

**Statement of Mil Niepold  
Director of Policy, Verité, Inc.**

**Before the Congressional-Executive Commission on China  
2255 Rayburn House Office Building**

**April 28, 2003**

---

I would first like to thank the Congressional Executive Commission on China for inviting Verité's testimony today.

**Verité's Perspective**

"China is an attractive piece of meat coveted by all ... but very tough, and for years no one has been able to bite into it." *Chinese Premier Zhou Enlai, 1973*

Thirty years later, the population is not the only part that has changed - multi-national corporations, global trading organizations like the WTO and even a few IGOs and NGOs have clearly "taken a bite". It is Verité's core belief, and one shared by many advocates, that respect for labor and human rights -- the very same ones that are covered by this Commission's mandate and that China has quite often signed and/or ratified -- comes only when workers themselves are an integral part of the process of enforcing these rights. Later, when I address examples of initiatives that have worked or might potentially work, the direct involvement of workers will be the common thread in each case.

**Who is Verité?**

Over the past eight years Verité has interviewed approximately 18,000 factory workers for the purpose of identifying the issues workers face in a newly globalized economy. Verité's mission is to ensure that people worldwide work under fair, safe and legal conditions. Our pioneering approach brings together multi-national corporations, trade unions, governments, non-governmental organizations (NGOs) and workers - in over 65 countries - for the purpose of identifying solutions to some of the most intractable labor rights violations.

Verité performs social audits (to date, over 1,000 factory evaluations conducted) to analyze workplace compliance with local and international labor, health, safety and environmental laws and standards. Unique as a non-profit independent monitoring and research organization, Verité, unlike private sector companies, goes beyond monitoring to provide factories with specific recommendations to remedy problems and training for factory management and manufacturers. To address the needs of workers, Verité conducts education programs to teach workers their legal rights and entitlements in the workplace as well as "life skills" (literacy, health education, math, English, and computer skills).

**Verité in China**

Verité has operated in China - our first and largest area of operation - extensively since 1995. We have conducted nearly 200 factory audits in China over the past eight years, including 112 in the past two years.

Our findings, and those of others, are disturbing:

1. Egregious health and safety violations
  - a. China's own Work Safety administration reported 140,000 deaths in '02 (an increase of approximately 30% over '01)
  - b. Chinese media sources reported 250,000 injuries and more than 30,000 deaths in industrial accidents in the first quarter of this year alone
  - c. The ILO ranks China as the world "leader" in industrial accidents
  - d. China estimates 25 million workers are exposed to toxins annually (with tens of thousands incapacitated annually)
  - e. The Hong Kong Christian Industrial Committee (HKCIC) reported recently that, after 10 years of research on the toy industry (China produces 70% of the world's toys) that a full 55 - 75% are still classified as poor (80-100 hour workweeks, poor health and safety, not paying minimum wages)
2. Majority of factories use triple or even quadruple books to mask under payment or non-payment of legally mandated overtime premiums (which range from 1.5 to 3 times the base wage depending on the day of the week and whether or not it is a holiday). In some instances it has taken even our most experienced teams **days** of research, interviews and analysis to uncover the true extent of the problem.
3. Limited enforcement of labor laws that are on balance quite robust (for example those requiring overtime premiums, automatic machine shut-off safety devices, compensation for injury,
4. Harassment and lengthy imprisonment for those who report violations, peacefully demonstrate and or who try to associate freely
- Since 1998 Verité has organized an annual China Suppliers Conference that brings together factory owners and managers with governmental officials and non-governmental organization specialists to explore issues and solve problems related to labor compliance in China. *(Last year's conference in Xiamen focused on three aspects of labor compliance: the changing role of unions in Chinese factories; health and safety compliance; and the comprehensive work-hour calculation system and its impact on overtime. Presenters included local government and union officials. This year's conference will provide Verité the opportunity to release a research report on the prevalence of excessive overtime and its impact on worker health and safety).*

*Verité's Worker Education Program, sponsored by Timberland, Eileen Fisher and New Balance, among others, operates in a mobile van which visits southern Chinese factories to provide information on workers' rights, labor law and health information (recently including updates on HIV, Hepatitis and SARS); the Program has reached 18,980 workers since its founding in 2001.*

*Verité has facilitated direct communication between factory managers and local labor officials in 40 factories since 2001 by inviting labor officials to accompany auditors to the factories for joint training with factory managers on proper wage-calculation, record-keeping, and employment-contract procedures.*

## Codes vs. Laws

While not unique to China by any means, there is a growing debate regarding the value of voluntary initiatives (such as Codes of Conduct) versus direct legal obligations within both national and international legal frameworks. For the purposes of this discussion, I will not cover this debate in any detail. However, as we are discussing Codes of Conduct and examples of best practices -- with the aim of achieving improved labor rights compliance in China - I would be remiss if I did not at least touch on this important subject.

