality of workers' lives.[145] Workers laboring under repressive conditions are unlikely to speak openly to private accounting firms hired by apparel

138. *See id.*
139. *See* Jaskunas, *supra* note 98, at 35.
140. *Sweatshop*, *supra* note 13.
141. *See id.*
142. *See id.*
143. *Id.*
144. *Accord Sweatshop*, *supra* note 4.
145. *See id.*

companies. Local human rights, labor, religious and other non-profit organizations, which are respected in the communities, speak the workers' native language and live in the country of the monitored workplace, are essential if corporations are serious about discovering and rectifying abusive conditions. The lack of effective monitoring provisions in the Task Force's agreement is suspicious, at best, and—more likely—reveals a desire not to eliminate exploitation, but to mask it.[146]

Sweatshop Watch also cites the fact that the Presidential Task Force allows garments to carry the "No Sweat" label even if the manufacturer merely promises to adopt the Code, exploiting the good will of consumers. Consumers made it clear that they are serious about their desire to learn about abusive conditions; they do not want to purchase clothing made in sweatshop conditions. By allowing a "No Sweat" label to be placed on clothing without Code compliance, however, the Task Force is succumbing to business desires and permitting consumer deception. Currently, apparel makers earn the "No Sweat" label regardless of whether a country pays a living wage or its workers are harassed for blowing the whistle on workers' rights violations.[147]

Sweatshop Watch suggests that there is a corporate motive underlying the Task Force's agreement.[148] Ironically, the corporations that want the Task Force's agreement are the same ones who are at the head of the pack in the race to the bottom, forcing workers to accept, and governments to maintain, poverty wages to keep U.S. firms from leaving when workers seek to improve wages and working conditions.[149] If their motives are genuine, Sweatshop Watch says that these corporations should include prohibitions against "running away" whenever workers seek subsistence wages and organize to improve conditions in the Code.[150]

The President stated that the Task Force is intended to "give American consumers greater confidence in the products they buy."[151] However, consumers deserve concrete information, not false promises and a cover-up. Sweatshop Watch suggests that before the

146. *See id.*
147. *See id.*
148. *See id.*
149. *See id.*
150. *Id.*
151. *Remarks, supra* note 87.

President lends his credibility to the Task Force's efforts, he should reassemble the Task Force to implement the necessary revisions in the Workplace Code of Conduct and in the Principles of Monitoring.[152]

VIII. Previous Attempts to Promote International Respect for Workers' Rights Through Codes of Conduct

Not surprisingly, since the 1970s, the United States has proposed several publicly-drawn voluntary codes of conduct that set forth standards for the conduct of U.S. corporations operating in countries with questionable labor practices.[153] These codes were generally sets of fair labor standards that U.S. corporations either committed to apply to their foreign operations or, in some cases, required foreign subcontractors or suppliers to apply in their home countries.[154] The United States has also made administrative and legislative efforts in the past to encourage U.S. companies to adhere to codes of conduct when voluntary codes were not having the desired impact.[155]

In addition, the United States attempted to regulate working conditions in U.S. foreign operations with privately-drawn codes of conduct.[156] For this reason, the ineffectiveness of the "Workplace Code of Conduct" is particularly frustrating because the United States should have learned from the successes and failures of predecessor agreements.[157] The Sullivan and MacBride Principles are examples of privately-drawn codes of conduct, dealing primarily with labor standards, that MNCs voluntarily agreed to adopt.[158] These codes of conduct were in existence for a relatively long period of time; therefore, some inferences can be made about the effectiveness of codes of conduct in promoting workers' rights abroad.[159]

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152. *Accord Sweatshop*, *supra* note 13.

153. *See id.*

154. *See id.*

155. *See generally id.*

156. *See id.*

157. *See generally* Jorge F. Perez-Lopez, *Articles: Promoting International Respect for Worker Rights Through Business Codes of Conduct*, 17 FORDHAM INT'L L.J. 1, 6 (1993).

158. *See generally* Toftoy, *supra* note 30, at 907 (discussing voluntarily adopted principles); Perez-Lopez, *supra* note 157.

159. *See id.*

A. The Sullivan Principles

The Sullivan Principles, a code of conduct for U.S. MNCs doing business in South Africa in the 1970s and 1980s, were proposed in March 1977 by the Reverend Leon H. Sullivan, Pastor of the Zion Baptist Church in Philadelphia and a member of the Board of Directors of General Motors Corporation, to promote racial equality in the employment practices of U.S. companies doing business in South Africa.[160] The goal of these principles was to promote programs that could have a significant impact on improving the living conditions and quality of life for the non-Caucasian population of South Africa, and be a major contributing factor to the end of apartheid.[161] General Motors' refusal to withdraw completely from South Africa in protest of that nation's apartheid policies, together with the view of black South Africans that the resources of U.S. and other MNCs should become true forces of change, led Sullivan to propose the codes of conduct approach.[162]

Sullivan's Statement of Principles included provisions for equal and fair employment practices for all employees, equal pay for all employees doing equal or comparable work for the same period of time, and improving the quality of employees' lives outside the workplace with regard to housing, transportation, schooling, recreation and health facilities.[163] Firms that adopted the Sullivan Principles initially committed themselves to desegregated workplace facilities, racially nondiscriminatory employment and equal pay for comparable work, among other standards.[164] Sullivan's efforts to elaborate the Statement of Principles and compel U.S. companies operating in South Africa to influence the practices of other companies became known as social justice activities.[165] These were formally incorporated as Sullivan Principle 7 in the November 1984 (or fourth) amplification of the Principles: working to eliminate laws and customs that impede social, economic and political justice.[166]

160. *See* Liubicic, *supra* note 22, at 122.
161. *See id.*
162. *See id.*
163. *See id.* at 8.
164. *See id.* at 122-23.
165. *See id.*
166. *See* Perez-Lopez, *supra* note 157, at 8.

B. The MacBride Principles

The MacBride Principles were issued in November 1984 and focused on U.S. companies doing business in Northern Ireland.[167] The proponents of the MacBride Principles believed this code of conduct was needed because of the systematic practice and endemic nature of anti-Catholic discrimination by many of the forty-seven U.S.-owned companies operating in Northern Ireland.[168]

The MacBride Principles encompass nine fair employment and affirmative action principles modeled on those proposed by Sullivan for South Africa.[169] The nine principles include, among others, increasing the representation of individuals from underrepresented religious groups in the workforce; protecting minority employees at the workplace and while traveling to and from work; and banning provocative religious and political emblems from the workplace.[170] By February 1995, forty percent of the publicly-traded U.S. MNCs operating in Northern Ireland had subscribed to the MacBride Principles.[171] Legislation was passed that requires decisions on public pension funds use to factor in corporate willingness to adopt the MacBride Principles in their investment decisions.[172]

C. Lessons From Sullivan and MacBride

Like the Task Force's Workplace Code of Conduct and Principles of Monitoring, the Sullivan and MacBride Principles were originally promulgated as strictly voluntary codes of conduct, applicable to U.S.-owned corporations operating abroad.[173] To elevate the impact of these Principles, the U.S. Congress considered legislation that would require or encourage adherence to these principles by U.S.-owned companies.[174] Such a legislative movement could prove useful for the Workplace Code of Conduct and the Principles of Monitoring as well, where the voluntary nature of the codes leaves too much to chance in the way of workers' rights

167. *See id.* at 11.
168. *See id.*
169. *See id.*
170. *See id.* at 12.
171. *See* Liubicic, *supra* note 22, at 124.
172. *See id.*
173. *See* Perez-Lopez, *supra* note 157, at 28.
174. *See id.*

violations.

Thus far, legislative action to codify labor codes of conduct has succeeded only with regard to the Sullivan Principles.[175] Legislation to encourage the U.S. companies to comply with the Sullivan Principles was introduced in the U.S. Congress in 1985 and enacted as part of the Comprehensive Anti-Apartheid Act of 1986.[176] Earlier, in September 1985, former President Ronald Reagan took a similar action through an Executive Order.[177] Legislative action to codify the MacBride Principles was first introduced in Congress in early 1987 and in every session of Congress since, but has not yet been voted into law.[178]