Direct obligations - i.e. those placed upon companies through international law - are weaker than those that are indirect (those placed upon them by governments who themselves are fulfilling their obligations under international conventions, etc.). Weaker though they may be, there is nonetheless a clear upward trend in their being extended to corporate (MNC) actors. Movements such as the International Right to Know (IRTK) campaign (*whose recent report includes various case studies, including one on McDonald's and toys made in China*) and the increasing use of US Courtrooms to seek redress for perceived MNC complicity in overseas human and labor rights abuses (for example Unocal, Saipan, and Shell, lawsuits, among others) using the Alien Tort Claims Act (ATCA) are examples of this trend.

So, for our purposes today, you may wonder why these distinctions between voluntary initiatives and direct obligations under international law are relevant? It is simply because, to quote the excellent report by the International Council on Human Rights Policy, we must go "beyond voluntarism". Codes are squarely in the camp of voluntarism and while they are a useful starting point for improving labor rights compliance, they alone are simply not enough to right the "imbalance of power" that exists today between major MNCs and most governments. Governments do not have the resources that MNCs do - resources that are in many places including China - greatly eroded by endemic corruption. Limited resources greatly hinder labor rights enforcement, but they are not the sole issue. I am by no means suggesting that more laws and/or more enforcement are the only answer, but I am saying that rooting both voluntary codes and national laws in a strong international legal framework creates a ripple effect that will help enforcement in ways that merely increasing the number of labor inspectors cannot.

Violations of human and labor rights thrive in cultures of impunity. Take the example of slavery. While now outlawed in virtually every country of the world, this heinous practice continues particularly in countries where the rule of law is eroded. Just as corruption of government officials and police officers allows slavery to flourish - so to do labor rights violations. Strengthening the rule of law in any given country is not a task merely for MNCs and their voluntary initiatives. This is a task for governments. Grounding all efforts in the international legal framework helps to achieve a few important things. It creates a climate that favors compliance by strengthening the effectiveness of voluntary initiatives and national legislation, it strengthens the work of NGO and workers' advocates and it improves judicial efforts, both domestic and international.

Thus, it is incumbent upon those concerned with improving labor rights on the ground in China, as elsewhere, to use multi-layered approaches that draw on past successes. Each approach should also be aligned with the particular "sphere of influence" of the respective stakeholder - thus historically, the greatest successes have come from governments working on the most macro level legislative improvements, government to government consultations, technical assistance programs and the like. MNCs in turn have had success when they assert their considerable leverage primarily at the supplier/factory level but they should continue by all means to exert

pressure on governments as well to ensure that the rule of law is both upheld and strengthened. One of the best examples of an MNC working on creative solutions to the most challenging issue in China is the example that you have just heard about from Doug Cahn - the Kong Tai (or KTS) factory election of worker representatives. This initiative is exemplary and there are others:

- The Institute of Contemporary Observation recently launched an initiative that provides posters in factories that outline workers' rights under Chinese law and they provide a hotline for workers to call if they are the victims of violations
- A coalition of over 20 NGOs and SRIs (Socially Responsible Investors), including the International Labor Rights Fund, Global Exchange and Amnesty International USA started the US Business Principles for the Human Rights of Workers in China. To date nine MNCs are participating in this China Working Group (3Com, Cisco, Intel, KLA-Tencor, Nike, Palm Computing, Reebok and Target) working to implement the Principles or similar Codes of Conduct.

It is very common to discuss the "sticks" when discussing human and labor rights. But, I find the "carrots" to be of greater interest. The examples cited above share a few things - most notably the inclusion of the workers in the process - but most of all they are implicitly or explicitly capitalizing on the fact that there is competitive advantage to be gained from transparency, disclosure and good working conditions. If the industrial revolutions in the US and the UK have shown us anything they have shown us that good factories make better products and over the longer term, that are more cost-effective.

## **Conclusion**

*" Apart from their other characteristics, the outstanding thing about China's 600 million people is that they are "poor and blank." This may seem a bad thing, but in reality it is a good thing. Poverty gives rise to the desire for change, the desire for action and the desire for revolution. On a blank sheet of paper free from any mark, the freshest and most beautiful pictures can be painted." Mao Zedong 1967*

The picture for labor rights in China would have to include the following:

- Harmonization of the multiple codes of conduct (factory owners rightly complain that the profusion of codes is a confusing time-sink and with at times 40 audits a month by inexperienced CPAs, auditing as it is conducted by private sector firms is harmful to workers and disruptive to production cycles)
- A greater degree of responsibility on the part of MNCs who wreak havoc on factories through pressures to lower prices paid to factories and "just in time" delivery demands that inevitably lead to excessive, often forced, overtime
- Passage, or modification, of embodying legislation required under China's ratification (2001) of the ICESCR (International Covenant on Economic, Social and Cultural Rights and their membership in the ILO (specifically with regard to freedom of association and collective bargaining) and withdrawal of their reservations
- A direct contact mission from the ILO

This would be a beautiful picture indeed. Thank you.