Exemplary behavior by the few U.S. companies that voluntarily adopted codes of conduct had a positive impact on the well-being of foreign workers. Adherence to the Sullivan Principles by approximately 150 U.S.-controlled corporations brought about tangible improvements for black South African workers including scholarships awarded for advanced training.[179] Reverend Sullivan specifically noted the positive effect of exemplary behavior and the potential impact it has on bolstering domestic political forces that advocate improvements in workers' rights.[180] According to Reverend Sullivan:

> The Statement of Principles and the programs developed in accordance with them provide a conduit through which companies with subsidiaries in South Africa may exercise moral leadership by using their resources, as one means among many to work toward the peaceful elimination of apartheid and to improve the quality of life for South Africa's black and white population.[181]

Indeed, the Sullivan Principles spawned a series of similar codes of conduct by other nations.[182] They were eventually divested,

175. *See id.*

176. *See* Comprehensive Anti-Apartheid Act of 1986, Pub. L. No. 99-440, 100 Stat. 1086 (1986) (codified at 22 U.S.C. 5001 (1988 & Supp. III 1991)).

177. *See* Prohibiting Trade and Certain Other Transactions Involving South Africa, Exec. Order No. 12,532, 3 C.F.R. 387 (1985), *reprinted in* 50 U.S.C. 170, at 661-63 (1988).

178. *See* Perez-Lopez, *supra* note 157, at 45-46.

179. *See id.* at 46.

180. *See id.*

181. *Id.*

182. *See generally id.* at 47.

however, when Reverend Sullivan became increasingly frustrated by the continued existence of apartheid in South Africa and withdrew his support for the Principles.[183]

There is also evidence that the MacBride Principles had a favorable effect on curbing religious discrimination in employment and promoting equality in job opportunity in Northern Ireland through legislation such as the Fair Employment (Northern Ireland) Act, passed by the British Parliament in 1989.[184] As a result of these changes, more individuals take advantage of the anti-discrimination mechanisms.[185]

The lessons learned from the Sullivan and MacBride Principles can be applied to the Workplace Codes of Conduct and Principles of Monitoring. Most importantly, although legislation is needed to ensure that there is compliance with the principles contained in the codes of conduct, an unyielding set of codes, if adhered to, has the power to promote change by example. A proactive and sustained U.S. example, as outlined by the new codes, can have a positive effect on other companies and the legislative process of host countries, hopefully resulting in improved workers' rights.[186]

One commentator points out that it is a sound business decision for a U.S. corporation to comply with or establish, a code of conduct promoting workers' rights abroad.[187] Instituting codes of conduct promoting workers' rights at an international level could help avoid potential negative publicity and ensure that U.S. corporations do not participate in, or encourage, workers' rights violations in foreign countries.[188] Most importantly, carefully drafted codes of conduct will ensure the maximum impact on working conditions, and set a positive example for foreign corporations. Well-drafted codes are an important stepping stone to passing legislation in the interest of prohibiting human rights violations in the workplace. Neither the Task Force's Workplace Codes of Conduct nor the Principles of Monitoring are currently poised to have a positive effect on working conditions. In their current form, they will not inspire emulation by foreign corporations. Until these provisions are revised, sweatshops

183. *See* Liubicic, *supra* note 22, at 123.
184. *See* Perez-Lopez, *supra* note 157, at 48.
185. *See id.*
186. *See id.*
187. *See id.*
188. *See id.*

will persist and Congress will not be motivated to take legislative action.

IX. Possible Legislative Forms for the Workplace Code of Conduct and the Principles of Monitoring

The extraterritorial application of U.S. law, coupled with the use of international law to protect workers' rights around the world is not particularly successful; there is a strong need for a better method of advocacy.[189] The Codes will have greater success in improving working conditions if their implementation is mandated. Recognition of workers' rights always has been part of the regime of international human rights law.[190] In seeking to assert their rights across national boundaries, garment workers and advocates should be aware of the implications and possibilities of the extraterritorial application of U.S. laws.[191] Garment workers, in some scenarios, may be harmed by the extraterritorial application of U.S. laws to the extent that specific provisions could be the product of political deal-making rather than concern for the protection of workers' rights.[192] However, if cooperative approaches are followed, international enforcement of labor standards could be enforced.[193] The Age Discrimination in Employment Act (ADEA), which Congress amended in 1984 to cover U.S. citizens working for U.S. corporations overseas, serves as a model for possible legislation of the Workplace Code of Conduct and the Principles of Monitoring.[194]

The court in *Mahoney v. U.S. Court of Appeals* held that the "foreign laws" exception of the ADEA applies when an American corporation operating in a foreign country would be compelled to violate laws in complying with the ADEA.[195] The "foreign laws" exception to the ADEA states:

> It shall not be unlawful for an employer, employment agency, or labor organization (1) to take any action otherwise prohibited...

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189. *See id.*
190. *See* Ho et al., *supra* note 23, at 396.
191. *See id.*
192. *See id.*
193. *See id.*
194. Age Discrimination and Employment Act, 29 U.S.C. § 621 (1967).
195. Mahoney v. RFE/RL, Inc., 47 F.3d 447 (D.C. Cir. 1995); *see* 29 U.S.C. § 623(f)(1) (1967).

> where . . . such practices involve an employee in a workplace in a foreign country, and compliance . . . would cause such employer, or corporation controlled by such employer to violate the laws of the country in which such workplace is located.[196]

In *Mahoney*, Radio Free Europe and Radio Liberty (RFE/RL) entered into a collective bargaining agreement with local unions in Munich, its principal place of business.[197] One of the provisions of the collective bargaining agreement, modeled after a nation-wide agreement in the German broadcast industry, required employees to retire at age sixty-five.[198] At the time, the ADEA had no extraterritorial reach, and it appeared that this portion of the RFE/RL collective bargaining agreement was entirely lawful.[199] When Congress amended the ADEA in 1984 to apply to American corporations overseas, the RFE/RL initially thought its American employees in Munich would no longer have to retire at the age of sixty-five. However, the German Works Council rejected RFE/RFL requests and determined that allowing only those employees who were U.S. citizens to work past the age of sixty-five violated the mandatory retirement provision and the collective bargaining agreement's provision forbidding discrimination on the basis of nationality.[200]

The *Mahoney* court agreed with the Works Council and held that when an overseas employer's obligations under foreign law collide with its ADEA obligations, section 623(f)(1) solves the dilemma by relieving the employer of liability under the ADEA.[201] The court recognized that RFE/RL's collective bargaining agreement was legally enforceable; breaching the agreement to comply with the ADEA would cause RFE/RL to violate the laws of Germany.[202]

Similarly, Congress could codify the Workplace Code of Conduct and the Principles of Monitoring and extend imposition of mandating standards to American corporate operations overseas. Extraterritorial application of codified rules would increase their effectiveness abroad. Mandating minimum standards for corporate

196. 29 U.S.C. § 623(f)(1) (1967).
197. *See Mahoney*, 47 F.3d at 447.
198. *Id.*
199. *Id.* at 448.
200. *See id.*
201. *See id.* at 449.
202. *Id.* (quoting the ADEA, 29 U.S.C. § 623(f)(1) (1967)).

operations would serve as a safety net for workers; even if local laws were not favorable to workers, local law would not prohibit giving workers more rights so U.S. corporations would not be violating any local regulation. This should help eliminate the double standard that seems to exist today. Furthermore, including a foreign laws exception would be a way to induce businesses to support codification because it gives them a way, albeit limited, of avoiding the law in necessary circumstances. The Task Force Codes, mandating human working conditions, presumably would not violate any foreign laws.

There is a legal precedent for extending U.S. labor legislation to America's corporate operations abroad to expand the guarantee of workers' rights. The persistent shortcomings of other enforcement mechanisms demand alternative approaches to advocacy on behalf of garment workers.[203] A revised version of the Code is a step in the right direction as a strategy for regulating the international garment industry.

X. Recent Developments

The controversy over the ongoing human rights violations in foreign factories motivated several American corporations and universities to join the ranks of Sweatshop Watch and other organizations in pushing for sweatshop reform.[204] Recently, Nike and Reebok raised their foreign wages, improved working conditions and defended human rights advocates in the United States and overseas.[205] These current movements helped create another alliance called the Fair Labor Association (FLA), sponsored by the White House, in November 1998.[206] The FLA is an alliance of human rights groups and corporations that is establishing a worldwide factory monitoring system to eliminate sweatshop labor abuses.[207] The FLA rules for foreign factories include "the freedom to organize unions, bans on child, forced or prison labor and physical abuse by supervisors."[208] The FLA logo may be printed on the labels and in the advertising of

203. *See* Ho et al., *supra* note 23, at 401.

204. *See* Robert Collier, *U.S. Firms Reducing Sweatshop Abuses: But Wages Still at Poverty Level*, S.F. CHRON., Apr. 17, 1999, at A1.

205. *See id.*

206. *See id.*

207. *See id.* at A7.

208. *Id.*

participating companies by the year 2001.[209] According to the FLA supporters, factory standards can only be raised by other means given the complex networks in global free trade.[210]

Whether the FLA will improve upon the flaws of the White House-sponsored alliance is yet to be seen. Critics of the FLA call its efforts "cynical attempts to prevent real reform, while many corporations view them as liberal meddling in the boardroom."[211] Despite the fact that increased minimum compensation to twenty cents an hour, well below subsistence levels and the twenty-seven cents an hour that Nike paid prior to Indonesian currency devaluation, some activists still acknowledge that recent steps by the garment industry are a "sign of real progress."[212]

Furthermore, in recent months, university students protested against labor abuses in the manufacture of clothing bearing college logos.[213] The response of the University of California was to enact a preliminary labor rights code for its manufacturer-licensees.[214] Moreover, fifty-six universities have joined the FLA since mid-March of 1999.[215] Some U.C. students and faculty members criticized the weakness of the FLA codes of conduct and monitoring systems and pushed for a stronger university code that requires all licensees to publicize the location of their factories and mandates establishment of a university organization to visit factories that are suspected of violating the code.[216] Regardless of the changes that are ultimately adopted, it is clear that the more involved corporations and universities become in reforming the garment industry, the more effective the new codes of conduct and monitoring system will be.

XI. Conclusion

The AIP's proposed standards in the Workplace Code of Conduct and the Principles of Monitoring are insufficient to remedy the sweatshop conditions that exist in the garment factories of third

209. *See id.*
210. *Id.* at A1.
211. *Id.*
212. *Id.*
213. *See* Robert Collier, *A Movement at Nation's Schools to Fight Sweatshops: College Logo Apparel Makes Up Big Market*, S.F. CHRON., Apr. 17, 1999, at A7.
214. *See id.*
215. *See id.*
216. *See id.*

world countries. Paying a minimum wage rather than a living wage will not meet the economic needs of the factory workers in third world countries who continue to live in poverty without the protection of local labor laws. Unless there is independent external monitoring of factory conditions, the standards will exist only on paper, while sweatshop conditions persist in reality. Companies need incentives to join the AIP so that this organization can have a practical effect on the devastating reality of sweatshops.

Garment worker advocates must strategize on a transnational level to fight corporations that trample human rights for profit by using formal legal machinery and methods that apply pressure from consumers, workers and the community.[217] As is, the Codes not only fail to improve working conditions in the apparel industry but also institutionalize inhumane practices. The current Code regulations are useless because the workers cannot redress violations, and the efforts of the Task Force are meaningless if workers realistically cannot take advantage of the intended benefits. In essence, unless the Codes are revised, they will validate existing ineffective standards and support existing exploitative systems rather than accomplish their purported goal of setting new standards.[218] Many aspects of the Codes are left vague; for example, how the nonprofit industry association will verify that companies are in compliance with the Codes, and how it will educate consumers about companies that fail to comply.[219]

In conclusion, the Presidential Task Force's Workplace Codes of Conduct and the Principles of Monitoring fail to take into consideration all of the forces pulling U.S. corporations away from responsible business tactics. Revising the Codes is essential to counteract these destructive forces and ensure that tangible reforms are made in garment factory working conditions. Revision of the Codes is the first step toward a legislative process that strengthens these standards and guarantees that they are adhered to by U.S. corporations operating abroad. Such actions will accomplish real change, and real change is long overdue.

217. *See* Ho et al., *supra* note 23, at 414.
218. *See Sweatshop, supra* note 13.
219. *See* Jaskunas, *supra* note 98, at 39.